



**LEGISLATIVE HISTORY ABSTRACT**  
**45CSR10**

TO PREVENT AND CONTROL AIR POLLUTION FROM  
THE EMISSION OF SULFUR OXIDES

Division of Environmental Protection  
Office of Air Quality  
West Virginia Air Pollution Control Commission  
Senate Bill 1005, Section 64-3-1(bb)

June 02, 1993	Initial Filing with Secretary of State
June 03, 1993	Initial Filing with Legislative Rule-Making Review Committee
July 06, 1993	Held Public Hearing
Aug 09, 1993	Public Hearing and Agency Approval
Aug 13, 1993	Agency Approved Rule Filed with Secretary of State
Aug 13, 1993	Agency Approved Rule Filed with Legislative Rule-Making Review Committee
Nov 16, 1993	45 CSR 10 was on Agenda for Legislative Rule-Making Review Committee
Dec 14, 1993	45 CSR 10 was on Agenda for Legislative Rule-Making Review Committee
Jan 09, 1994	45 CSR 10 was on Agenda for Legislative Rule-Making Review Committee
Jan 09, 1994	The Legislative Rule-Making Review Committee recommended that the West Virginia Legislature Authorize the Agency to Promulgate Legislative Rule 45 CSR 10 as Modified by the Agency.
Jan 21, 1994	Modified Rule was Filed with Secretary of State
March 16, 1994	Passed the West Virginia Legislature
April 06, 1994	Governor Signed Senate Bill 1005
April 26, 1994	Public Hearing for Final Filing of Legislative Rule
April 26, 1994	Final Filing with Secretary of State
April 26, 1994	Effective Date of Rule

FILED

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TITLE 45  
LEGISLATIVE RULES  
AIR POLLUTION CONTROL COMMISSION

JAN 21 1 54 PM '94

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SERIES 10  
TO PREVENT AND CONTROL AIR POLLUTION  
FROM THE EMISSION OF SULFUR OXIDES

§45-10-1. General.

1.1. Scope.

~~(a)~~a. The purpose of Series 10 is to prevent and control air pollution from the emission of sulfur oxides.

~~(b)~~b. Fuel Quality Goals. It is the intent of the Commission that all persons engaged in the burning of fuel make a maximum effort to utilize the best quality fuel available regardless of the requirements of this regulation rule.

1.2. Authority. W. Va. Code §16-20-5

1.3. Filing Date. ~~September 8, 1978~~ August 13, 1993.

1.4. Effective Date. ~~October 16, 1978~~

§45-10-2. Definitions.

2.1. "Air Pollution", 'statutory air pollution' shall have the meaning ascribed to it in ~~section two, article twenty, chapter sixteen of the Code of West Virginia, as amended~~ W. Va. Code §16-20-2, as amended.

2.2. "Air Pollutants" ~~shall means~~ solids, liquids, or gases which, if discharged into the air, may result in a statutory air pollution.

2.3. "Commission" ~~shall means~~ the West Virginia Air Pollution Control Commission.

2.4. "Director" ~~shall means~~ the Director of the ~~West Virginia Air Pollution Control Commission~~ Division of Environmental Protection or his or her designated representative.

2.5. "Person" ~~shall 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 organized or existing under the laws of this or any other state or country, and any firm, partnership, or association of whatever nature.

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2.6. "Fuel Burning Unit" ~~shall~~ means and include any furnace, boiler apparatus, device, mechanism, stack or structure used in the process of burning fuel or other combustible material for the primary purpose of producing heat or power by indirect heat transfer. For the purposes of this regulation rule, all fuel burning units are classified in the following categories:

(a)a. Type 'a' ~~shall~~ means any fuel burning unit which has as its primary purpose the generation of steam or other vapor to produce electric power for sale.

(b)b. Type 'b' ~~shall~~ means any fuel burning unit not classified as a Type 'a' or Type 'c' unit such as industrial pulverized-fuel-fired furnaces, cyclone furnaces, gas-fired and liquid-fuel-fired units.

(c)c. Type 'c' ~~shall~~ means any hand-fired or stoker-fired fuel burning unit not classified as a Type 'a' unit.

2.7. "Waste Heat Boiler" ~~shall~~ means any boiler which derives all or part of its heat input from the waste heat of a manufacturing process operation.

2.8. "Fuel" ~~shall~~ means any form of combustible matter (solid, liquid, vapor, or gas) that is used as a source of heat.

2.9. "Priority I Regions", "Priority II Regions", and "Priority III Regions" are defined in Table 45-10A found at the end of this regulation rule.

2.10. "Air Pollution Control Equipment" ~~shall~~ means any equipment used for collecting, confining, or converting air pollutants for the purpose of preventing or reducing the emission of these pollutants into the open air.

2.11. "Manufacturing Process" ~~shall~~ means any action, operation or treatment embracing chemical, industrial, or manufacturing efforts, and employing, for example, heat-treating furnaces, by-product coke plants, core-baking ovens, mixing kettles, cupolas, blast furnaces, open hearth furnaces, heating and reheating furnaces, puddling furnaces, sintering plants, electric steel furnaces, ferrous and non-ferrous foundries, kilns, stills, pipe stills, reformers, furnaces associated with manufacturing processes, driers, crushers, grinders, roasters, and equipment used in connection therewith, and all other methods or forms of manufacturing or processing that may emit sulfur dioxide or other sulfur compounds.

2.12. "Source Operation" ~~shall~~ means the last operation in a manufacturing process preceding the emission of air pollutants which operation:

(a)a. Results in the separation of the air pollutant from the process materials or in the conversion of the process materials into air pollutants; and

(b)b. Is not an air pollution abatement operation.

2.13. "Sulfur Dioxide" is an air pollutant which is a nonflammable, nonexplosive, colorless, gaseous molecule composed of one (1) atom of sulfur and two (2) atoms of oxygen. In concentrations of 0.3 to 1.0 parts per million and above, most people can detect it by taste; in concentrations greater than 3.0 parts per million it has a pungent, irritating odor to most people.

2.14. "Plant" ~~shall~~ means and includes all fuel burning units, source operations, equipment and grounds utilized in an integral complex.

2.15. "Equivalent Fuel Sulfur Content" ~~shall~~ means that quantity of sulfur dioxide in pounds per million British Thermal Units (BTU's) which corresponds to a given percent sulfur in fuel being burned and is calculated on the basis of one hundred percent (100%) conversion of the sulfur to sulfur dioxide and assuming that no sulfur or sulfur dioxide recovery or control measures are employed.

2.16. "Stack" for the purposes of this ~~regulation~~ rule, ~~shall~~ means, but ~~not~~ ~~be~~ ~~is~~ ~~not~~ limited to, any duct, control equipment exhaust, or similar apparatus, which vents gases and/or particulate matter into the open air.

2.17. "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., as amended.

2.18. "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., as amended.

#### §45-10-3. Sulfur Dioxide Weight Emission Standards for Fuel Burning Units.

3.1. Total Allowable Emission Rates for Similar Units in Priority I and Priority II Regions.

No person shall cause, suffer, allow, or permit the discharge of sulfur dioxide into the open air from all stacks located at one plant, measured in terms of pounds per hour, in excess of the amount determined as follows:

(1)a. For fuel burning units of the Kammer Plant of Ohio Power Company, located in Air Quality Control Region I, the product of 6.8 and the total design heat inputs for such units discharging through those stacks in million British Thermal Units (BTU's) per hour.

(2)b. For fuel burning units of the Mitchell Plant of Ohio Power Company, located in Air Quality Control Region I, the product of 7.5 and the total actual operating heat inputs for such units discharging through those stacks in million BTU's per hour.

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(3)c. For fuel burning units of the Willow Island Station of Monongahela Power Company, located in Air Quality Control Region II, the product of 2.7 and the total design heat inputs for such units discharging from those stacks in million BTU's per hour.

(4)d. For fuel burning units of the Mt. Storm Plant of Virginia Electric and Power Company, located in Air Quality Control Region VII, the product of 2.7 and the total design heat inputs for such units discharging through those stacks in million BTU's per hour.

(5)e. For Type 'b' and Type 'c' fuel burning units, the product of 3.1 and the total design heat inputs for such units discharging through those stacks in million BTU's per hour.

3.2. Maximum Allowable Emission Rates for Similar Units in Region IV (Kanawha Valley Air Quality Control Region: Kanawha County, Putnam County, and Falls and Kanawha Magisterial Districts of Fayette County).

No person shall cause, suffer, allow, or permit the discharge of sulfur dioxide into the open air from all stacks located at one plant, measured in terms of pounds per hour, in excess of the amount determined as follows:

(1)a. For fuel burning units of the John Amos Plant of Appalachian Power Company, located in Air Quality Control Region IV, the product of 1.6 and the total design heat input for such units discharging from those stacks in million BTU's per hour.

(2)b. For fuel burning units of the Kanawha River Plant of Appalachian Power Company, located in Air Quality Control Region IV, the product of 1.6 and the total design heat inputs for such units discharging through those stacks in million BTU's per hour.

(3)c. For Type 'b' and Type 'c' fuel burning units, the product of 1.6 and the total design heat inputs for such units discharging through those stacks in million BTU's per hour, provided however, that no more than 5,500 pounds per hour of sulfur dioxide shall be discharged into the open air from all such stacks.

3.3. Maximum Allowable Emission Rates for Similar Units in All Priority III Regions Except Region IV.

No person shall cause, suffer, allow, or permit the discharge of sulfur dioxide into the open air from all stacks located at one plant, measured in terms of pounds per hour, in excess of the amount determined as follows:

(1)a. For fuel burning units of the Harrison Power Station of Monongahela Power Company, located in Air Quality Control Region VI, the product of 5.12 and the total actual operating heat inputs for such units discharging from those stacks in million BTU's per hour.

(2)b. For fuel burning units of the Rivesville Power Station of Monongahela Power Company, located in Air Quality Control Region VI, the product of 3.2 and the total design heat inputs for such units discharging from those stacks in million BTU's per hour.

(3)c. For fuel burning units of the Albright Power Station of Monongahela Power Company, located in Air Quality Control Region VI, the product of 3.2 and the total design heat inputs for such units discharging from those stacks in million BUT's per hour.

(4)d. For fuel burning units of the Fort Martin Power Station of Monongahela Power Company, located in Air Quality Control Region VI, the product of 3.1 and the total actual operating heat inputs for such units discharging from those stacks in million BTU's per hour.

(5)e. For fuel burning units of the Philip Sporn Plant of Central Operating Company, located in Air Quality Control Region III, the product of 3.2 and the total design heat inputs for such units discharging from those stacks in million BTU's per hour.

(6)f. For Type 'b' and Type 'c' fuel burning units, the product of 3.2 and the total design heat inputs for such units discharging through those stacks in million BTU's per hour.

#### 3.4. Allowable Emission Rates for Individual Stacks.

The maximum allowable emission rate for an individual stack shall not exceed by more than twenty-five percent (25%) the emission rate determined by prorating the total allowable emission rate specified in subsections 3.1., 3.2., or 3.3., on the basis of individual unit heat input at design capacity for all fuel burning units discharging through that stack.

Subject to the provisions of this regulationrule, allowable emission rates for individual stacks shall be determined by the owner and/or operator and registered with the CommissionChief at the request of and on forms provided by the DirectorChief. Such rates shall be subject to review and approval by the DirectorChief.

The approved set of individual stack allowable emission rates shall become an official part of the compliance schedule and any permits concerning such source or sources, and shall not be changed without the prior written approval of the DirectorChief.

3.5. The design heat input of a waste heat boiler shall not be included in computing the total plant design heat input for the purposes of subsections 3.1, 3.2, 3.3, or 3.4 of this regulationrule.

3.6. No person shall circumvent the provisions of this ~~regulation~~rule by constructing fuel burning unit(s) larger than would be necessary to provide heat and/or power for an existing manufacturing plant, with a reasonable margin for plant expansion, in order to use that design heat input to raise the allowable sulfur content in fuel.

3.7. No person shall cause, suffer, allow, or permit the discharge of sulfur dioxide to the open air from the combustion of fuel in a fuel burning unit of a waste heat boiler in excess of 2.2 pounds of sulfur dioxide per million BTU's of heat input per hour. This limitation is based on the heat input provided to the boiler by the combustion of this auxiliary fuel.

The provision of this subsection applies only to the fuel used for the waste heat boiler(s) and does not replace or supersede the provisions of subsection 3.8.

3.8. Weight Emission Standards for Manufacturing Process Source Operations.

~~(a)~~a. No person shall cause, suffer, allow, or permit, the emission into the open air from any source operation an in-stack sulfur dioxide concentration exceeding 2,000 parts per million by volume from existing source operations, except as provided in ~~subsections~~paragraphs (b), (c), (d), (e), and (f) following.

~~(b)~~b. No person shall cause, suffer, allow, or permit sulfur dioxide tail gas emissions from sulfuric acid manufacturing plants to exceed the following:

~~(1)~~A. For plant using elemental sulfur as a feed stock, 30 pounds per ton of acid produced.

~~(2)~~B. For plants using other materials as a feed stock, 40 pounds per ton of acid produced.

~~(c)~~c. No person shall cause, suffer, allow, or permit the emission of sulfur oxides, calculated as sulfur dioxide, from a sulfur recovery plant to exceed 0.06 pounds per pound of sulfur processed.

~~(d)~~d.(1) No person shall cause, suffer, allow, or permit the combustion of any refinery process gas stream or any other process gas stream that contains hydrogen sulfide in a concentration greater than 50 grains per 100 cubic feet of gas except in the case of a person operating in compliance with an emission control and mitigation plan approved by the Chief and U. S. EPA pursuant to subparagraph (2) of this subsection. In certain cases very small units may be considered exempt from this requirement if, in the opinion of the ~~Commission~~Chief, compliance would be economically unreasonable and if the contribution of the unit to the surrounding air quality could be considered negligible.

(2) Any owner or operator of a by-product coke production facility in existence on the effective date of this rule who can demonstrate to the Chief that there is no practical alternative to scheduled maintenance (including shutdown) of desulfurization equipment may request the approval of an enforceable, temporary sulfur dioxide emissions control and mitigation plan for such maintenance period. In order for a plan under this paragraph to be approved the plan must meet the following conditions:

A. Provide that all feasible control measures and process changes will be employed at the coke production facility to reduce emissions of sulfur dioxide (including reduction of coke oven gas generation) during the control system outage.

B. Provide for a definitive reduction in sulfur dioxide emissions by the establishment of unit-specific allowable emission rates for all emissions units of the stationary source sufficient to prevent any violation of federal and state ambient air quality standards or applicable air quality increments for sulfur dioxide.

C. Provide that system down-time and excess sulfur dioxide emissions be reduced to the greatest extent possible by use of increased or contract maintenance personnel, maximized maintenance labor shifts, and optimization of available spare parts inventories.

D. Provide for emissions and compliance monitoring as required by the Chief in the approved plan during the maintenance periods and for the submission of reports of such monitoring and tests within time-frames specified by the Chief in the approved plan. All approved plans shall require that a certified report of excess sulfur dioxide emissions from the by-product coke production facility and offsetting emission units be submitted to the Chief within thirty (30) days after the end of the maintenance period.

E. Provide that no maintenance period exceed fourteen (14) days in length nor occur more than twice in any calendar year.

F. Provide at least two weeks notice of all scheduled maintenance periods, the anticipated length of the maintenance period, work to be completed, measures to be taken to minimize the length of desulfurization system down-time and such other information as the Chief may specify.

G. Provide for annual review, if necessary, modification or termination of the plan by the Chief.

H. Provide that the Chief may impose limitations on emission units that are more restrictive than those provided for in the plan as necessary to assure attainment of air quality standards for sulfur dioxide in light of data provided pursuant to subparagraph F of this subsection, or any other information available to the Chief.

The Chief shall, in making a determination concerning plan modification or termination, review the plant's compliance history and records to determine whether the plan has prevented or minimized, to the extent feasible, desulfurization system outages and excess emissions. The initial approval of the plan and any modification of the plan shall be accomplished as a revision to the State Implementation Plan.

(e)e. No person shall cause, suffer, allow, or permit the emission of sulfur oxides, calculated as sulfur dioxide, from primary non-ferrous smelters to exceed that determined by the following equations:

Copper Smelters:	$Y = 0.2X$
Zinc Smelters:	$Y = 0.564X^{0.85}$
Lead Smelters:	$Y = 0.98X^{0.77}$

Where X is the total sulfur fed to the smelter in pounds per hour and Y is the allowable sulfur dioxide emissions in pounds per hour.

(f)f. No person shall cause, suffer, allow, or permit the total sulfite pulp mill emissions of sulfur oxides, calculated as sulfur dioxide, from operations such as blow pits, washer vents, storage tanks, digester relief, and recovery system, to exceed nine (9.0) pounds per air-dried ton of pulp produced.

#### §45-10-4. Registration.

4.1. Within thirty (30) days after the effective date of this ~~regulation~~rule all persons owning and/or operating a source(s) of sulfur dioxide subject to this ~~regulation~~rule and not previously registered shall have registered such source(s) with the ~~Commission~~Chief. The information required for registration shall be determined and provided in the manner specified by the ~~Director~~Chief. Registration forms should be requested from the ~~Director~~Chief by the owner and/or operator of such source(s).

4.2. The owner and/or operator of a source(s) of sulfur dioxide that is under construction or on which construction is initiated within thirty (30) days after the effective date of this ~~regulation~~rule shall register such source(s) within this thirty (30) day period.

#### §45-10-5. Permits.

5.1. After the effective date of this ~~regulation~~rule, no person shall construct or modify any source of sulfur dioxide without first obtaining a permit for such construction or modification. Applications for permits shall be made upon forms available from the ~~Director~~Chief and shall be filed no less than ninety (90) days prior to the construction or modification. These forms shall include such information as in the judgment of the ~~Director~~Chief will enable him or her to determine whether such source will be so designated as to operate in conformance with the provisions of this

regulationrule and the Code of West Virginia, and will not cause or contribute to the violation of Air Quality Standards. Within ninety (90) days of the receipt of an application the DirectorChief shall issue or deny such permit in accordance with the provisions of ~~section two, article twenty, chapter sixteen, paragraph eleven-b of the Code of West Virginia, as amended~~ W. Va. Code §16-20-1, et seq., as amended, and Series 13 of this agency.

#### §45-10-6. Reports and Testing.

6.1. (a)a. Tests to determine compliance with the allowable sulfur dioxide emission limitations from manufacturing process source operations shall be based on a two (2) hour averaging time.

(b)b. Tests to determine compliance with the allowable sulfur dioxide emission limitations from fuel burning units shall be based on a continuous twenty-four (24) hour averaging time. The owner and/or operator of a fuel burning unit shall not allow emissions to exceed the weight emission standards for sulfur dioxide as set forth in this regulationrule, except during one (1) continuous twenty-four (24) hour period in each calendar month and during this one (1) continuous twenty-four (24) hour period said owner and/or operator shall not allow emissions to exceed such weight emission standards by more than ten percent (10%) without causing a violation of this regulationrule. A standard starting time for all continuous twenty-four (24) hour periods shall be fixed in writing by mutual agreement between the DirectorChief and the owner and/or operator of the fuel burning unit.

6.2. (a)a. At the request of the CommissionChief the owner and/or operator of a source shall install such stack gas monitoring devices as the DirectorChief deems necessary to determine compliance with the provisions of this regulationrule. The data from such devices shall be readily available at the source location or such other reasonable location that the DirectorChief may specify. At the request of the DirectorChief, or his or her duly authorized representative, such data shall be made available for inspection or copying. Failure to promptly provide such data shall constitute a violation of this regulationrule.

(b)b. Prior to the installation of calibrated stack gas monitoring devices, sulfur dioxide emission rates shall be calculated on an equivalent fuel sulfur content basis.

6.3. At such reasonable times as the DirectorChief may designate, the owner or operator of a source(s) of sulfur dioxide may be required to conduct or have conducted tests to determine the compliance of such source(s) with the emission limitations of section 3. Such tests shall be conducted in such manner as the DirectorChief may specify and be filed on forms and in a manner acceptable to the DirectorChief. The DirectorChief, or his or her duly authorized representative, may at his or her option witness or conduct such tests. Should the DirectorChief exercise his or her option to conduct such tests, the operator will provide all necessary sampling connections and sampling ports to be located in such manner as the DirectorChief may require, power for test equipment, and the required safety

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equipment such as scaffolding, railings, and ladders to comply with generally accepted good safety practices.

6.4. The ~~Director~~Chief, or his duly authorized representative, may conduct such other tests as he or she may deem necessary to evaluate air pollution emissions other than those noted in section 3.

6.5. The operators of the fuel burning units or persons selling fuel shall submit data on the fuel used or sold for use in such units. Such data shall be reported in the manner the ~~Director~~Chief may specify. However, reports on such data shall not exceed one (1) per month. Such reports must be filed within fifteen (15) days of the end of the established reporting period and will include, but not necessarily be limited to, information such as the quantity of fuel burned or sold and the sulfur, moisture, volatile matter, and the BTU content.

### §45-10-7. Compliance Programs and Schedules.

7.1. In the event that a source(s) of sulfur dioxide in existence prior to the adoption of this ~~regulation~~rule does not meet the emission limitations, an acceptable program to fully comply with the ~~regulation~~rule shall be developed and offered to the ~~Commission~~Chief by the person responsible for the source. This program shall be submitted upon the request of, and within such time as shall be fixed by the ~~Commission~~Chief. Once this program has been approved by the ~~Commission~~Chief, the owner and/or operator of such installation shall not be in violation of this ~~regulation~~rule so long as the approved or amended program is observed.

7.2. In the event that an owner or operator of such a source(s) of sulfur dioxide fails to submit a program or an acceptable program and schedule, the ~~Commission~~Chief shall, by order, determine the compliance program and schedule.

### §47-10-8. Variance.

8.1. Due to unavoidable malfunction of equipment or inadvertent fuel shortages, emissions exceeding those provided for in this ~~regulation~~rule may be permitted by the ~~Director~~Chief for periods not to exceed ten (10) days upon specific application to the ~~Director~~Chief. Such application shall be made within twenty-four (24) hours of the equipment malfunction or fuel shortage. In cases of major equipment failure or extended shortages of conforming fuels, additional time periods may be granted by the ~~Commission~~Chief provided a corrective program has been submitted by the owner or operator and approved by the ~~Commission~~Chief.

### §45-10-9. Exemptions and Recommendations.

9.1. All fuel burning units having a heat input under ten (10) million BTU's per hour will be exempt from section 3 through section 8. However, failure to attain acceptable air quality in parts of some urban areas may require the mandatory control of these sources at a later date.

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9.2. In an effort to avoid the necessity for such mandatory controls the Commission strongly recommends that specific fuel quality objectives be met. In Priority I and Priority II regions and in cities in Priority III regions with a population of more than 10,000 (based on the latest census) the Commission recommends that no person use or provide for sale fuel having a sulfur content greater than that listed in the following table for use in residential and other fuel burning units not otherwise restricted by this regulationrule:

EFFECTIVE DATE	PERCENT SULFUR CONTENT OF FUELS	
	Coal	Oil
June 30, 1972	3.0	2.0
June 30, 1975	2.0	1.5
June 30, 1978	1.0	0.5

§45-10-10. Severance.

The provisions of this regulationrule are severable and if any provision 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 regulationrule or their application to other persons and circumstances.

TABLE 45-10A

Priority Classifi- cation	Federal Air Quality Control Region	Included West Virginia Counties
I	Region I, Steubenville-Weirton- Wheeling Interstate Air Quality Control Region (Ohio - West Virginia)	Brooke Hancock Marshall Ohio
	Region VII, Cumberland-Keyser Interstate Air Quality Control Region (West Virginia - Maryland)	Grant (Union District only) Mineral (Elk, New Creek, and Piedmont Districts)
II	Region II, Parkersburg-Marietta Interstate Air Quality Control Region (West Virginia - Ohio)	Jackson Pleasants Tyler Wetzel Wood
III	All other regions	All other counties or districts not listed above

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H. B. 4238

(By Delegates Gallagher, Douglas, Compton,  
Huntwork, Burk and Faircloth  
(Introduced January 31, 1994; referred to the  
Committee on the Judiciary)

10 A BILL to amend and reenact section one, article three, chapter  
11 sixty-four of the code of West Virginia, one thousand nine  
12 hundred thirty-one, as amended, relating to authorizing the  
13 air pollution control commission to promulgate legislative  
14 rules relating to the prevention and control of air pollution  
15 from the emission of sulfur oxides.

16 **Be it enacted by the Legislature of West Virginia:**

17 That section one, article three, chapter sixty-four of the  
18 code of West Virginia, one thousand nine hundred thirty-one, as  
19 amended, be amended and reenacted to read as follows:

20 **ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE, LABOR AND**  
21 **ENVIRONMENTAL RESOURCES TO PROMULGATE LEGISLATIVE RULES.**

22 **§64-3-1. Air pollution control commission.**

23 (a) The legislative rules filed in the state register on the  
24 thirteenth day of August, one thousand nine hundred eighty-two,

1 relating to the air pollution control commission (series VII),  
2 are authorized.

3 (b) The legislative rules filed in the state register on the  
4 thirteenth day of August, one thousand nine hundred eighty-two,  
5 relating to the air pollution control commission (series XIX),  
6 are authorized.

7 (c) The legislative rules filed in the state register on the  
8 sixteenth day of November, one thousand nine hundred  
9 eighty-three, relating to the air pollution control commission  
10 (emission standards for hazardous air pollutants) (series XV),  
11 are authorized.

12 (d) The legislative rules filed in the state register on the  
13 sixteenth day of November, one thousand nine hundred  
14 eighty-three, relating to the air pollution control commission  
15 (standards of performance for new stationary sources) (series  
16 XVI), are authorized.

17 (e) The legislative rules filed in the state register on the  
18 sixth day of January, one thousand nine hundred eighty-four,  
19 relating to the air pollution control commission (to prevent and  
20 control air pollution from hazardous waste treatment, storage or  
21 disposal facilities) (series XXV), are authorized with the  
22 amendments set forth below:

23 Page 3, §1.06, change the § title from "Enforcement" to  
24 "Procedure"; place an "(a)" in front of the existing paragraph  
25 and add the following:

1       "(b) Permit applications filed pursuant to this regulation  
2 shall be processed in accordance with the permitting procedures  
3 as set forth in code §20-5E of this regulation. Permit  
4 procedures set forth in code §16-20 and any other regulation of  
5 this commission are not applicable to any permit application  
6 filed pursuant to this regulation."

7       Such rules shall also include a section which shall read as  
8 follows:

9       "The commission shall report to the legislative rule-making  
10 review committee as required by that committee, but in no event  
11 later than the first day of the regular session of the  
12 Legislature in the year one thousand nine hundred eighty-five.  
13 Such report shall include information regarding the commission's  
14 data gathering efforts, the development of compliance programs,  
15 the progress in implementation, and such other matters as the  
16 committee may require, pertaining to the regulations hereby  
17 authorized."

18       (f) The legislative rules filed in the state register on the  
19 ninth day of January, one thousand nine hundred eighty-four,  
20 relating to the air pollution control commission (permits for  
21 construction and modification of stationary sources of air  
22 pollution for the prevention of significant deterioration)  
23 (series XIV), are authorized.

24       (g) The legislative rules filed in the state register on the  
25 thirtieth day of December, one thousand nine hundred

1 eighty-eight, modified by the air pollution control commission to  
2 meet the objections of the legislative rule-making review  
3 committee and refiled in the state register on the twenty-third  
4 day of February, one thousand nine hundred eighty-nine, relating  
5 to the air pollution control commission (prevention and control  
6 of air pollution from hazardous waste treatment, storage or  
7 disposal facilities), are authorized.

8 (h) The legislative rules filed in the state register on the  
9 thirtieth day of December, one thousand nine hundred  
10 eighty-eight, modified by the air pollution control commission to  
11 meet the objections of the legislative rule-making review  
12 committee and refiled in the state register on the twenty-third  
13 day of February, one thousand nine hundred eighty-nine, relating  
14 to the air pollution control commission (good engineering  
15 practice as applicable to stack heights), are authorized.

16 (i) The legislative rules filed in the state register on the  
17 thirtieth day of December, one thousand nine hundred  
18 eighty-eight, modified by the air pollution control commission to  
19 meet the objections of the legislative rule-making review  
20 committee and refiled in the state register on the twenty-third  
21 day of February, one thousand nine hundred eighty-nine, relating  
22 to the air pollution control commission (TP-2, compliance test  
23 procedures for regulation 2 -- to prevent and control particulate  
24 air pollution from combustion of fuel in indirect heat  
25 exchangers), are authorized.

1 (j) The legislative rules filed in the state register on the  
2 sixth day of September, one thousand nine hundred eighty-nine,  
3 modified by the air pollution control commission to meet the  
4 objections of the legislative rule-making review committee and  
5 refiled in the state register on the tenth day of January, one  
6 thousand nine hundred ninety, relating to the air pollution  
7 control commission (ambient air quality standards for sulfur  
8 oxides and particulate matter), are authorized.

9 (k) The legislative rules filed in the state register on the  
10 sixth day of September, one thousand nine hundred eighty-nine,  
11 modified by the air pollution control commission to meet the  
12 objections of the legislative rule-making review committee and  
13 refiled in the state register on the tenth day of January, one  
14 thousand nine hundred ninety, relating to the air pollution  
15 control commission (prevention of air pollution emergency  
16 episodes), are authorized.

17 (l) The legislative rules filed in the state register on the  
18 sixth day of September, one thousand nine hundred eighty-nine,  
19 modified by the air pollution control commission to meet the  
20 objections of the legislative rule-making review committee and  
21 refiled in the state register on the tenth day of January, one  
22 thousand nine hundred ninety, relating to the air pollution  
23 control commission (permits for construction and major  
24 modification of major stationary sources of air pollution for  
25 the prevention of significant deterioration), are authorized.

1 (m) The legislative rules filed in the state register on the  
2 sixth day of September, one thousand nine hundred eighty-nine,  
3 relating to the air pollution control commission (standards of  
4 performance for new stationary sources), are authorized.

5 (n) The legislative rules filed in the state register on the  
6 sixth day of September, one thousand nine hundred eighty-nine,  
7 relating to the air pollution control commission (emission  
8 standards for hazardous air pollutants), are authorized.

9 (o) The legislative rules filed in the state register on the  
10 sixteenth day of October, one thousand nine hundred eighty-nine,  
11 modified by the air pollution control commission to meet the  
12 objections of the legislative rule-making review committee and  
13 refiled in the state register on the tenth day of January, one  
14 thousand nine hundred ninety, relating to the air pollution  
15 control commission (prevention and control of emissions of toxic  
16 air pollutants), are authorized.

17 (p) The legislative rules filed in the state register on the  
18 tenth day of August, one thousand nine hundred ninety, relating  
19 to the air pollution control commission (prevention and control  
20 of air pollution from the emission of volatile organic compounds  
21 from bulk gasoline terminals), are authorized.

22 (q) The legislative rules filed in the state register on the  
23 thirteenth day of August, one thousand nine hundred ninety,  
24 modified by the air pollution control commission to meet the  
25 objections of the legislative rule-making review committee and

1 refiled in the state register on the fifteenth day of November,  
2 one thousand nine hundred ninety, relating to the air pollution  
3 control commission (air quality management fee program), are  
4 authorized.

5 (r) The legislative rules filed in the state register on the  
6 tenth day of August, one thousand nine hundred ninety, relating  
7 to the air pollution control commission (prevention and control  
8 of air pollution from the emission of volatile organic compounds  
9 from the storage of petroleum liquids in fixed roof tanks), are  
10 authorized.

11 (s) The legislative rules filed in the state register on the  
12 tenth day of August, one thousand nine hundred ninety, relating  
13 to the air pollution control commission (prevention and control  
14 of air pollution from the emission of volatile organic compounds  
15 from petroleum refinery sources), are authorized.

16 (t) The legislative rules filed in the state register on the  
17 eighteenth day of December, one thousand nine hundred ninety-one,  
18 modified by the air pollution control commission to meet the  
19 objections of the legislative rule-making review committee and  
20 refiled in the state register on the fifteenth day of December,  
21 one thousand nine hundred ninety-two, relating to the air  
22 pollution control commission (regulations to prevent and control  
23 air pollution from the emission of volatile organic compounds),  
24 are authorized with the amendments set forth below:

1 "On page 26, subsection §45-21-9.2, by striking all of  
2 §45-21-9.2 and inserting in lieu thereof a new §45-21-9.2, to  
3 read as follows:

4 "9.2 Registration. -- Within thirty (30) days after May 31,  
5 1993, all persons owning and/or operating a source subject to  
6 this regulation and not previously registered shall have  
7 registered such source(s) with the chief: **Provided**, That on a  
8 case-by-case basis, the chief may extend the 30-day period for  
9 the registration of sources to allow sources up to one hundred  
10 eighty (180) days after May 31, 1993 to register. The  
11 information required for registration shall be determined and  
12 provided in the manner specified by the chief. Registration  
13 forms shall be requested from the chief by the owner or operator  
14 of such source(s)."

15 And,

16 "On page fifty-six, subsection §45-21-20.5a by striking out  
17 all of line "a" and its equivalent column and inserting in lieu  
18 thereof the words "a = Surface area coated per day in terms of  
19 square meters divided by 100 or surface area coated per day in  
20 terms of square feet divided by 1000."

21 And,

22 "On page one hundred eighty-three, subsection §45-21-40.2  
23 after the words "control technology (RACT) in section" by  
24 striking the numbers "2.57." and inserting in lieu thereof the  
25 numbers "2.60."

1 (u) The legislative rules filed in the state register on the  
2 eighteenth day of September, one thousand nine hundred  
3 ninety-two, relating to the air pollution control commission  
4 (confidential information), are authorized.

5 (v) The legislative rules filed in the state register on the  
6 eighteenth day of September, one thousand nine hundred  
7 ninety-two, relating to the air pollution control commission  
8 (serious and minor violations of applicable rules), are  
9 authorized.

10 (w) The legislative rules filed in the state register on the  
11 thirty-first day of August, one thousand nine hundred ninety-two,  
12 relating to the air pollution control commission (permits for  
13 construction and major modification of major stationary sources  
14 of air pollution for the prevention of significant  
15 deterioration), are authorized with the amendments set forth  
16 below:

17 "On page fourteen, subsection §45.13.6.5 after the word  
18 "[W]ithin" by striking the word "twelve(12)" and inserting in  
19 lieu thereof the word "six(6)".

20 (x) The legislative rules filed in the state register on the  
21 twenty-eighth day of August, one thousand nine hundred  
22 ninety-two, modified by the air pollution control commission to  
23 meet the objections of the legislative rule-making review  
24 committee and refiled in the state register on the nineteenth day  
25 of February, one thousand nine hundred ninety-three, relating to

1 the air pollution control commission (regulations to prevent and  
2 control air pollution from the operation of coal preparation  
3 plants and coal handling operations), are authorized.

4 (y) The legislative rules filed in the state register on the  
5 thirty-first day of August, one thousand nine hundred ninety-two,  
6 modified by the air pollution control commission to meet the  
7 objections of the legislative rule-making review committee and  
8 refiled in the state register on the nineteenth day of February,  
9 one thousand nine hundred ninety-three, relating to the air  
10 pollution control commission (requirements for pre-construction  
11 review, determination of emission offsets for proposed new or  
12 modified stationary sources of air pollutants and emission  
13 trading for intrasource pollutants), are authorized with  
14 amendments set forth below:

15 "On page twenty-one, subsection §45.19.12.5 after the word  
16 "[W]ithin" by striking the word "twelve (12)" and inserting in  
17 lieu thereof the word "six(6)".

18 (z) The legislative rules filed in the state register on the  
19 twenty-eighth day of August, one thousand nine hundred  
20 ninety-two, modified by the air pollution control commission to  
21 meet the objections of the legislative rule-making review  
22 committee and refiled in the state register on the nineteenth day  
23 of February, one thousand nine hundred ninety-three, relating to  
24 the air pollution control commission (requiring the submission of  
25 emission statements for volatile organic compound emissions and

1 oxides of nitrogen emissions), are authorized with the amendments  
2 set forth below:

3 "On page four, section 2.27. after the words 'VOC or' by  
4 striking out the words '100 tons per year or more of'".

5 (aa) The legislative rules filed in the state register on the  
6 thirteenth day of August, one thousand nine hundred ninety-three,  
7 modified by the air pollution control commission to meet the  
8 objections of the legislative rule-making review committee and  
9 refiled in the state register on the twenty-first day of January,  
10 one thousand nine hundred ninety-four, relating to the air  
11 pollution control commission (to prevent and control air  
12 pollution from the emission of sulfur oxides) are authorized.

13

14 NOTE: The purpose of this bill is to authorize the Air  
15 Pollution Control Commission to promulgate legislative rules  
16 relating to the prevention and control of air pollution from the  
17 emission of sulfur oxides.

18

19 Strike-throughs indicate language that would be stricken from  
20 the present law, and underscoring indicates new language that  
21 would be added.

SENATE BILL NO. 148

1 (By Senators Anderson, Grubb, Macnaughtan and  
2 Minard)

3 [Introduced January 31, 1994; referred to the  
4 Committee on *EIM*

5  
6 *Judiciary*

7  
8  
9  
10 A BILL to amend and reenact section one, article three, chapter  
11 sixty-four of the code of West Virginia, one thousand nine  
12 hundred thirty-one, as amended, relating to authorizing the  
13 air pollution control commission to promulgate legislative  
14 rules relating to the prevention and control of air pollution  
15 from the emission of sulfur oxides.

16 Be it enacted by the Legislature of West Virginia:

17 That section one, article three, chapter sixty-four of the  
18 code of West Virginia, one thousand nine hundred thirty-one, as  
19 amended, be amended and reenacted to read as follows:

20 ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE, LABOR AND  
21 ENVIRONMENTAL RESOURCES TO PROMULGATE LEGISLATIVE RULES.

22 §64-3-1. Air pollution control commission.

23 (a) The legislative rules filed in the state register on the  
24 thirteenth day of August, one thousand nine hundred eighty-two,

1 relating to the air pollution control commission (series VII),  
2 are authorized.

3 (b) The legislative rules filed in the state register on the  
4 thirteenth day of August, one thousand nine hundred eighty-two,  
5 relating to the air pollution control commission (series XIX),  
6 are authorized.

7 (c) The legislative rules filed in the state register on the  
8 sixteenth day of November, one thousand nine hundred  
9 eighty-three, relating to the air pollution control commission  
10 (emission standards for hazardous air pollutants) (series XV),  
11 are authorized.

12 (d) The legislative rules filed in the state register on the  
13 sixteenth day of November, one thousand nine hundred  
14 eighty-three, relating to the air pollution control commission  
15 (standards of performance for new stationary sources) (series  
16 XVI), are authorized.

17 (e) The legislative rules filed in the state register on the  
18 sixth day of January, one thousand nine hundred eighty-four,  
19 relating to the air pollution control commission (to prevent and  
20 control air pollution from hazardous waste treatment, storage or  
21 disposal facilities)(series XXV), are authorized with the  
22 amendments set forth below:

23 Page 3, §1.06, change the § title from "Enforcement" to  
24 "Procedure"; place an "(a)" in front of the existing paragraph  
25 and add the following:

1       "(b) Permit applications filed pursuant to this regulation  
2 shall be processed in accordance with the permitting procedures  
3 as set forth in code §20-5E of this regulation. Permit  
4 procedures set forth in code §16-20 and any other regulation of  
5 this commission are not applicable to any permit application  
6 filed pursuant to this regulation."

7       Such rules shall also include a section which shall read as  
8 follows:

9       "The commission shall report to the legislative rule-making  
10 review committee as required by that committee, but in no event  
11 later than the first day of the regular session of the  
12 Legislature in the year one thousand nine hundred eighty-five.  
13 Such report shall include information regarding the commission's  
14 data gathering efforts, the development of compliance programs,  
15 the progress in implementation, and such other matters as the  
16 committee may require, pertaining to the regulations hereby  
17 authorized."

18       (f) The legislative rules filed in the state register on the  
19 ninth day of January, one thousand nine hundred eighty-four,  
20 relating to the air pollution control commission (permits for  
21 construction and modification of stationary sources of air  
22 pollution for the prevention of significant deterioration)  
23 (series XIV), are authorized.

24       (g) The legislative rules filed in the state register on the  
25 thirtieth day of December, one thousand nine hundred

1 eighty-eight, modified by the air pollution control commission to  
2 meet the objections of the legislative rule-making review  
3 committee and refiled in the state register on the twenty-third  
4 day of February, one thousand nine hundred eighty-nine, relating  
5 to the air pollution control commission (prevention and control  
6 of air pollution from hazardous waste treatment, storage or  
7 disposal facilities), are authorized.

8 (h) The legislative rules filed in the state register on the  
9 thirtieth day of December, one thousand nine hundred  
10 eighty-eight, modified by the air pollution control commission to  
11 meet the objections of the legislative rule-making review  
12 committee and refiled in the state register on the twenty-third  
13 day of February, one thousand nine hundred eighty-nine, relating  
14 to the air pollution control commission (good engineering  
15 practice as applicable to stack heights), are authorized.

16 (i) The legislative rules filed in the state register on the  
17 thirtieth day of December, one thousand nine hundred  
18 eighty-eight, modified by the air pollution control commission to  
19 meet the objections of the legislative rule-making review  
20 committee and refiled in the state register on the twenty-third  
21 day of February, one thousand nine hundred eighty-nine, relating  
22 to the air pollution control commission (TP-2, compliance test  
23 procedures for regulation 2 -- to prevent and control particulate  
24 air pollution from combustion of fuel in indirect heat  
25 exchangers), are authorized.

1 (j) The legislative rules filed in the state register on the  
2 sixth day of September, one thousand nine hundred eighty-nine,  
3 modified by the air pollution control commission to meet the  
4 objections of the legislative rule-making review committee and  
5 refiled in the state register on the tenth day of January, one  
6 thousand nine hundred ninety, relating to the air pollution  
7 control commission (ambient air quality standards for sulfur  
8 oxides and particulate matter), are authorized.

9 (k) The legislative rules filed in the state register on the  
10 sixth day of September, one thousand nine hundred eighty-nine,  
11 modified by the air pollution control commission to meet the  
12 objections of the legislative rule-making review committee and  
13 refiled in the state register on the tenth day of January, one  
14 thousand nine hundred ninety, relating to the air pollution  
15 control commission (prevention of air pollution emergency  
16 episodes), are authorized.

17 (l) The legislative rules filed in the state register on the  
18 sixth day of September, one thousand nine hundred eighty-nine,  
19 modified by the air pollution control commission to meet the  
20 objections of the legislative rule-making review committee and  
21 refiled in the state register on the tenth day of January, one  
22 thousand nine hundred ninety, relating to the air pollution  
23 control commission (permits for construction and major  
24 modification of major stationary sources of air pollution for  
25 the prevention of significant deterioration), are authorized.

1 (m) The legislative rules filed in the state register on the  
2 sixth day of September, one thousand nine hundred eighty-nine,  
3 relating to the air pollution control commission (standards of  
4 performance for new stationary sources), are authorized.

5 (n) The legislative rules filed in the state register on the  
6 sixth day of September, one thousand nine hundred eighty-nine,  
7 relating to the air pollution control commission (emission  
8 standards for hazardous air pollutants), are authorized.

9 (o) The legislative rules filed in the state register on the  
10 sixteenth day of October, one thousand nine hundred eighty-nine,  
11 modified by the air pollution control commission to meet the  
12 objections of the legislative rule-making review committee and  
13 refiled in the state register on the tenth day of January, one  
14 thousand nine hundred ninety, relating to the air pollution  
15 control commission (prevention and control of emissions of toxic  
16 air pollutants), are authorized.

17 (p) The legislative rules filed in the state register on the  
18 tenth day of August, one thousand nine hundred ninety, relating  
19 to the air pollution control commission (prevention and control  
20 of air pollution from the emission of volatile organic compounds  
21 from bulk gasoline terminals), are authorized.

22 (q) The legislative rules filed in the state register on the  
23 thirteenth day of August, one thousand nine hundred ninety,  
24 modified by the air pollution control commission to meet the  
25 objections of the legislative rule-making review committee and

1 refiled in the state register on the fifteenth day of November,  
2 one thousand nine hundred ninety, relating to the air pollution  
3 control commission (air quality management fee program), are  
4 authorized.

5 (r) The legislative rules filed in the state register on the  
6 tenth day of August, one thousand nine hundred ninety, relating  
7 to the air pollution control commission (prevention and control  
8 of air pollution from the emission of volatile organic compounds  
9 from the storage of petroleum liquids in fixed roof tanks), are  
10 authorized.

11 (s) The legislative rules filed in the state register on the  
12 tenth day of August, one thousand nine hundred ninety, relating  
13 to the air pollution control commission (prevention and control  
14 of air pollution from the emission of volatile organic compounds  
15 from petroleum refinery sources), are authorized.

16 (t) The legislative rules filed in the state register on the  
17 eighteenth day of December, one thousand nine hundred ninety-one,  
18 modified by the air pollution control commission to meet the  
19 objections of the legislative rule-making review committee and  
20 refiled in the state register on the fifteenth day of December,  
21 one thousand nine hundred ninety-two, relating to the air  
22 pollution control commission (regulations to prevent and control  
23 air pollution from the emission of volatile organic compounds),  
24 are authorized with the amendments set forth below:

1 "On page 26, subsection §45-21-9.2, by striking all of  
2 §45-21-9.2 and inserting in lieu thereof a new §45-21-9.2, to  
3 read as follows:

4 "9.2 Registration. -- Within thirty (30) days after May 31,  
5 1993, all persons owning and/or operating a source subject to  
6 this regulation and not previously registered shall have  
7 registered such source(s) with the chief: Provided, That on a  
8 case-by-case basis, the chief may extend the 30-day period for  
9 the registration of sources to allow sources up to one hundred  
10 eighty (180) days after May 31, 1993 to register. The  
11 information required for registration shall be determined and  
12 provided in the manner specified by the chief. Registration  
13 forms shall be requested from the chief by the owner or operator  
14 of such source(s)."

15 And,

16 "On page fifty-six, subsection §45-21-20.5a by striking out  
17 all of line "a" and its equivalent column and inserting in lieu  
18 thereof the words "a = Surface area coated per day in terms of  
19 square meters divided by 100 or surface area coated per day in  
20 terms of square feet divided by 1000."

21 And,

22 "On page one hundred eighty-three, subsection §45-21-40.2  
23 after the words "control technology (RACT) in section" by  
24 striking the numbers "2.57." and inserting in lieu thereof the  
25 numbers "2.60."

1 (u) The legislative rules filed in the state register on the  
2 eighteenth day of September, one thousand nine hundred  
3 ninety-two, relating to the air pollution control commission  
4 (confidential information), are authorized.

5 (v) The legislative rules filed in the state register on the  
6 eighteenth day of September, one thousand nine hundred  
7 ninety-two, relating to the air pollution control commission  
8 (serious and minor violations of applicable rules), are  
9 authorized.

10 (w) The legislative rules filed in the state register on the  
11 thirty-first day of August, one thousand nine hundred ninety-two,  
12 relating to the air pollution control commission (permits for  
13 construction and major modification of major stationary sources  
14 of air pollution for the prevention of significant  
15 deterioration), are authorized with the amendments set forth  
16 below:

17 "On page fourteen, subsection §45.13.6.5 after the word  
18 "[W]ithin" by striking the word "twelve(12)" and inserting in  
19 lieu thereof the word "six(6)".

20 (x) The legislative rules filed in the state register on the  
21 twenty-eighth day of August, one thousand nine hundred  
22 ninety-two, modified by the air pollution control commission to  
23 meet the objections of the legislative rule-making review  
24 committee and refiled in the state register on the nineteenth day  
25 of February, one thousand nine hundred ninety-three, relating to

1 the air pollution control commission (regulations to prevent and  
2 control air pollution from the operation of coal preparation  
3 plants and coal handling operations), are authorized.

4 (y) The legislative rules filed in the state register on the  
5 thirty-first day of August, one thousand nine hundred ninety-two,  
6 modified by the air pollution control commission to meet the  
7 objections of the legislative rule-making review committee and  
8 refiled in the state register on the nineteenth day of February,  
9 one thousand nine hundred ninety-three, relating to the air  
10 pollution control commission (requirements for pre-construction  
11 review, determination of emission offsets for proposed new or  
12 modified stationary sources of air pollutants and emission  
13 trading for intrasource pollutants), are authorized with  
14 amendments set forth below:

15 "On page twenty-one, subsection §45.19.12.5 after the word  
16 "[W]ithin" by striking the word "twelve (12)" and inserting in  
17 lieu thereof the word "six(6)".

18 (z) The legislative rules filed in the state register on the  
19 twenty-eighth day of August, one thousand nine hundred  
20 ninety-two, modified by the air pollution control commission to  
21 meet the objections of the legislative rule-making review  
22 committee and refiled in the state register on the nineteenth day  
23 of February, one thousand nine hundred ninety-three, relating to  
24 the air pollution control commission (requiring the submission of  
25 emission statements for volatile organic compound emissions and

1 oxides of nitrogen emissions), are authorized with the amendments  
2 set forth below:

3 "On page four, section 2.27. after the words 'VOC or' by  
4 striking out the words '100 tons per year or more of'".

5 (aa) The legislative rules filed in the state register on the  
6 thirteenth day of August, one thousand nine hundred ninety-three,  
7 modified by the air pollution control commission to meet the  
8 objections of the legislative rule-making review committee and  
9 refiled in the state register on the twenty-first day of January,  
10 one thousand nine hundred ninety-four, relating to the air  
11 pollution control commission (to prevent and control air  
12 pollution from the emission of sulfur oxides) are authorized.

13

14 NOTE: The purpose of this bill is to authorize the Air  
15 Pollution Control Commission to promulgate legislative rules  
16 relating to the prevention and control of air pollution from the  
17 emission of sulfur oxides.

18

19 Strike-throughs indicate language that would be stricken from  
20 the present law, and underscoring indicates new language that  
21 would be added.

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

A. RENEE COE  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
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## STATE OF WEST VIRGINIA

### SECRETARY OF STATE

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

(Plus all the volunteer  
help we can get)

FAX: (304) 558-0900

March 18, 1994

G. Dale Farley  
Air Pollution Control Comm.  
1558 Washington St. East  
Charleston, WV 25311-2599

**SB 1005** authorizing, **Title 45, Series 10, To Prevent & Control Air Pollution from the Emission of Sulfur Oxides**, passed the Legislature on **March 16, 1994**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs SB 1005, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 1005** section **64-3-1(bb)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

**\*\*\*IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, YOU MUST SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You  
Administrative Law Division

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

A. RENEE COE  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K  
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WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

(Plus all the volunteer  
help we can get)

FAX: (304) 558-0900

TO: Tammy Mowrer

AGENCY: APCC

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: July 1, 1994

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 10 TITLE: 45 APCC

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Tammy S. Mowrer

TITLE OF PERSON SIGNING: Administrative Secretary

DATE: July 19, 1994

\*\*\*\*\*

~~\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.~~

~~SIGNED: Tammy S. Mowrer~~

~~TITLE OF PERSON SIGNING: Administrative Secretary~~

~~DATE: July 19, 1994~~

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.