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**WEST VIRGINIA LEGISLATURE**  
**Legislative Rule-Making Review Committee** OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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September 15, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Edward L. Kropp  
Office of Air Quality  
1558 Washington St., East  
Charleston, WV 25311

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **To Prevent and Control Air-Pollution from Combustion of Refuse, 45CSR6**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
  - (a) as originally filed
  - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULE

**Agency:** Office of Air Quality

**Subject:** To Prevent and Control Air Pollution from Combustion or Refuse

**CSR Cite:** 45CSR6

**Counsel:** JAA

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PERTINENT DATES

Filed for public comment: June 16, 1999  
Public comment period ended: July 28, 1999  
Filed following public comment period: August 6, 1999  
Filed LRMRC: August 6, 1999  
Filed as emergency: n/a

**Fiscal Impact:** None.

ABSTRACT

Brief Summary

Several minor changes are made to the rule consistent with changes made in other Office of Air Quality rules this year. Definitions are changed, new federal incorporation dates are inserted and outdated provisions are rewritten.

Section Summary

Section 2, definitions. The definitions of "construction and demolition wastes" and "ringleman smoke chart" have been deleted. A definition for "land clearing debris" has been added.

Section 3 establishes prohibitions for open burning. A citation to the CFR provisions regulating the burning of structures for fire training purposes has been inserted. Provisions allowing

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program of the director hereafter adopted shall be any more stringent than any federal rule or program except to the limited extent that the director first makes a specific written finding for any such departure that there exists scientifically supportable evidence for such rule or program reflecting factors unique to West Virginia or some area thereof....

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**ANALYSIS**

**I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?**

No.

**II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?**

Yes.

**III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?**

No.

**IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?**

Yes.

**V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?**

Yes.

**VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?**

No.