

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

FILED

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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**

West Virginia Division of Environmental Protection
AGENCY: Office of Air Quality TITLE NUMBER: 45CSR5

CITE AUTHORITY WV Code 22-5-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR5

TITLE OF RULE BEING AMENDED: "To Prevent and Control Air Pollution
From the Operation of Coal Preparation Plants and Coal Handling Operations"

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

TITLE OF RULE BEING PROPOSED: _____

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.

Roger T. Mall
Authorized Signature

18.10.7.20
w/b

45CSR5

TO PREVENT AND CONTROL AIR POLLUTION FROM THE OPERATION OF
COAL PREPARATION PLANTS AND COAL HANDLING OPERATIONS

STATEMENT OF CIRCUMSTANCE

The Office of Air Quality determined that certain modifications to Rule 5 were necessary after implementing amendments promulgated in 1993. Modifications include definitional changes and limiting the requirement to obtain an operating permit for certain coal preparation plants not subject to the requirements of 45CSR2, 45CSR3 or 45CSR7.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR5 - "To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling 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		
	Increase	Decrease	Current	Next	There-after
Estimated Total Cost	\$133,500	\$ ----	\$136,050	\$259,050	\$219,750
Personal Services	121,500	----	134,250	248,250	207,750
Current Expense	----	----	----	----	----
Repairs and Alterations	----	----	----	----	----
Equipment	12,000	----	1,800	10,800	12,000
Other	-----	----	----	----	----

2. Explanation of above estimates:

Permitting and enforcing particulate matter emissions for coal handling facilities is required under current regulations. However, the requirement of operation permits requires improvement with increased inspections. The above estimates reflect cost for personnel and equipment. Note: costs should decrease after a one-to-two year period of implementation after permit reissuance is completed.

3. Objectives of these rules:

The objective of the current rule and proposed revisions is to control or minimize the emissions of particulate matter at coal preparation and coal handling facilities to meet national and state ambient air quality standards; and to otherwise prevent "statutory air pollution" including nuisance dust emissions. The proposed rule revisions will implement an advisory opinion issued earlier by the Air Pollution Control Commission (prior to enactment of

the DEP reorganization legislation) which will modify scope of permitting program and make other minor changes pursuant to a petition by the regulated industry.

4. Explanation of overall economic impact of proposed rule.

A. Economic impact on state government.

As reflected in estimated costs under Item 1, the commitment of 6.0 man-years of effort as compared to 3.5 man-years possible under previous budget situation.

B. Economic impact on political subdivisions; specific industries; specific groups of citizens.

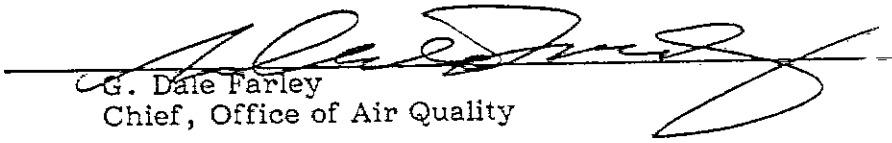
Minimal impact above current regulatory requirements.

C. Economic impact on citizens/public at large.

Small impact above current levels reflected in incremental enforcement/permitting cost estimates.

Date: July 6, 1994

Signature of agency head or authorized representative:


G. Dale Farley
Chief, Office of Air Quality

DATE: August 12, 1994

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: G. DALE FARLEY
CHIEF, OFFICE OF AIR QUALITY
DIVISION OF ENVIRONMENTAL PROTECTION

LEGISLATIVE RULE TITLE: Series 5 - "To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations"

1. Authorizing statute(s) citation W. Va. Code §§22-5-1 et seq.

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

July 6, 1994

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

Class I legal advertisement filed in a newspaper published in each of
the Air Quality Control Regions of West Virginia.

Office of Air Quality mailing list.

c. Date of hearing(s): August 9, 1994

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)

August 12, 1994

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

G. Dale Farley, Chief

Office of Air Quality (Phone: 558-2275)

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.

_____ N/A _____

b. Date of hearing: _____ N/A _____

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

_____ N/A _____

d. Attach findings and determinations and reasons:

Attached _____ N/A _____

45CSR5

TO PREVENT AND CONTROL AIR POLLUTION FROM THE OPERATION OF COAL PREPARATION PLANTS AND COAL HANDLING OPERATIONS

SUMMARY

45CSR5 was promulgated by the Commission on July 26, 1968, and became effective on September 1, 1968. The purpose of this rule is to prevent and control air pollution from the operation of coal preparation plants and coal handling operations. This rule has been previously revised primarily to incorporate certain emergency rule revisions pursuant to PM₁₀ replanning requirements under the 1990 amendments to the Clean Air Act (42 U.S.C.A. §§7401 to 7671). The aim of these earlier rule revisions or amendments was to strengthen particulate emission control requirements in Follansbee for coal handling operations by the provision of section 6.3, to remedy a state-wide deficiency in specifying methodology for enforcement of particulate emissions standards, to eliminate certain outdated requirements; to substitute terminology for "smoke" to "particulate matter" and "opacity" readings; and to add a monitoring section and operating permit section to better track emissions from coal handling operations and coal preparation plants.

The amendments to the rule now being proposed will primarily limit the permitting requirements of this rule to coal preparation plants only and to accordingly redefine the terms "coal preparation" and "coal handling operation", clarify the relationship of this rule to federal requirements under 40 CFR Part 60 and 45CSR16; to make other minor clarifying changes, and to reflect changes in authority and definitions pursuant to enactment of the DEP reorganization legislation.

45CSR5

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

SERIES 5
TO PREVENT AND CONTROL AIR POLLUTION FROM
THE OPERATION OF COAL PREPARATION PLANTS AND COAL
HANDLING OPERATIONS

§45-5-1. General.

1.1. Scope. -- The purpose of Series 5 is to prevent and control air pollution from the operation of coal preparation plants and coal handling operations.

1.2. Authority. -- W. Va. Code ~~§16-20-5~~ §§22-1-3, 22-5-4

1.3. Filing Date. -- ~~July 26, 1993~~

1.4. Effective Date. -- ~~October 22, 1993~~

1.5. Incorporation by Reference - Federal Counterpart Regulations - The Director has determined that there is no counterpart regulation. Due to the absence of a counterpart federal regulation, a determination of whether or not to incorporate by reference is not required, and the Director is not required to consult with the Environmental Protection Advisory Council on this rule.

1.6. Determination of Stringency - Federal Counterpart Regulations - The Director has determined that there is no counterpart federal regulation, and that the absence of a federal regulation is not the result of a specific federal exemption. This rule is not construed to be more or less stringent than federal regulations.

1.7. Constitutional Takings Determination - The Director has determined and does state that this rule does not constitute a constitutional taking of real property.

§45-5-2. Definitions.

2.1. "Air Pollution," 'statutory air pollution' shall have the meaning ascribed to it in W. Va. Code ~~§16-20-1~~ §22-5-1 et seq., as amended.

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

2.3. "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 or association organized or existing under the law of this or any other state or country, and any firm, partnership or association of whatever nature.

45CSR5

2.4. "Handling Operation" means and includes but shall not be limited to all coal grinding, crushing, picking, screening, conveying, storing, and stockpiling operations not associated with the transport, production, or preparation of coal or coal refuse, excluding coal washing, drying, or air separation operations a coal preparation plant as defined in this rule and which are not also subject to the emission control requirements of 45CSR2, 45CSR3, or 45CSR7.

2.5. "Coal Preparation Plant" means and includes ~~but shall not be limited to all coal washing, drying or air separation operations used for the purpose of preparing the product for marketing~~ any facility (excluding underground mining operations) that prepares coal by one or more of the following processes: screening, breaking, crushing, wet or dry cleaning, and thermal drying, and further such definition of a coal preparation plant shall include all coal handling operations associated with the processes described above, but shall not include:

a. Any facility that is designed to process less than 200 tons of coal per day; or

b. Any facility or equipment subject to the requirements of 45CSR2, 45CSR3, 45CSR7; or

c. Any facility which would be defined as a coal preparation plant solely because it incorporates a stationary grizzly or scalping screen to separate oversized refuse from coal.

2.6. "Plant" means and includes all equipment and grounds utilized in an integral complex for coal preparation and associated handling.

2.7. "Fuel" means a fuel such as a solid, gaseous or liquid fuel which is fired in fuel burning equipment.

2.8. "Fuel Burning Equipment" means and includes any chamber, apparatus, device, mechanism, stack or structure used in the process of burning fuel for the primary purpose of producing heat for a thermal drier.

2.9. "Thermal Drier" means a device using fuel burning equipment for the primary purpose of reducing the moisture content of coal.

2.10. "Air Table" means a device using a gaseous separating media for the primary purpose of improving the product quality.

2.11. "Air Pollution Control Equipment" means any equipment used for collecting gasborne particulate matter for the purpose of preventing or reducing particulate emissions into the open air.

2.12. "Standard Cubic Foot" means one (1) cubic foot of dry gas, measured at standard conditions of sixty-eight degrees Fahrenheit (68°F) and 29.92 inches of mercury column.

45CSR5

2.13. "Stack" for the purpose of this rule means but shall not be limited to any duct, control equipment exhaust, or similar apparatus, which vents gases containing particulate matter into the open air from operations including, but not limited to, furnaces, drying chambers, and air separation (table) operations.

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

2.15. "Ringelmann" shall be the Ringelmann's Scale for Grading the Density of Smoke published by the United States Bureau of Mines as information circular 7718, August, 1955, or any chart, recorder, indicator, device, or method which is a standardized method for the measurement of smoke density which is approved by the ~~Commission~~ Director as the equivalent of said Ringelmann Scale.

2.16. "Fugitive Dust" means any and all particulate matter generated, which, if not confined or suppressed by water or chemical treatment, would be emitted directly into the open air from points other than a stack outlet.

2.17. "Fugitive Dust Control System" means any equipment or method used to confine, collect, and dispose of fugitive dust, including but not limited to hoods, bins, duct work, fans, and air pollution control equipment and equipment used to prevent or minimize the emission of fugitive dust by water or chemical treatment.

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

2.19. "Director" means the Director of the Division of Environmental Protection or his or her designated representative.

2.20. "Division of Environmental Protection" or "DEP" means that division of the West Virginia Department of Commerce, Labor, and Environmental Resources which is created by the provisions of W. Va. Code §22-1-1, et seq.

~~2.21. "Chief of Air Quality" or "Chief" means the Chief of the Office of Air Quality or his or her designated representative appointed by the Director of the Division of Environmental Protection pursuant to the provisions of W. Va. Code §22-1-1, et seq.~~

Other words and phrases used in this rule, unless otherwise indicated, shall have the meaning ascribed to them in W. Va. Code ~~§16-20-1~~ §22-5-1 et seq., as amended.

§45-5-3. Emission of Particulate Matter Prohibited and Standards of Measurement.

3.1. No person shall cause, suffer, allow or permit emission of particulate matter into the open air from any stack which is as dark or darker in shade or appearance as that designated as No. 1 Ringelmann or twenty percent (20%) opacity, except as noted in Sub-section 3.2.

3.2. The provisions of Sub-section 3.1 of this section shall not apply to particulate matter, the shade or appearance of which is less than No. 3 Ringelmann or sixty percent (60%) opacity for a period or periods aggregating no more than five (5) minutes in any sixty (60) minute period during operation.

3.3. The provisions of Sub-section 3.1 and 3.2 of this section shall not apply to particulate matter, the shade or appearance of which is less than No. 3 Ringelmann or sixty percent (60%) opacity for a period of up to eight (8) minutes in any operating day for the purposes of building a fire of operating quality in the fuel burning equipment of a thermal drier.

3.4. No person shall cause, suffer, allow or permit emission of particulate matter into the open air from any fugitive dust control system which is as dark or darker in shade or appearance as that designated as No. 1 Ringelmann or twenty percent (20%) opacity.

§45-5-4. Control and Prohibition of Particulate Emissions from Coal Thermal Drying Operations of a Coal Preparation Plant.

No person shall cause, suffer, allow or permit particulate matter to be vented into the open air from any thermal drier exhaust in excess of the following limitations:

4.1. Thermal driers installed on or before March 1, 1970, shall not exceed the emission limitations of the following table:

Total Plant Volumetric Flow Rate (Standard Cubic Feet Per Minute)	Maximum Allowable Particulate Loading Per Drier (Grains Per Standard Cubic Foot)
120,000 or less	0.12
172,000	0.11
245,000	0.10
351,000	0.09
500,000 and above	0.08

4.2. Thermal driers installed after March 1, 1970, but before October 24, 1974 shall not exceed the emission limitations of the following table:

Total Plant Volumetric Flow Rate (Standard Cubic Feet Per Minute)	Maximum Allowable Particulate Loading Per Drier (Grains Per Standard Cubic Foot)
75,000 or less	0.10
111,000	0.09
163,000	0.08
240,000 and above	0.07

45CSR5

4.3. Thermal driers which commenced construction or modification after October 24, 1974, shall meet emission limitations set forth under 45CSR16 and shall not be subject to Sub-sections 4.1, 4.2, 4.5, 10.4.b, or 10.4.c or this rule.

4.4. For the volumetric flow rate between any two consecutive volumetric flow rates stated in Sub-section 4.1 and Sub-section 4.2, limitations shall be as determined by linear interpolation. For the purpose hereof, the total volumetric flow rate shall be the total standard cubic feet of dry gas passed through all thermal driers at one plant location. This value shall be determined by methods which are acceptable to the Chief Director of Air Quality.

4.5. When modifications are made to plants after March 1, 1970, that result in a significant increase in the total gas volume passing through a thermal drier(s), said drier(s) will be subject to the emission limitations of Sub-section 4.2 even though such modifications do not include the installation of a new thermal drier(s). Modifications made to a coal thermal drier(s) after March 1, 1970, but before October 24, 1974, that result in a significant increase in the total gas volume passing through the thermal drier(s) shall subject such thermal drier(s) to the emission limitations of Sub-section 4.2 even though such modifications do not include the installation of a new thermal drier(s).

4.6. No person shall circumvent this rule by adding additional gas to any drier exhaust or group of drier exhausts for the purpose of reducing the grain loading.

4.7. No person shall cause, suffer, allow or permit the exhaust gases from a thermal drier to be vented into the open air at an altitude of less than eighty (80) feet above the foundation grade of the structure containing the drier or less than ten (10) feet above the top of said structure or any adjacent structure, whichever is greater. In determining the desirable height of a plant stack, due consideration shall be given to the local topography, meteorology, the location of nearby dwellings and public roads, the stack emission rate, and good engineering practice as set forth in 45CSR20.

4.8. The provisions of this Section, Section 3, Section 7, Section 10, and Section 11 shall apply to all thermal driers including those driers which are not a part of a coal preparation plant as defined in Section 2.5.

§45-5-5. Control and Prohibition of Particulate Emissions From an Air Table Operation of a Coal Preparation Plant.

5.1. No person shall cause, suffer, allow or permit particulate matter to be vented into the open air from any air table exhaust in excess of 0.05 grains per dry standard cubic foot of exhaust gases.

5.2. No person shall circumvent this rule by adding additional gas to any air table exhaust or group of air table exhausts for the purpose of reducing the grain loading.

§45-5-6. Control and Prohibition of Fugitive Dust Emissions From Coal Handling Operations and Preparation Plants.

6.1. No person shall cause, suffer, allow or permit a coal preparation plant or handling operation to operate that is not equipped with a fugitive dust control system. This system shall be operated and maintained in such a manner as to minimize the emission of particulate matter into the open air.

6.2. The owner or operator of thea coal preparation plant or handling operation shall maintain dust control of the premises and owned, leased, or controlled access roads by paving, or other suitable measures. Good operating practices shall be observed in relation to stockpiling, car loading, breaking, screening, and general maintenance to minimize dust generation and atmospheric entrainment.

6.3. Owners or operators of coal handling operations and coal preparation plants located in the area of Brooke County west of State Route 2, north of an extension of the southern boundary of Steubenville Township in Jefferson County, Ohio, and south of the Market Street Bridge shall comply with the following fugitive dust control provisions:

a. Particulate matter mass emissions shall not exceed 0.001 pounds per ton of coal input from any coal crusher or coal screening operation.

b. Visible particulate emissions shall not exceed five percent (5%) opacity from any coal crushing or screening operation or from any coal conveying system.

c. A definitive, approvable plan to control fugitive dust entrainment and emissions from vehicular traffic and activity areas including but not limited to, paved and unpaved haulroads, stockpile areas, haulway berms, and plant access roads to public streets and highways shall be submitted to the Chief Director and such a plan shall be embodied in a consent order approved by the Chief Director. For plants or handling operations in existence on the effective date of this rule, the plan shall be submitted to the Chief Director on or before May 1, 1993. For plants or handling operations not in existence on the effective date of this rule, the plan shall be deemed filed upon filing of an application for construction, modification, or relocation pursuant to Section 8 of this rule.

A. Provide specific scheduled treatment frequencies for all areas of vehicular activity and stockpiling using water and/or chemical dust suppressants at sufficient application rates and intensities and wet flushing and vacuum sweeping for paved surfaces so as to reduce uncontrolled fugitive dust emissions by at least ninety-five percent (95%) as determined by methods and procedures in the document, "Control of Open Fugitive Dust Sources" (EPA 450/3-88-008, September, 1988) or other measures which achieve equivalent emission reductions as determined in accordance with the reference document.

45CSR5

B. Provide for daily monitoring and recordkeeping and not less than monthly reporting of dust control measures to the Chief Director, including, but not limited to water and chemical usage rates; chemical dust suppressant dilution ratios; accurate water and/or chemical flow rates or volumes through stationary or mobile dust suppression equipment and system pressures; beginning and ending times for treatment; traffic rates and types of vehicles using plant haulways, access roads and other vehicle activity areas; meteorological conditions relevant to control program requirements and equipment maintenance and downtime records.

C. Provide that no coal be unloaded from trucks which are not, upon entry to the plant or handling facility, tarped or otherwise covered to prevent dust entrainment, spillage or re-entrainment.

D. Provide that the wheels, tires and underbodies of all coal trucks be fully cleaned by an automatic washing system or equivalently effective system prior to exiting onto paved streets or highways from the premises of the plant or coal handling operation if such trucks travel over unpaved or soiled areas within the plant or coal handling operation.

E. Provide that all paved traffic areas be water flushed and vacuum or broom swept daily or alternatively be treated with water and/or chemical dust suppressants in accordance with Section 6.3.c.A of this rule.

F. Provide that all reports required under this section be certified to be true and accurate by the owner or operator prior to submission to the Chief Director.

G. Provide that the design of dust suppression systems or equipment, including but not limited to, number of trucks and truck tank capacity, spray bar or header volumes and pressures, spray system pump specifications, type of chemicals used, number and design of vacuum trucks maintained and other similar information be clearly incorporated.

d. The Chief Director may consider or incorporate exceptional provisions to the fugitive dust control plans or schedules approved pursuant to Section 6.3.c. taking into consideration such conditions as rainfall, snow cover, and freezing weather.

§45-5-7. Monitoring of Operations.

7.1. The owner or operator of a thermal drier shall install, calibrate, maintain, and continuously operate monitoring devices, as follows:

a. A monitoring device for the continuous measurement of the temperature of the gas stream at the exit of the thermal drier. The monitoring device is to be certified by the manufacturer to be accurate within plus or minus three degrees Fahrenheit ($\pm 3^{\circ}\text{F}$).

45CSR5

b. For thermal driers that use venturi scrubber emissions control equipment:

A. A monitoring device for the continuous measurement of the pressure loss through the venturi constriction of the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within plus or minus one inch (± 1 in.) water gauge.

B. A monitoring device for the continuous measurement of the water supply pressure to the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within plus or minus five percent ($\pm 5\%$) design water supply pressure. The pressure sensor must be located close to the water discharge point or at such point as approved by the Chief Director.

7.2. All monitoring devices required under Sub-section 7.1 are to be recalibrated at least once annually.

§45-5-8. Construction, Modification, and Relocation Permits.

8.1. No person shall construct, modify, or relocate any coal preparation plant or coal handling operation without first obtaining a permit in accordance with the provisions of W. Va. Code ~~§16-20-1~~ §22-5-1 et seq., as amended, and the ~~Commission Director's~~ Chief Director's rules for review and permitting of new or modified sources, except that coal handling operations which are not stationary sources as defined by Section 2.25.b of 45CSR13 are not required to obtain a permit under 45CSR13. The terms "construction", "modification" and "relocation" shall have the meaning ascribed to them in 45CSR13.

§45-5-9. Operating Permits.

9.1. ~~All~~ The owners ~~and/or~~ operators of each coal preparation plants ~~and coal handling operations~~ in existence on the effective date of this rule shall submit a complete application for an operating permit to the Chief Director not later than ninety (90) days from the effective date of this rule.

The operating permit application shall contain sufficient information as in the judgement of the Chief Director is necessary to enable him to determine whether the preparation plant ~~or coal handling operation~~ and air pollution control equipment or measures comply with this rule and other applicable rules. Information to be furnished in the permit application shall include but not be limited to:

a. A description of the nature, location, design capacity and typical and maximum operating schedules of the facility, including specifications and drawings showing its design and plant lay-out; and

b. A detailed description as to what systems of continuous emission reduction are employed by the facility, emission estimates, and any other information as necessary to determine the required emissions control technology or measures that must be applied.

45CSR5

9.2. It shall be unlawful for any person to operate a coal preparation plant ~~or coal-handling operation~~ after the ninetieth (90th) day following the effective date of this rule if a completed permit application has not been submitted to the Chief Director in accordance with this section.

9.3. Any owner or operator of a coal preparation plant ~~or coal-handling operation~~ which is constructed, modified, or relocated after the effective date of this rule pursuant to a preconstruction permit as provided under Section 8 of this rule, shall submit a completed application for a new operating permit, or an amendment to an existing permit in the case of a modification, within sixty (60) days of the date of start-up of such new facility or modification.

9.4. No owner or operator of a coal preparation plant ~~or coal-handling operation~~ shall be deemed to be in violation of this section during the pendency of the Chief Director's operating permit review period, provided that such owner or operator has submitted a complete operating permit application in accordance with this section and is otherwise in compliance with the Code and the rules promulgated thereunder.

9.5. If, after any investigation made by the Chief Director, or his designated representative, the Chief Director shall be of the opinion that an operating permit holder is violating the provisions of this rule, the Chief Director, may issue an order suspending or revoking the operating permit in the manner provided under W. Va. Code ~~§16-20-6~~ §22-5-5. Such order shall be considered a cease and desist order for purposes of administrative and judicial review. Operating permits revoked or suspended may be renewed by the Director upon a showing of compliance with the provisions of this rule, the permit, the Code, and all other rules.

9.6. The possession of a permit by any person shall in no way relieve the holder thereof of the obligation to comply with the provisions of this or any other rule or W. Va. Code ~~§16-20~~ §22-5-1 et seq; provided, however, that the owner or operator of a source for which an operating permit is required under this rule and under 45CSR30 shall only be required to obtain a permit under 45CSR30.

9.7. Upon determination by the Chief Director that the applicant for a permit for a coal preparation plant ~~or coal-handling operation~~ may violate applicable emissions standards or other applicable rules or may cause violations of ambient air standards the Chief Director shall issue an order denying an operating permit for such facility in the manner provided under W. Va. Code ~~§16-20-6~~ §22-5-12. Such order shall be considered a cease and desist order for purposes of administrative and judicial review.

9.8. The Chief Director shall not issue an operating permit to any person who has not paid in full all fees required under 45CSR22 or any other applicable fee rule. Failure to pay applicable fees shall be cause for permit denial, suspension or revocation.

9.9. Operating permits issued under this rule shall be continuous unless revised, renewed, revoked, suspended, or otherwise changed under the provisions

of this rule or any other applicable legislative rule.

9.10. Any owner or operator of a coal preparation plant which is operating in accordance with a permit application and provisions or conditions established for all plant operations within a pre-construction permit issued by the Director after December 31, 1988 (pursuant to 45CSR13, 45CSR14 or 45CSR19) may request that the Director use such pre-construction permit to establish operating permit provisions for the plant in lieu of completing a permit application under this rule. Such request shall be filed with the Director within sixty (60) days of the effective date of this rule if the coal preparation plant is operating on the effective date of this rule, or sixty (60) days before beginning operation if it is not in operation on the effective date of this rule. The Director shall grant or deny the request in writing. The Director shall provide specific reasons for denial of requests and shall provide a ninety (90) day period for submission of a complete application from the date of denial.

9.11. In the event that a coal preparation plant is completely inoperative on the effective date of this rule, or becomes completely inoperative within ninety (90) days thereafter, the owner or operator of the plant shall not be subject to the permit application filing schedule of Sub-section 9.1 of this rule if such owner or operator provides timely notice to the Director of the status of the plant and certifies that the plant shall remain inoperative for more than ninety (90) days from the effective date of this rule. A complete application for an operating permit shall be submitted to the Director at least sixty (60) days prior to the date that a plant subject to this Sub-section is to be reactivated.

§45-5-10. Reports and Testing.

10.1. At such reasonable times as the Chief Director may designate, the owner or operator of a coal preparation plant may be required to conduct or have conducted stack tests to determine the dust loading in exhaust gases and mass emission rates of particulate matter. All tests to determine compliance with exhaust gas dust concentrations and particulate matter mass emission rates shall be conducted in accordance with Methods 1-5 of 40 CFR 60, Appendix A as promulgated by USEPA on July 1, 1991 provided that all compliance tests must consist of not less than three (3) test runs, test run duration shall not be less than sixty (60) minutes, and not less ~~that~~ than thirty (30) standard cubic feet of exhaust gas must be sampled during each test run. Should the Chief Director exercise his option to conduct such tests, the operator will provide all necessary sampling connections and sampling ports to be located in such manner as the Chief Director may require, power for test equipment, and the required safety equipment such as scaffolding, railings, ladders, etc., to comply with generally accepted good safety practices.

10.2. The Chief Director, or his duly authorized representative, may conduct such other tests as he may deem necessary to evaluate air pollution emissions other than those noted in Sub-section 10.1.

10.3. The owner or operator shall submit a test protocol for the Chief's Director's approval not less than thirty (30) days prior to any test to

45CSR5

determine compliance with this rule and shall provide at least fifteen (15) days notice of all compliance tests to the Chief Director.

10.4. Tests to determine compliance with the visible emission limitations of Sections 3 and 6 shall be conducted by certified visible emission observers in accordance with Method 9 of 40 CFR 60, Appendix A as promulgated by USEPA on July 1, 1991, and as follows:

a. In determining compliance with Sections 3.1 and 3.4, not less than twenty-four (24) consecutive visible emissions observations at fifteen (15) second intervals shall be recorded and averaged.

b. In determining a violation of Section 3.2, the observer shall record not less than twenty-four (24) nor more than two-hundred forty (240) visible emissions observations at fifteen (15) second intervals for each test and shall total the number of observations exceeding twenty percent (20%) opacity. More than twenty (20) consecutive or nonconsecutive observations exceeding twenty percent (20%) opacity recorded within any sixty (60) minute period shall constitute a violation except as provided in Section 10.4.c.

c. More than thirty-two (32) consecutive or nonconsecutive visible emissions observations during any period or periods within one (1) day in which an owner or operator of a thermal dryer is initiating and stabilizing operating combustion conditions in the furnace of the thermal dryer shall constitute a violation of Section 3.3 of this rule.

d. Nothing in this Sub-section, however, shall preclude any owner or operator or the Director from using opacity data from a properly installed, calibrated, maintained, and operated continuous opacity monitor from being used as evidence to demonstrate compliance or a violation of visible emission requirements of this rule.

10.5. Any stack venting thermal drier exhaust gases and/or air table exhaust gases or exhaust gases or air from any air pollution control device shall include straight runs of sufficient length to establish flow patterns consistent with acceptable stack sampling procedures. Flow straightening devices shall be required where cyclonic gas flow would exist in the absence of such devices.

§45-5-11. Variance.

11.1. Due to unavoidable malfunctions of equipment, emissions exceeding those provided for in this rule may be permitted by the Chief Director, upon specific application to the Chief Director, for periods not to exceed ten (10) days. Such application shall be made within twenty-four (24) hours of the malfunction.

11.2. In the case of major equipment failure, an additional time period may be granted by the Chief Director provided a corrective program is submitted to the Chief Director by the applicant. Upon determination by the Chief Director that a variance beyond ten (10) days should be granted, the Chief Director shall cause to be published in the State Register and within the county wherein the source lies and all contiguous West Virginia Counties a Class I legal advertisement of notice of intent to grant such a variance. Within fifteen (15) days of the publication of the later of either the State Register notice or Class I legal advertisement notice, any person whose interest may be affected by the granting of such variance may request a conference with the Chief Director to show cause why the variance should not be granted. After such conference or, if no conference is requested, fifteen (15) days after publication of the later of either the State Register notice or Class I legal advertisement notice, the Chief Director may issue an order granting such variance.

11.3. Any person, whose interest may be affected by the granting of a variance in excess of ten (10) days and who requests a conference with the Chief Director pursuant to the provisions of 11.2 of this section, may appeal an order of variance to the Commission in the same manner as appeals of cease and desist orders under the provisions of W. Va. Code ~~§16-20-6~~ §22-5-5.

§45-5-12. Transfer of Permits.

12.1. Any person holding a valid permit may request that the Chief Director transfer the permit to another person providing the following conditions are met:

a. The permit holder describes, in writing, the reasons for or circumstances of the transfer and certifies that the facility for which the permit pertains is in compliance with all permits issued by the Chief Director and all applicable rules of the Commission.

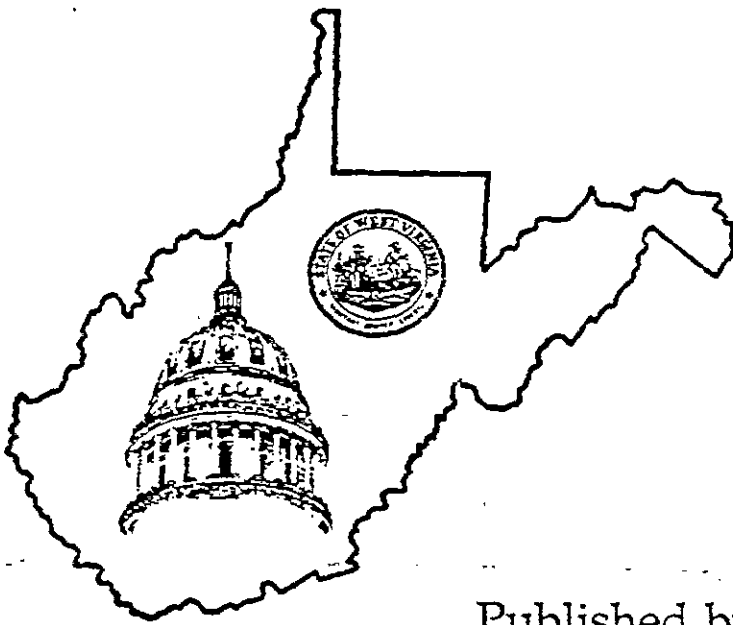
b. The transferee identifies and acknowledges, in writing, that it accepts and will comply with all permits issued by the Chief Director and will comply with all applicable rules.

c. The permit holder or transferee pays, at the time of the request for transfer, a transfer fee of two-hundred dollars (\$200) payable to the ~~West Virginia~~-Air Pollution Control ~~Commission~~-Fund. Such payment satisfies the requirement of Section 4.2 of 45CSR22.

§45-5-13. Severability.

13.1. The provisions of this rule are severable and if any provisions or part thereof shall be held invalid, unconstitutional, or inapplicable to any person or circumstance; such invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sections, or parts of this rule; or their application to any persons or circumstances.

WEST VIRGINIA REGISTER



Published by Ken Hechler, Secretary of State

CONTENTS

Volume XI

Issue 27

July 8, 1994

Pages 952-1024

A Weekly Publication

Administrative Law Division

*Judy Cooper
Director*

*Missy Phalen
Pam Reece
Administrative Assistants*

*Secretary of State
Administrative Law Division
Bldg. 1, Suite 157K
1900 Kanawha Blvd. E.
Charleston, WV 25305-0770*

(304)558-6000

I. Chronological Index

II. Open Government Meetings Listing

III. Price List

IV. Rule Monitor

V. Notices

a. Legislative Rules

b. Interpretive Rules

c. Procedural Rules

d. Emergency Rules

e. Legislative Rule-Making Review Committee

VI. Legislative Interims

VII. Orders

IX. Ethics Commission Opinions

X. Attorney General Opinions

XI. Other Documents or Information Filed

XII. Publication Deadlines and Publication Dates

LEGISLATIVE

SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

FILED
Jun 30 3 32 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Division of Corrections TITLE NUMBER: _____
RULE TYPE: Legislative ; CITE AUTHORITY: W. Va. Code §25-1-17
AMENDMENT TO AN EXISTING RULE: YES NO XX

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____
TITLE OF RULE BEING AMENDED: _____
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 5
TITLE OF RULE BEING PROPOSED: Recording of Inmate Telephone Calls

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH
ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS
COMMENT PERIOD WILL END ON July 30, 1994 AT 1:00 P.M.
ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING

ADDRESS
Rita A. Stuart
Division of Corrections
112 California Avenue
Big. 4, Room 300
Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE

Rita A. Stuart
Authorized Signature

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

FILED
Jun 6 11 31 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

West Virginia Division of Environmental Protection
Office of Air Quality
AGENCY: Legislative ; CITE AUTHORITY: W. Va. Code §22-5-1 et seq.
TITLE NUMBER: 43CSR5

AMENDMENT TO AN EXISTING RULE: YES NO
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 43CSR5
TITLE OF RULE BEING AMENDED: To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operation

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

DATE OF PUBLIC HEARING: August 9, 1994 TIME: 9:00 a.m.
LOCATION OF PUBLIC HEARING: Office of Air Quality
1550 Washington Street, East
Charleston, WV 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.

[Signature]

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

CHRONOLOGICAL INDEX VOLUME XI ISSUE 27

Proposed Rules Filed for Public Hearing

<u>AGENCY</u>	<u>RULE/TYPE</u>	<u>AUTHORITY</u>	<u>HEARING/COMMENT PERIOD/LOCATION</u>
Administration (148-6)	Parking Legislative	§5A-4-5	August 8, 1994, 4:30 p.m. Written Comments Only: Tara Justice Dept. of Administration 1900 Kanawha Blvd., E Building 1, Room E-119 Charleston, WV 25305-0120
Banking (106-17)	Notice & Treatment of Joint Accounts Legislative	§31A-4-33	August 5, 1994, 5:00 p.m. Written Comments Only: WV Division of Banking State Capitol Complex Bldg. 3, Room 311 Charleston, WV 25305
Corrections (90-3)	Furlough Programs for Inmates Under the Custody & Control of the Comm. of the Dept. of Corrections Legislative	§25-1-13	July 30, 1994, 5:00 p.m. Written Comments Only: Rita A. Stuart Division of Corrections 112 California Avenue Bldg. 4, Room 300 Charleston, WV 25305
Corrections (90-5)	Recording of Inmate Telephone Calls Legislative	§25-1-17	July 30, 1994, 5:00 p.m. Written Comments Same as Above
DEP-Air Quality (45-5)	To Prevent & Control Air Pollution From the Operation of Coal Preparation Plants & Coal Handling Operations Legislative	§22-5-1	August 9, 1994, 9:00 a.m. Office of Air Quality 1558 Washington Street, E Charleston, WV 25311 Written Comments Same Address
DEP-Air Quality (45-6)	To Prevent & Control Air Pollution From Combustion of Refuse Legislative	§22-5-1	August 9, 1994, 9:00 a.m. Hearing & Written Comments Same as Above

OTHER

FILED
 JUL 6 4 30 PM '94
 OFFICE OF WEST VIRGINIA
 SECRETARY OF STATE

NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

- 45CSR5 - To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations (Amendments)
- 45CSR0 - To Prevent and Control Air Pollution from the Combustion of Refuse (Amendments)
- 45CSR25 - To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities (Amendments)
- 45CSR30 - Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, To Applicable Air Quality Implementation Plans (New Rule)
- 45CSR37 - Provisions to Control Sulfur Dioxide Emissions and Ambient Air Quality Levels of Sulfur Dioxide in Hancock County (New Rule)
- 45CSR38 - Provisions for Determination of Compliance with Air Quality Management Rules (New Rule)

Upon authorization and promulgation, the above rules, with the exception of 45CSR25, will be submitted to the U. S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. 45CSR25 will be submitted to U. S. EPA as a component part of the State's rules for program authorization relative to the hazardous waste management provisions under the federal Resource Conservation and Recovery Act.

After conclusion of the hearing on the proposed rules above, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans associated with West Virginia's three redesignation requests currently pending before U. S. EPA for the Charleston, Parkersburg, and Huntington/Ashland ozone nonattainment areas. These revisions contain language which clarifies West Virginia's commitments for contingency measures that had been incorporated in the original November 13, 1992 Redesignation Request, the Update to the November 13, 1992 Redesignation Request, dated February 28, 1994 for the Charleston/Parkersburg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington/Ashland area.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Library of the Office of Air Quality located at the address below on and after July 9, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
 Office of Air Quality
 Division of Environmental Protection
 1558 Washington Street, East
 Charleston, WV 25311-2599

FILED

AUG 6 4 38 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

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- 45CSR25 - To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities (Amendments)
- 45CSR36 - Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, To Applicable Air Quality Implementation Plans (New Rule)
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- 45CSR38 - Provisions for Determination of Compliance with Air Quality Management Rules (New Rule)

Upon authorization and promulgation, the above rules, with the exception of 45CSR25, will be submitted to the U. S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. 45CSR25 will be submitted to U. S. EPA as a component part of the State's rules for program authorization relative to the hazardous waste management provisions under the federal Resource Conservation and Recovery Act.

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4

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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Library of the Office of Air Quality located at the address below on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES

DIVISION OF ENVIRONMENTAL PROTECTION

OFFICE OF AIR QUALITY

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

David C. Callaghan
Director

Eli McCoy
Deputy Director

July 1, 1994

The Wheeling News-Register and
Intelligencer
Legal Ad Department
1500 Main Street
Wheeling, WV 26003

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Friday, July 8, 1994 and must not be published on Sunday as a matter of law. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

July 7, 1994

Mr. Tim Carroll
Office of Air Quality
Northern Panhandle Regional Office
1911 Warwood Avenue
Wheeling, West Virginia 26003

Dear Mr. Carroll:

On Tuesday, August 9, 1994 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR5, 45CSR6, 45CSR25, 45CSR36, 45CSR37, and 45CSR38. Please retain the enclosed documents for public review until after the August 9th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

Thank you very much for your cooperation and assistance in this matter. If you have any questions, please direct them to Tammy Mowrer at (304) 558-2275.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Dale Farley".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

- 45CSR5 - To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations (Amendments)
- 45CSR6 - To Prevent and Control Air Pollution from the Combustion of Refuse (Amendments)
- 45CSR25 - To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities (Amendments)
- 45CSR36 - Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, To Applicable Air Quality Implementation Plans (New Rule)
- 45CSR37 - Provisions to Control Sulfur Dioxide Emissions and Ambient Air Quality Levels of Sulfur Dioxide in Hancock County (New Rule)
- 45CSR38 - Provisions for Determination of Compliance with Air Quality Management Rules (New Rule)

Upon authorization and promulgation, the above rules, with the exception of 45CSR25, will be submitted to the U. S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. 45CSR25 will be submitted to U. S. EPA as a component part of the State's rules for program authorization relative to the hazardous waste management provisions under the federal Resource Conservation and Recovery Act.

After conclusion of the hearing on the proposed rules above, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans associated with West Virginia's three redesignation requests currently pending before U. S. EPA for the Charleston, Parkersburg, and Huntington/Ashland ozone nonattainment areas. These revisions contain language which clarifies West Virginia's commitments for contingency measures that had been incorporated in the original November 13, 1992 Redesignation Request, the Update to the November 13, 1992 Redesignation Request, dated February 28, 1994 for the Charleston/Parkersburg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington/Ashland area.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Office of Air Quality, Northern Panhandle Regional Office, 1911 Warwood Avenue, Wheeling, WV on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

David C. Callaghan
Director
Eli McCoy
Deputy Director

July 1, 1994

The Parkersburg News
Legal Ad Department
519 Juliana Street
Parkersburg, WV 26102

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Friday, July 8, 1994 and must not be published on Sunday as a matter of law. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

July 7, 1994

Ms. Dorothy Chittum
Librarian
Parkersburg/Wood County Public Library
3100 Emerson Avenue
Parkersburg, West Virginia 26104

Dear Ms. Chittum:

On Tuesday, August 9, 1994 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR5, 45CSR6, 45CSR25, 45CSR36, 45CSR37, and 45CSR38. Please retain the enclosed documents for public review until after the August 9th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

Thank you very much for your cooperation and assistance in this matter. If you have any questions, please direct them to Tammy Mowrer at (304) 558-2275.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tim

Enclosures

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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Parkersburg/Wood County Public Library, 3100 Emerson Avenue, Parkersburg, West Virginia on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

David C. Callaghan
Director
Ell McCoy
Deputy Director

July 1, 1994

The Herald-Dispatch
Legal Ad Department
P. O. Box 2017
Huntington, WV 25720

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Friday, July 8, 1994 and must not be published on Sunday as a matter of law. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

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Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

July 7, 1994

Mr. Matt Onion
Cabell County Public Library
455 9th Street Plaza
Huntington, West Virginia 25701

Dear Mr. Onion:

On Tuesday, August 9, 1994 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR5, 45CSR6, 45CSR25, 45CSR36, 45CSR37, and 45CSR38. Please retain the enclosed documents for public review until after the August 9th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

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Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Cabell County Public Library, 455 9th Street Plaza, Huntington, WV on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

Gaston Caperton
Governor

1558 Washington Street, East
Charleston, WV 25311-2599

David C. Callaghan
Director
Eli McCoy
Deputy Director

July 1, 1994

Charleston Daily Mail
Legal Ad Department
1001 Virginia Street, East
Charleston, WV 25301

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Friday, July 8, 1994 and must not be published on Sunday as a matter of law. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

July 7, 1994

Ms. Jeanne Chandler
Librarian
Office of Air Quality
1558 Washington Street, East
Charleston, WV 25311

Dear Ms. Chandler:

On Tuesday, August 9, 1994 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR5, 45CSR6, 45CSR25, 45CSR36, 45CSR37, and 45CSR38. Please retain the enclosed documents for public review until after the August 9th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

Thank you very much for your cooperation and assistance in this matter. If you have any questions, please direct them to Tammy Mowrer at (304) 558-2275.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

- 45CSR5 - To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations (Amendments)
- 45CSR6 - To Prevent and Control Air Pollution from the Combustion of Refuse (Amendments)
- 45CSR25 - To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities (Amendments)
- 45CSR36 - Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, To Applicable Air Quality Implementation Plans (New Rule)
- 45CSR37 - Provisions to Control Sulfur Dioxide Emissions and Ambient Air Quality Levels of Sulfur Dioxide in Hancock County (New Rule)
- 45CSR38 - Provisions for Determination of Compliance with Air Quality Management Rules (New Rule)

Upon authorization and promulgation, the above rules, with the exception of 45CSR25, will be submitted to the U. S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. 45CSR25 will be submitted to U. S. EPA as a component part of the State's rules for program authorization relative to the hazardous waste management provisions under the federal Resource Conservation and Recovery Act.

After conclusion of the hearing on the proposed rules above, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans associated with West Virginia's three redesignation requests currently pending before U. S. EPA for the Charleston, Parkersburg, and Huntington/Ashland ozone nonattainment areas. These revisions contain language which clarifies West Virginia's commitments for contingency measures that had been incorporated in the original November 13, 1992 Redesignation Request, the Update to the November 13, 1992 Redesignation Request, dated February 28, 1994 for the Charleston/Parkersburg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington/Ashland area.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Library of the Office of Air Quality located at the address below on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

Gaston Caperton
Governor

1558 Washington Street, East
Charleston, WV 25311-2599

David C. Callaghan
Director
Eli McCoy
Deputy Director

July 1, 1994

Beckley Register/Herald
Legal Ad Department
P. O. Drawer P
Beckley, WV 25801

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Friday, July 8, 1994 and must not be published on Sunday as a matter of law. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

July 7, 1994

Ms. Susan Vidovich
Librarian
Raleigh County Public Library
P. O. Box 1876
Beckley, West Virginia 25802

Dear Ms. Vidovich:

On Tuesday, August 9, 1994 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR5, 45CSR6, 45CSR25, 45CSR36, 45CSR37, and 45CSR38. Please retain the enclosed documents for public review until after the August 9th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

Thank you very much for your cooperation and assistance in this matter. If you have any questions, please direct them to Tammy Mowrer at (304) 558-2275.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

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- 45CSR6 - To Prevent and Control Air Pollution from the Combustion of Refuse (Amendments)
- 45CSR25 - To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities (Amendments)
- 45CSR36 - Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, To Applicable Air Quality Implementation Plans (New Rule)
- 45CSR37 - Provisions to Control Sulfur Dioxide Emissions and Ambient Air Quality Levels of Sulfur Dioxide in Hancock County (New Rule)
- 45CSR38 - Provisions for Determination of Compliance with Air Quality Management Rules (New Rule)

Upon authorization and promulgation, the above rules, with the exception of 45CSR25, will be submitted to the U. S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. 45CSR25 will be submitted to U. S. EPA as a component part of the State's rules for program authorization relative to the hazardous waste management provisions under the federal Resource Conservation and Recovery Act.

After conclusion of the hearing on the proposed rules above, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans associated with West Virginia's three redesignation requests currently pending before U. S. EPA for the Charleston, Parkersburg, and Huntington/Ashland ozone nonattainment areas. These revisions contain language which clarifies West Virginia's commitments for contingency measures that had been incorporated in the original November 13, 1992 Redesignation Request, the Update to the November 13, 1992 Redesignation Request, dated February 28, 1994 for the Charleston/Parkersburg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington/Ashland area.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Raleigh County Public Library, P. O. Box 1876, Beckley, WV on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

Gaston Caperton
Governor

1558 Washington Street, East
Charleston, WV 25311-2599

David C. Callaghan
Director
Eli McCoy
Deputy Director

July 1, 1994

The Clarksburg Exponent
Legal Ad Department
P. O. Box 2000
Clarksburg, WV 26301

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Friday, July 8, 1994 and must not be published on Sunday as a matter of law. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

July 7, 1994

Ms. Donna Riggs
Secretary
WV Air Pollution Control Commission
North Central Regional Office
109 Adams Street, Room M-2
Fairmont, West Virginia 26554-2800

Dear Ms. Riggs:

On Tuesday, August 9, 1994 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR5, 45CSR6, 45CSR25, 45CSR36, 45CSR37, and 45CSR38. Please retain the enclosed documents for public review until after the August 9th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

Thank you very much for your cooperation and assistance in this matter. If you have any questions, please direct them to Tammy Mowrer at (304) 558-2275.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

- 45CSR5 - To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations (Amendments)
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- 45CSR25 - To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities (Amendments)
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- 45CSR37 - Provisions to Control Sulfur Dioxide Emissions and Ambient Air Quality Levels of Sulfur Dioxide in Hancock County (New Rule)
- 45CSR38 - Provisions for Determination of Compliance with Air Quality Management Rules (New Rule)

Upon authorization and promulgation, the above rules, with the exception of 45CSR25, will be submitted to the U. S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. 45CSR25 will be submitted to U. S. EPA as a component part of the State's rules for program authorization relative to the hazardous waste management provisions under the federal Resource Conservation and Recovery Act.

After conclusion of the hearing on the proposed rules above, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans associated with West Virginia's three redesignation requests currently pending before U. S. EPA for the Charleston, Parkersburg, and Huntington/Ashland ozone nonattainment areas. These revisions contain language which clarifies West Virginia's commitments for contingency measures that had been incorporated in the original November 13, 1992 Redesignation Request, the Update to the November 13, 1992 Redesignation Request, dated February 28, 1994 for the Charleston/Parkersburg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington/Ashland area.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Office of Air Quality, North Central Regional Office, 517 1/2 East Park Avenue, Fairmont, WV on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

July 7, 1994

Ms. Karen Hiser
Librarian
Keyser-Mineral County Public Library
105 North Main Street
Keyser, West Virginia 26726

Dear Ms. Hiser:

On Tuesday, August 9, 1994 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR5, 45CSR6, 45CSR25, 45CSR36, 45CSR37, and 45CSR38. Please retain the enclosed documents for public review until after the August 9th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

Thank you very much for your cooperation and assistance in this matter. If you have any questions, please direct them to Tammy Mowrer at (304) 558-2275.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Dale Farley".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

Gaston Caperton
Governor

1558 Washington Street, East
Charleston, WV 25311-2599

David C. Callaghan
Director

Eli McCoy
Deputy Director

July 1, 1994

Mineral Daily News Tribune
Legal Ad Department
P. O. Box 879
Keyser, West Virginia 26726

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Friday, July 8, 1994 and must not be published on Sunday as a matter of law. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Keyser-Mineral County Public Library, 105 North Main Street, Keyser, WV on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

- 45CSR5 - To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations (Amendments)
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- 45CSR25 - To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities (Amendments)
- 45CSR36 - Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, To Applicable Air Quality Implementation Plans (New Rule)
- 45CSR37 - Provisions to Control Sulfur Dioxide Emissions and Ambient Air Quality Levels of Sulfur Dioxide in Hancock County (New Rule)
- 45CSR38 - Provisions for Determination of Compliance with Air Quality Management Rules (New Rule)

Upon authorization and promulgation, the above rules, with the exception of 45CSR25, will be submitted to the U. S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. 45CSR25 will be submitted to U. S. EPA as a component part of the State's rules for program authorization relative to the hazardous waste management provisions under the federal Resource Conservation and Recovery Act.

After conclusion of the hearing on the proposed rules above, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans associated with West Virginia's three redesignation requests currently pending before U. S. EPA for the Charleston, Parkersburg, and Huntington/Ashland ozone nonattainment areas. These revisions contain language which clarifies West Virginia's commitments for contingency measures that had been incorporated in the original November 13, 1992 Redesignation Request, the Update to the November 13, 1992 Redesignation Request, dated February 28, 1994 for the Charleston/Parkersburg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington/Ashland area.



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

July 7, 1994

Ms. Ruth B. Six
Librarian
Gassaway Public Library
100 Birch Street
Gassaway, West Virginia 26624

Dear Ms. Six:

On Tuesday, August 9, 1994 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR5, 45CSR6, 45CSR25, 45CSR36, 45CSR37, and 45CSR38. Please retain the enclosed documents for public review until after the August 9th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

Thank you very much for your cooperation and assistance in this matter. If you have any questions, please direct them to Tammy Mowrer at (304) 558-2275.

Sincerely yours,


Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

Gaston Caperton
Governor

1558 Washington Street, East
Charleston, WV 25311-2599

David C. Callaghan
Director

Eli McCoy
Deputy Director

July 1, 1994

The Record Delta
Legal Ad Department
P. O. Box 550
Buckhannon, WV 26201

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Friday, July 8, 1994 and must not be published on Sunday as a matter of law. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/ilm

Enclosure

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Gassaway Public Library, 100 Birch Street, Gassaway, WV on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

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Upon authorization and promulgation, the above rules, with the exception of 45CSR25, will be submitted to the U. S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. 45CSR25 will be submitted to U. S. EPA as a component part of the State's rules for program authorization relative to the hazardous waste management provisions under the federal Resource Conservation and Recovery Act.

After conclusion of the hearing on the proposed rules above, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans associated with West Virginia's three redesignation requests currently pending before U. S. EPA for the Charleston, Parkersburg, and Huntington/Ashland ozone nonattainment areas. These revisions contain language which clarifies West Virginia's commitments for contingency measures that had been incorporated in the original November 13, 1992 Redesignation Request, the Update to the November 13, 1992 Redesignation Request, dated February 28, 1994 for the Charleston/Parkersburg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington/Ashland area.



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY
1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

David C. Callaghan
Director
Eli McCoy
Deputy Director

July 1, 1994

Elkins Inter-Mountain
Legal Ad Department
P.O. Box 1339
Elkins, WV 26241

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Friday, July 8, 1994 and must not be published on Sunday as a matter of law. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

July 7, 1994

Elkins-Randolph County Public Library
c/o Librarian
416 Davis Avenue
Elkins, West Virginia 26241

Dear Librarian:

On Tuesday, August 9, 1994 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR5, 45CSR6, 45CSR25, 45CSR36, 45CSR37, and 45CSR38. Please retain the enclosed documents for public review until after the August 9th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

Thank you very much for your cooperation and assistance in this matter. If you have any questions, please direct them to Tammy Mowrer at (304) 558-2275.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Dale Farley".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

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The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Elkins-Randolph County Public Library, 416 Davis Avenue, Elkins, WV on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

David C. Callaghan
Director

Eli McCoy
Deputy Director

July 1, 1994

The Evening/Weekend Journal
Legal Ad Department
207 West King Street
Martinsburg, WV 25401

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Friday, July 8, 1994 and must not be published on Sunday as a matter of law. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may submit your invoice and a tear sheet to the attention of Ms. Nadine Sitton, 1558 Washington Street, East, Charleston, West Virginia 25311.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

July 7, 1994

Ms. Peggy Y. Batten
Librarian
Martinsburg-Berkeley County Public Library
101 West King Street
Martinsburg, West Virginia 25401

Dear Ms. Batten:

On Tuesday, August 9, 1994 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR5, 45CSR6, 45CSR25, 45CSR36, 45CSR37, and 45CSR38. Please retain the enclosed documents for public review until after the August 9th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

Thank you very much for your cooperation and assistance in this matter. If you have any questions, please direct them to Tammy Mowrer at (304) 558-2275.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

July 7, 1994

Mr. Richard Poling
Office of Air Quality
Eastern Panhandle Regional Office
P. O. Box 99
Burlington, West Virginia 26710

Dear Mr. Poling:

On Tuesday, August 9, 1994 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR5, 45CSR6, 45CSR25, 45CSR36, 45CSR37, and 45CSR38. Please retain the enclosed documents for public review until after the August 9th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

Thank you very much for your cooperation and assistance in this matter. If you have any questions, please direct them to Tammy Mowrer at (304) 558-2275.

Sincerely yours,


Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

- 45CSR5 - To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations (Amendments)
- 45CSR6 - To Prevent and Control Air Pollution from the Combustion of Refuse (Amendments)
- 45CSR25 - To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities (Amendments)
- 45CSR36 - Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, To Applicable Air Quality Implementation Plans (New Rule)
- 45CSR37 - Provisions to Control Sulfur Dioxide Emissions and Ambient Air Quality Levels of Sulfur Dioxide in Hancock County (New Rule)
- 45CSR38 - Provisions for Determination of Compliance with Air Quality Management Rules (New Rule)

Upon authorization and promulgation, the above rules, with the exception of 45CSR25, will be submitted to the U. S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. 45CSR25 will be submitted to U. S. EPA as a component part of the State's rules for program authorization relative to the hazardous waste management provisions under the federal Resource Conservation and Recovery Act.

After conclusion of the hearing on the proposed rules above, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans associated with West Virginia's three redesignation requests currently pending before U. S. EPA for the Charleston, Parkersburg, and Huntington/Ashland ozone nonattainment areas. These revisions contain language which clarifies West Virginia's commitments for contingency measures that had been incorporated in the original November 13, 1992 Redesignation Request, the Update to the November 13, 1992 Redesignation Request, dated February 28, 1994 for the Charleston/Parkersburg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington/Ashland area.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following locations: Martinsburg-Berkeley County Public Library, 101 King Street, Martinsburg, WV and the Office of Air Quality's Burlington Office, P. O. Box 99, Burlington, WV on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

I, as an officer of the News-Tribune, a daily newspaper published at Keyser, Mineral County, West Virginia, hereby certify that the _____

Division of Environmental Protection in the case of _____

Public Hearing: New Legislative Rules

VS. _____

a copy whereof is hereto annexed has been published for _____ 1 _____ consecutive day

in said NEWS-TRIBUNE, the first publication being on the _____ 7th _____ day of, _____ July _____

19 94

Given under my hand at Keyser this _____ 7th _____ day of _____ July _____ 19 94

Robert C. [Signature]
Publisher

Publisher's Fee

\$31.50

NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

45CSR5 - To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations (Amendments).

45CRS6 - To Prevent and Control Air Pollution from the Combustion of Refuse (Amendments).

45CRS25 - To Prevent and Control Air Pollution from Harzardous Waste Treatment, Storage, or Disposal Facilities (Amendments).

45CRS36 - Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, To Applicable Air Quality Implementation Plans (New Rule).

45CRS37 - Provisions to Control Sulfur Dioxide Emissions and Ambient Air Quality Levels of Sulfur Dioxide in Hancock County (New Rule).

45CRS38 - Provisions for Detemination of Compliance with Air Quality Management Rules (New Rule).

Upon authorization and promulgation, the above rules, with the exception of 45CRS25, will be submitted to the U.S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. 45CRS25 will be submitted to U.S. EPA as a component part of the State's rules for program authorization relative to the hazardous waste management provisions under the federal Resource Conservation and Recovery Act.

After conclusion of the hearing on the proposed rules above, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans associated with West Virginia's three redesignation requests currently pending before U.S. EPA for the Charleston, Parkersburg, and Huntington/Ashland ozone nonattainment areas. These revisions contain language which clarifies West Virginia's commitments for contingency measures that had been included in the original November 13, 1992 Redesignation Request, the Update to the November 13, 1992 Redesignation Request, dated February 28, 1994 for the Charleston/Parkersburg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington/Ashland area.

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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Keyser-Mineral County Public Library, 105 North Main Street, Keyser, WV on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office: G. Dale Farley, Office of Air Quality, Division of Environmental Protection, 1558 Washington Street, East, Charleston, WV 25311-2599.

State of West Virginia, County of Randolph, ss.

NOTICE OF PUBLIC HEARING

On Tuesday, August 2, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

45CSR5—To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations (Amendments)

45CSR6—To Prevent and Control Air Pollution from the Combustion of Refuse (Amendments)

45CSR25—To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities (Amendments)

45CSR36—Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, To Applicable Air Quality Implementation Plans (New Rule)

45CSR37—Provisions to Control Sulfur Dioxide Emissions and Ambient Air Quality Levels of Sulfur Dioxide in Hancock County (New Rule)

45CSR38—Provisions for Determination of Compliance with Air Quality Management Rules (New Rule)

Upon authorization and promulgation, the above rules, with the exception of 45CSR25, will be submitted to the U.S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. 45CSR25 will be submitted to U.S. EPA as a component part of the State's rules for program authorization relative to the hazardous waste management provisions under the federal Resource Conservation and Recovery Act.

After conclusion of the hearing on the proposed rules above, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans, associated with West Virginia's three redesignation requests currently pending before U.S. EPA for the Charleston, Parkersburg, and Huntington/Ashland ozone nonattainment areas. These revisions contain language which clarifies West Virginia's commitments for contingency measures that had been incorporated in the original November 13, 1992 Redesignation Request, the Update to the November 13, 1992 Redesignation Request, dated February 28, 1994 for the Charleston/Parkersburg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington/Ashland area.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Elkins-Randolph County Public Library, 416 Davis Avenue, Elkins, WV on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2506

I, James Hoffman, Publisher of THE INTER-MOUNTAIN, a newspaper published at Elkins, in said county, do hereby certify that the annexed advertisement was published on the following dates:

July 07 _____

19 94 as required by law.

Given under my hand this 07 day of July 19 94

James Hoffman
Publisher

Printer's Fee: \$ 4169

re me this 07 day of July 19 94

Shirley A. Meneas
Notary Public

15 day of April 19 2002

NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

45CSR5 - To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations (Amendments)

45CSR6 - To Prevent and Control Air Pollution from the Combustion of Refuse (Amendments)

45CSR25 - To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities (Amendments)

45CSR36 - Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under title 23 U.S.C. or the Federal Transit Act, to Applicable Air Quality Implementation Plans (New Rule)

45CSR37 - Provisions to Control Sulfur Dioxide Emissions and Ambient Air Quality Levels of Sulfur Dioxide in Hancock County (New Rule)

45CSR38 - Provisions for Determination of Compliance with Air Quality Management Rules (New Rule)

Upon authorization and promulgation, the above rules, with the exception of 45CSR25, will be submitted to the U.S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the Federal Clean Air Act, as amended. 45CSR25 will be submitted to U.S. EPA as a component part of the State's rules for program authorization relative to the hazardous waste management provisions under the federal Resource Conservation and Recovery Act.

After conclusion of the hearing on the proposed rules above, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans associated with West Virginia's three redesignation requests currently pending before U.S. EPA for the Charleston, Parkersburg, and Huntington/Ashland ozone nonattainment areas. These revisions contain language which clarifies West Virginia's commitments for contingency measures that had been incorporated in the original November 13, 1992 Redesignation Request, the Update to the November 13, 1992 Redesignation Request, dated February 28, 1994 for the Charleston/Parkersburg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington/Ashland area.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Office of Air Quality, Northern Panhandle Regional Office, 1911 Warwood Avenue, Wheeling, WV on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:
G. Dale Farley
Office of Air Quality

STATE OF WEST VIRGINIA,
COUNTY OF OHIO.

I, Bonnie Mattern for the publisher of the

WHEELING NEWS-REGISTER

~~WHEELING INTELLIGENCER~~

newspapers published in the CITY OF

WHEELING, STATE OF WEST VIRGINIA, hereby certify that the annexed publication was inserted in said newspaper on the following dates:

July 8, 1994

commencing on the 8 day of July, 1994

Given under my hand this 13 day of July, 1994

Bonnie Mattern

Sworn to and subscribed before me this 15th day of

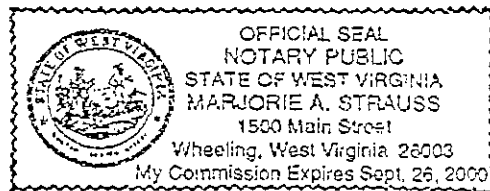
July 1994 at WHEELING, OHIO COUNTY, WEST VIRGINIA

Marjorie G. Strauss

Notary Public

of, in and for OHIO COUNTY, WEST VIRGINIA.

My Commission expires Sept. 26, 2000



NOTICE

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

45CSR5

To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations (Amendments)

45CSR6

To Prevent and Control Air Pollution from the Combustion of Refuse (Amendments)

45CSR25

To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities (Amendments)

45CSR36

Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, To Applicable Air Quality Implementation Plans (New Rule)

45CSR37

Provisions to Control Sulfur Dioxide Emissions and Ambient Air Quality Levels of Sulfur Dioxide in Hancock County (New Rule)

45CSR38

Provisions for Determination of Compliance with Air Quality Management Rules (New Rule)

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G. Dale Farley
Office of Air Quality
Division of
Environmental Protection
1558 Washington
Street, East
Charleston, WV 25311-2599
LH-931 7-7,94

AFFIDAVIT OF PUBLICATION

**WEST VIRGINIA,
COUNTY OF CABELL, TO-WIT:**

I, Connie Rappold being first duly sworn, depose and say

that I am Legal Clerk for The Herald-Dispatch, a corporation, who publishes at Huntington, Cabell County, West Virginia, the newspaper: The Herald-Dispatch, a independent newspaper, in the morning seven days each week, Monday through Sunday including New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving and Christmas; that I have been duly authorized by the Board of Directors of such corporation to execute this affidavit of publication for an on behalf of such corporation and the newspaper mentioned herein; that the legal advertisement attached in the left margin of this affidavit and made a part hereof and bearing number LH-931 was duly published in

The Herald-Dispatch

one time, once a week for successive weeks, commencing with its issue of the 7th day of July, 19 94, and ending with the issue of the 7th day of July, 19 94, and was posted at the East door of the Cabell County Courthouse

on the 7th day of July, 19 94; that said legal advertisement was published on the following dates: July 7, 1994

; that the cost of publishing said annexed advertisement as aforesaid was ; that such newspaper in which such legal advertisement was published has been and is now published regularly, at least as frequently as once a week for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published in the municipality of Huntington, Cabell County, West Virginia, for at least one year immediately preceding the date on which the legal advertisement set forth herein was delivered to such newspaper for publication; that such newspaper is a newspaper of "general circulation" as defined in Article 3, Chapter 59, of the West Virginia Code, within the publication area or areas of the municipality of Huntington, Cabell and Wayne Counties, West Virginia, and

that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper on each date published consists of not less than four pages without a cover; and that it is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices.

Connie Rappold

Taken, subscribed and sworn to before me in my said county this 7th day of June, 19 94

My commission expires October 24, 2000

Melissa L. Slaw

Notary Public
Cabell County,
West Virginia

burg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington/Ashland area. The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street, East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing. Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Cabell County Public Library, 455 9th Street Plaza, Huntington, WV on and after July 8, 1994. Please provide any written comments or questions to the following contact and office:

NOTICE OF PUBLIC HEARING

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- 45CSR36 - Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, To Applicable Air Quality Implementation Plans (New Rule)
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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Parkersburg/Wood County Public Library, 3100 Emerson Avenue, Parkersburg, West Virginia on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

Jul 8

HEATHER BYERS
being first duly sworn, says that the

NOTICE OF PUBLIC HEARING

hereto attached was printed in the Parkersburg News

DAILY

a newspaper published in the City of Parkersburg, Wood County, West Virginia, and posted

at the front door of the Court House for ONE

successive weeks, the first publication and posting thereon being on

the 8th day of July 19 94, and subse-

quent publication on the _____ day of _____ 19 _____,

the _____ day of _____ 19 _____ the _____ day of

_____ 19 _____ the _____ day of _____

19 _____ and the _____ day of _____ 19 _____

Printer's Fee \$ 40.24

6 2/8 " x 103 = 643.75 words @ .0625

Heather Byers

Subscribed and sworn to before me this 8th day of

July 19 94

Melanie Gyle
Notary Public for Wood County, West Virginia

My commission expires

3-23-04

Parkersburg Printing Co. - 5/71



CHARLESTON NEWS-MAILERS
 P.O. Box 2993
 Charleston, West Virginia 25330
 Billing 348-4898
 Classified 348-4848
 1-800-WVA-NEWS
 FEIN 55-0676079

ACCOUNT NBR	037143002
SALES REP ID	0016
INVOICE NBR	371430020711005

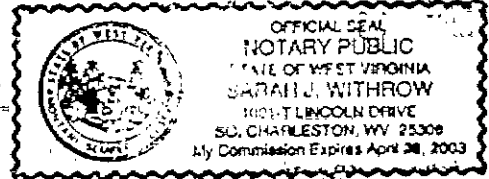
Legal pricing is based upon 67 words per column inch at a rate of \$.0725 per word
 Each successive insertion is discounted by 25% of the first insertion rate (\$.054375 per word)

ISSUE DATE	AD TYPE	PUB	DESCRIPTION		AD NUMBER	AD SIZE		RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR	PURCHASE ORDER #		TOTAL RUN				
07/08	LEGE	DM		PUBLIC HEARING 125107001	L213110	3X0550 16.50		4.85	80.03	80.03
TOTAL INVOICE AMOUNT										80.03

State of West Virginia,

AFFIDAVIT OF PUBLICATION

I, Sandra Sigs of _____



THE DAILY MAIL, A DAILY REPUBLICAN NEWSPAPER, published in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of PUBLIC HEARING

was duly published in said paper(s) during the dates listed below, and was posted at the front door of the court house of said Kanawha County West Virginia, on the 9TH day of JULY 1994. Published during the following dates: 07/08/94-07/08/94
 Subscribed and sworn to before me this 17 day of July
 Printers fee \$ 80.03

Sarah J. Withrow
 Notary Public of Kanawha County, West Virginia

NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

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The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Library of the Office of Air Quality located at the address below on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
 Office of Air Quality
 Division of Environmental Protection
 1558 Washington Street, East
 Charleston, WV 25311-2599

(213110)

The items listed hereon conform to specification, were received & are approved for payment.

Date: 07-21-94 Signed: N. Sitter

Appn. Yr. 95	Acct #. 7892.17	Line Item 035
Off. Code: 5	Fed. Code: 504	P.C.: 509
Purchase Auth. SA	Vendor FEIN 4550-676-079	Off. App. Date
No. 4	SS #	
FIMS FUND 8708	FIMS FY 1995	FIMS ORG 0313
		FIMS ACT 096
		FIMS OBJ CODE
		DO

**AFFIDAVIT OF PUBLICATION
BECKLEY NEWSPAPERS INC.
BECKLEY, WEST VIRGINIA 25801**

July 8, 1994

STATE OF WEST VIRGINIA
COUNTY OF RALEIGH, to wit:

I, Robert E. Zutaut being first duly sworn upon my oath, do depose and say that I am Advertising Manager of Beckley Newspapers Inc., a corporation, publisher of the newspaper entitled The Register-Herald, an independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily, for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh County, West Virginia; that such newspaper is a newspaper of "general circulation," as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices; that the annexed notice

of Public Hearing
(Description of notice)

was duly published in said newspaper once a week for one successive week (Class I), commencing with the issue of the 8th day of July, 1994, and ending with the issue of the 8th day of July, 1994, (and was posted at the

on the _____ day of _____); that said annexed notice was published on the following dates: _____

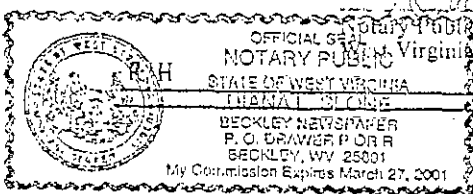
July 8, 1994 and that the cost of publishing said annexed notice as aforesaid was \$ 44.30

Signed Robert E. Zutaut
Robert E. Zutaut, Advertising Manager
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this 8th day of July, 1994

My commission expires March 27, 2001

Notary Public of Raleigh County,
West Virginia



COPY OF PUBLICATION

NOTICE OF PUBLIC HEARING
On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

45CSR5 - To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations (Amendments)

45CSR8 - To Prevent and Control Air Pollution from the Combustion of Refuse (Amendments)

45CSR25 - To Prevent And Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities (Amendments)

45CSR36 - Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, To Applicable Air Quality Implementation Plans (New Rule)

45CSR37 - Provisions to Control Sulfur Dioxide Emissions and Ambient Air Quality Levels of Sulfur Dioxide in Hancock County (New Rule)

45CSR33 - Provisions for Determination of Compliance with Air Quality Management Rules (New Rule)

Upon Authorization and promulgation, the above rules, with the exception of 45CSR25, will be submitted to the U.S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. 45CSR25 will be submitted to U.S. EPA as a component part of the State's rules for program authorization relative to the hazardous waste management provisions under the federal Resource Conservation and Recovery Act.

After conclusion of the hearing on the proposed rules above, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans associated with West Virginia's three redesignation requests currently pending before U.S. EPA for the Charleston, Parkersburg, and Huntington/Ashland ozone nonattainment areas. These revisions contain language which clarifies West Virginia's commitments for contingency measures that had been incorporated in the original November 13, 1992 Redesignation Request, the Update to the November 13, 1992 Redesignation Request, dated February 28, 1994 for the Charleston/Parkersburg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington/Ashland area.

The public hearing will be in the Office of Air Quality Conference Room at Washington Street, Charleston, West Virginia. hearing is open to the public. Written comments by interested parties will be accepted from the date of notice until the close of hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule, period for public comment end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Raleigh County Public Library, P.O. 1876, Beckley, WV on and July 8, 1994. Please provide any written comments or questions to following contact and office: G. Dale Farley, Office of Quality, Division of Environmental Protection, Washington Street, Charleston, WV 25311-2599. 7-8-Fri-1-RH

NOTICE OF PUBLIC HEARING
On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

45CSR5 - To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations (Amendments)
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45CSR25 - To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities (Amendments)
45CSR36 - Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U. S. C. or the Federal Transit Act, To Applicable Air Quality Implementation Plans (New Rule)
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45CSR38 - Provisions for Determination of Compliance with Air Quality Management Rules (New Rule)
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After conclusion of the hearing on the proposed rules above, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans associated with West Virginia's three redesignation requests currently pending before U. S. EPA for the Charleston, Parkersburg, and Huntington / Ashland ozone nonattainment areas. These revisions contain language which clarifies West Virginia's commitments for contingency measures that had been incorporated in the original November 13, 1992 Redesignation Request, the Update to the November 13, 1992 Redesignation Request, dated February 28, 1994 for the Charleston / Parkersburg areas and the Amendment to the November 12, 1992 Redesignation Request, dated November 12, 1993 for the Huntington / Ashland area. The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing. Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Office of Air Quality, North Central Regional Office, 517 1/2 East Park Avenue, Fairmont, WV on and after July 8, 1994. Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599

PUBLISHER'S CERTIFICATE

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON

Deborah S. Veltri

I, _____
Classified Office Manager of THE CLARKSBURG EXPONENT, a newspaper of general circulation published in the City of Clarksburg, County and State aforesaid, do hereby certify that the annexed

Notice of Public Hearing

was published in said THE CLARKSBURG EXPONENT one time, on the

7 day of July 1994

The publisher's fee for said publication is \$ 25.25

Deborah S. Veltri
Classified Office Mgr. of The Clarksburg Exponent

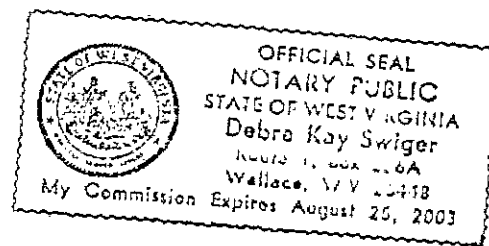
SEAL

Subscribed and sworn to before me this 7 day
of July 1994

Debra Kay Swiger
Notary Public in and for Harrison County, WV.

My commission expires on the 25th day of August, 2003

Form CA-14 E



NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules and rule amendments:

45CSR5 - To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations (Amendments)

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This public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Gassaway Public Library, 100 Birch Street, Gassaway, WV on or after July 8, 1994.

Please provide any written comments or questions to the following contact and office:
G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East,
Charleston, WV 25311-2599
7-3

State of West Virginia, County of Upshur, Ss:

..... Mark Davis Advertising Manager
Record Delta, a newspaper published at Buckhannon in the said county, do hereby certify that the annexed NOTICE OF PUBLIC HEARING

.....
was published once a week for ONE (1) successive weeks in said Record Delta newspaper published as aforesaid, commencing on the 8th day of July days of 19 .. 94

Given under my hand this 8th day of July day of 19 94

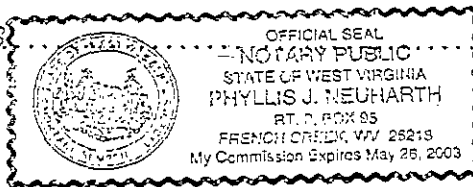
..... Advertising Manager
Printers fee \$ 34.50

WEST VIRGINIA, UPSHUR COUNTY, TO-WIT:

Subscribed and sworn to before me this 8th day of July day of 19 .. 94

..... Phyllis J. Neuharth Notary Public.

My Commission expires May 26, 2003



NOTICE OF PUBLIC HEARING

On Tuesday, August 9, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection will hold public hearings on the following proposed new legislative rules or rule amendments:

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Certificate of Publication

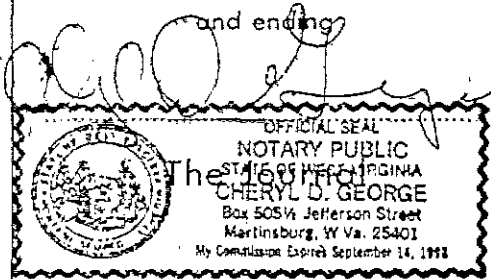
This is to certify the annexed advertisement
WV DEPT. COMM., LABOR, ENV. RES.
DIV. ENV. PROTECTION
OFFICE OF AIR QUALITY

NOTICE OF PUBLIC HEARING

appeared for 1 consecutive ^{days} weeks
in The Journal Publishing Company a
newspaper published in the City of
Martinsburg, W. Va., in its issue
beginning

7/8

and ending



Fee \$ 43.61

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following locations: Martinsburg-Berkeley County Public Library, 101 King Street, Martinsburg, WV and the Office of Air Quality's Burlington Office, P.O. Box 99, Burlington, WV on and after July 8, 1994.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599
7:8(14)

OAQ MAILING LIST FOR PUBLIC HEARINGS/MEETINGS

Mr. Larry Myers
Allegheny Power Service Corp.
800 Cabin Hill Drive
Greensburg, Pennsylvania 15601

Mr. Brian Broderick
BNA PLUS
Bureau of National Affairs
1231 25th Street, N.W.
Washington, D.C. 20037

Mr. Greg Scandrett
ERM Midwest
5088 West Washington Street
Charleston, WV 25313

Ms. Becky Fleming
Charleston Daily Mail
1001 Virginia Street, East
Charleston, WV 25301

Mr. Norm Steenstra
Environmental Coordinator
West Virginia Citizen Action Group
1324 Virginia Street, East
Charleston, West Virginia 25301

Mr. Eric Niiler
Charleston Gazette
1002 Virginia Street, East
Charleston, WV 25301

Ms. Joline Brady
103 Timberlake Circle
Scott Depot, WV 25560

Ms. Mildred Holt
P. O. Box 367
Institute, WV 25112

Ms. Lillian Erskin
52 Bailes Drive
Nitro, WV 25143

Ms. Suzanne Tenkhoff
National Institute for Chemical Studies
Nitro/St. Albans Committee
31 Bailes Drive
Nitro, West Virginia 25143

Mr. Ray de Bolt
Fire Chief
Charleston Fire Department
808 Virginia Street, West
Charleston, WV 25302

The Honorable William Croye
Mayor, City of Belle
National Institute for Chemical Studies
Upper Kanawha Valley Committee
110 East DuPont Avenue
Belle, West Virginia 25015

Dr. Paul Hill, President
National Institute for Chemical Studies
University of Charleston
2300 MacCorkle Avenue, S.E.
Charleston, West Virginia 25304

Mr. Tim Carroll
Regional Office Supervisor
Northern Panhandle Regional Office
WV Office of Air Quality
1911 Warwood Avenue
Wheeling, West Virginia 26003

Mr. William Taylor
Regional Engineer
North Central Regional Office
WV Office of Air Quality
109 Adams Street, Room M-2
Fairmont, WV 26554-2800

Mr. Robert Parsons
Jackson & Kelly
1600 Laidley Tower
Charleston, WV 25301

Mr. Ira H. Dorfman
Vice-President, Energy & Environment
Ryan-McGinn
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Arlington, VA 22201

Larry G. Kopelman
Special Assistant Attorney General
WV Air Pollution Control Commission
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Charleston, WV 25302

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Ohio Valley Environmental Coalition
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Proctorville, OH 45669

Ms. Helen Gibbins
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Ms. Missy Woolverton
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Charleston, WV 25301

Ms. Rhonda Hooper
Monsanto
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Nitro, WV 25143

Mr. Richard Poling
Engineer II
c/o WV Division of Highways
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Burlington, WV 26710

Ms. Claudia Banner
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Roanoke, Virginia 24022-2121

Mr. David C. Callaghan
Director, Division of Environmental
Protection
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Nitro, WV 25143-2506

Act Foundation
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Charleston, WV 25302

Ms. Pamela Nixon
406 Grandview Point
Dunbar, WV 25064

Mr. Oliver A. Fick
Air Program Manager
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Suite 590
Atlanta, Georgia 30329-2265

Mr. Brian Farkas
Public Information Officer
WV Division of Environmental
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10 McJunkin Road
Nitro, WV 25143-2506

Ms. Liz McMeekin
Aristech Chemical Company
600 Grant Street
Pittsburgh, PA 15219

Ms. Liz Schiffer
128 Woodbridge Drive
Charleston, WV 25311

Ms. Britt Bernheim
Office of Air Quality
1615 Washington Street, East
Charleston, WV 25311

W VA OFFICE OF AIR QUALITY

AUGUST 9, 1994

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HULBERT DAVID A	Hercules / Allegany Ballistics Lab	PO Box 210 Rocket Center, WV 26726
Christopher B. Power	Robinson & Messinger	Charleston
Doug Rice	WV DOT	"
Mary E. White	Sussex State	Orr City PA
Ron Ryan	Quaker State	Martinsburg, WV
Gene Triff	Quaker State	Newell, WV
Mark P. ...	WV DOT	Ches, WV
Richard ...	WV DOT	Chas., WV
David C. ...	WV DOT	Chas., WV
John Wiseman	WV DOT	Chas., WV

W VA OFFICE OF AIR QUALITY

AUGUST 9, 1994

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Tommy Severn	WV DEP	"
Gene Trigg	Quaker State	Mars, West Va.
<i>[Signature]</i>	WV State Dept	Martinsburg
<i>[Signature]</i>	WV DEP OAG	Charleston
Kane Wilson	"	"
Teanne Chandler	WV DEP - PID	Charleston

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY
AUG 9 1994

PUBLIC HEARING
WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

The following is a transcript of a public hearing held at the West Virginia Division of Environmental Protection, Office of Air Quality, 1558 Washington Street, Charleston, Kanawha County, West Virginia, on August 9, 1994, at 9:00 a.m., and taken by Christy L. Morris, Certified Court Reporter and Notary Public, pursuant to notice.

SUPERIOR COURT REPORTING
Christy L. Morris, CCR
3719 Virginia Avenue, S.E.
Charleston, West Virginia 25304
(304) 925-2244 Mobile 542-4606

ORIGINAL

PROCEEDINGS

MS CHANDLER: Good morning. This is the 9th day of August, 1994, in the conference room of the West Virginia Division of Environmental Protection, Office of Air Quality located at 1558 Washington Street, East, Charleston, West Virginia.

The purpose of the public hearing is to hear discussions of the six rules filed in the Secretary of State's office on July 6, 1994, and noticed in the State register on July 8, 1994. In addition, the rules were noticed in Class 1 legal newspaper announcements throughout the State and to various individuals and organizations.

This public hearing is being held pursuant to the provision of 29A of the West Virginia Code and Section 110 of the Clean Air Act.

By the way of introduction, my name is Jeanne Chandler of the Public Information Office of the West Virginia Division of Environmental Protection. I will be the moderator for these proceedings today.

The format of today's hearing may appear different than in the past for those of you familiar

with the prior APCC rule-making procedures. The 1994 legislature enacted legislation which became effective on June 10, 1994, which reorganized the Division of Environmental Protection.

One of the effects of the legislation was to make the Air Program one of the offices of the DEF, and as a result, the Air Pollution Control Commission no longer conducts rule-making.

Because of time restraints this year, the Office of Air Quality decided to make the close of the comment period coincide with the close of today's hearing and noticed that fact in the public announcement.

One change in the Administrative Procedures Act, which became effect in 1994, was the prohibition of ex parte communication with the rule-making agency once the comment period closed.

Therefore, written comments will be accepted at the close of today's hearing but no later. The next opportunity to enter comments will be when the legislative rule-making review committee begins its hearings on the proposed rules.

The hearing procedure today will be to introduce each rule individually, allow time for oral comments, and close the hearing for that particular rule. Written comments for any rule may be submitted at the end of the public hearing.

Oral comments will be limited to five minutes per person. For those of you wishing to make formal comments, a sign-up sheet was provided on the table here to the right. As I mentioned earlier, if you didn't get to sign-in, please do so before you leave today. I will remind you that the comment period will end at the close of the public hearing today.

After conclusion of the hearing on the proposed rules, the Division of Environmental Protection will hold a hearing on proposed minor revisions to the maintenance plans associated with West Virginia's three redesignation requests currently pending before U. S. EPA for the Charleston, Parkersburg and Huntington/Ashland ozone nonattainment areas.

These revisions contain language which

clarifies West Virginia commitments for contingency measures that had been incorporated in the original November 13, 1992 redesignation request, the update to the November 13, 1992 redesignation request, dated February 28, 1994 for the Charleston/Parkersburg areas and the amendment to the November 12, 1992 redesignation request, dated November 12, 1993 for the Huntington/Ashland area.

The court reporter is Christy Morris of Superior Court Reporting. If anyone desires a transcript of these proceedings, please contact Ms. Morris at 925-2244 or at her address: 3719 Virginia Avenue S.E., Charleston 25304.

45CSR5

TO PREVENT AND CONTROL AIR POLLUTION FROM
THE OPERATION OF COAL PREPARATION PLANTS
AND COAL HANDLING OPERATIONS

The purpose of this public hearing is to hear discussions on proposed rule 45CSR5.

To Prevent And Control Air Pollution
From The Operation Of Coal Preparation Plants And Coal

Handling Operations.

45CSR5 was promulgated by the Commission on July 26, 1968, and became effective on September 1, 1968. The purpose of this rule is to prevent and control air pollution from the operation of coal preparation plants and coal handling operations. This rule has been previously revised primarily to incorporate certain emergency rule revisions pursuant to PM10 replanning requirements under the 1990 amendments to the Clean Air Act.

The aim of these earlier rule revisions or amendments was to strengthen particulate emission control requirements in Follansbee for coal handling operations by the provision of section 6.3, to remedy a state-wide deficiency in specifying methodology for enforcement of particulate emissions standards; to eliminate certain outdated requirements; to substitute terminology for "smoke" to "particulate matter" and "opacity" reading; and to add a monitoring section and operating permit section to better track emissions from coal handling operations and coal preparation plants.

The amendments to the rule now being

proposed will primarily limit the permitting requirements of this rule to coal preparation plants only and to accordingly redefine the terms "coal preparation" and "coal handling operation", clarify the relationship of this rule to federal requirements under 40 CFR Part 60 and 45CSR16; to make other minor clarifying changes, and to reflect changes in authority and definitions pursuant to enactment of the DEP reorganization legislation.

Upon authorization and promulgation, 45CSR5 will be submitted to the U. S. Environmental Protection Agency for EPA approval and incorporation into the West Virginia State Implementation Plan under the Federal Clean Air Act, as amended.

The floor is now open for public comment. Oral comment will be limited to five minutes. We ask that step to the podium and give your name and affiliation prior to making your comments.

Is there any comments? There being nothing further, the public hearing for 45CSR5 is concluded.

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to wit:

I, Christy L. Morris, Certified Court Reporter and Notary Public duly certify and commissioned, do hereby certify that the foregoing is a true and accurate transcript of the proceedings had in the public hearing on the 9th day of August, 1994.

Given under my hand and notarial seal this 11th day of August, 1994.

C.L. Morris CCR
Certified Court Reporter
Notary Public

MY COMMISSION EXPIRES: 12/11/95

**COMMENTS OF THE
WEST VIRGINIA MANUFACTURERS ASSOCIATION
REGARDING PROPOSED REVISIONS TO 45 C.S.R. 5
TO PREVENT AND CONTROL AIR POLLUTION
FROM THE OPERATION OF COAL PREPARATION PLANTS
AND COAL HANDLING OPERATIONS**

August 9, 1994

**COMMENTS OF THE
WEST VIRGINIA MANUFACTURERS ASSOCIATION
REGARDING PROPOSED REVISIONS TO 45 C.S.R. 5
TO PREVENT AND CONTROL AIR POLLUTION
FROM THE OPERATION OF COAL PREPARATION PLANTS
AND COAL HANDLING OPERATIONS**

I. Introduction.

The West Virginia Manufacturers Association ("WVMA") takes an active interest in the regulatory impact of the rules of the Division of Environmental Protection's Office of Air Quality ("OAQ") on its members. Because of this, the WVMA supports the proposed revisions to OAQ's Series 5 which address the concerns of those of its members who use coal as a source of fuel in manufacturing, electrical power generation, and other industrial production, all of whose operations (including fuel handling practices) are already subject to comprehensive regulation by the OAQ through several other rule series.

II. Comments.

Inasmuch as we support the OAQ's effort to revise Series 5, the WVMA offers only the following brief comments as to suggested additional changes to the rule which would help to clarify its purpose and OAQ's intent in promulgating the rule.

First, since it is clear that Series 5 is not intended to apply to end-users or consumers of coal, the WVMA encourages the

OAQ to make this explicit -- either through additional language in the rule itself or by including such a statement in the rationale document accompanying the final rule.

Second, in order to clarify the permitting requirements which apply to sources which may be covered by OAQ Series 5 and Series 30, the WVMA suggests that §9.6 be amended to read as follows (proposed additional language is underscored):

9.6. The possession of a permit by any person shall in no way relieve the holder thereof of the obligation to comply with the provisions of this or any other rule or 22-5-1 et. seq.; provided, however, that the owner or operator of a source for which an operating permit is required under this rule and under 45 C.S.R. 30 shall only be required to obtain a permit under 45 C.S.R. 30.

Finally, the WVMA believes that it is inappropriate to include section 1.7 in the proposed rule. A "constitutional takings determination" or assessment is only required in limited circumstances, and amendment of this rule is not one of them. Under W. Va. Code § 22-1A-3(a), such an assessment is not required, unless the action being contemplated by the Division is:

*reasonably likely to deprive a private real property owner of his or her property in fee simple or to deprive an owner of all productive use of his or her property * * * .*

Promulgation of a new rule or amendment of an existing rule does not meet the above test for when an assessment is required. Moreover, W. Va. Code § 22-1A-3(c) expressly exempts rulemaking from the assessment requirement. In pertinent part, that Code section provides that the following actions do not require an assessment:

(1) Licensing or permitting conditions, requirements or limitations to the use of private real property pursuant to any applicable state or federal statutes, rules or regulations;

(2) Rules and emergency rules of the division that are reasonably likely to limit the use of private real property pursuant to any applicable state or federal statutes, rules or regulations; * * * .

See W. Va. Code § 22-1A-3(c)(1) and (2). Accordingly, the WVMA recommends that this proposed Section be deleted from the final rule.

III. Conclusion.

With these additional minor changes, we believe the revised Series 5 will even more directly relate to those sources which it was intended to regulate, which will help lessen confusion and eliminate unnecessary expenditure of scarce resources by both DEP and industry. This, in turn, will promote the goal of allocating agency resources towards those programs and sources which are most in need of attention.

Respectfully submitted this 9th day of August, 1994.

Karen S. Price, President
West Virginia Manufacturers Association
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WVDEP/OAQ RESPONSE TO PUBLIC COMMENT ON
PROPOSED 45CSR5
TO PREVENT AND CONTROL AIR POLLUTION FROM THE
OPERATION OF COAL PREPARATION PLANTS

Only one written submission was received. The first comment requested that a revision be added to Section 9.6 in order to add clarifying language for applicable permitting requirements. OAQ agrees and will amend Section 9.6 by adding the West Virginia Manufacturers Association's suggested language "provided, however, that the owner or operator of a source for which an operating permit is required under this rule and under 45CSR30 shall only be required to obtain a permit under 45CSR30".

Because of comments received on other rules regarding the "stringency" determination, OAQ will revise this rule to add a section pertaining to "severability" in the event that subsection or other sections of the rule are invalidated.

Another comment in the written submission was that incorporating the "Constitutional Takings Determination" section in the rule [Section 1.7] is inappropriate. The comment notes that W.Va. Code §22-1A-3(c)(2) expressly exempts the assessment in situations in which the state rule-making is required pursuant to an applicable federal rule. The commenter does not believe the Legislature intended for the determination to be part of the rule itself, thus becoming a law if the rule is authorized. The comment notes that an explanation of the takings determination simply be included as part of the rule filing. OAQ does not disagree with the comment, but notes that no specific reason exists to exclude the determination, and that as a matter of Division of Environmental Protection policy, that the specific "Constitutional Takings Determination" section be included in each rule proposed by the individual Offices within the Division. OAQ responds that the section as stated is satisfactory.



DIVISION OF ENVIRONMENTAL PROTECTION

GASTON CAPERTON
GOVERNOR

10 McJunkin Road
Nitro, WV 25143-2506

DAVID C. CALLAGHAN
DIRECTOR

August 9, 1994

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

RE: CSR-45-5 - To Prevent and Control Air Pollution
From the Operation of Coal Preparation Plants and
Coal Handling Operations

Dear Ms. Cooper:

This is to advise you that I am giving approval for the filing of the above-captioned rule with your Office and with Legislative Rule-Making Review Committee as an agency-approved rule.

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,

David C. Callaghan
Commissioner
Bureau of Environment

DCC;RTH:cc

Attachment