

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: WV Air Pollution Control Commission TITLE NUMBER: 45

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11

TITLE OF RULE BEING AMENDED: Prevention of Air Pollution Emergency Episodes

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

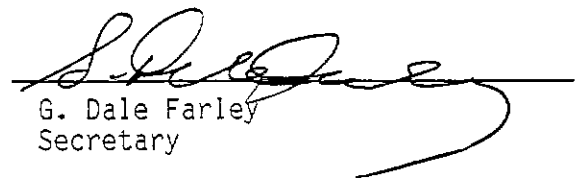
TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill 243

SECTION 64-3-1(k), PASSED ON 03/10/90

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE FOLLOWING DATE: April 25, 1990


G. Dale Farley
Secretary

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: WV Air Pollution Control Commission TITLE NUMBER: 45

CITE AUTHORITY WV Code, Chapter 16, Article 20, Section 10

AMENDMENT TO AN EXISTING RULE: YES NO

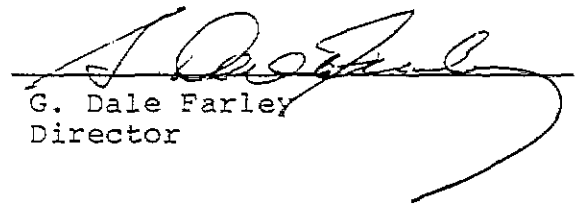
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11

TITLE OF RULE BEING AMENDED: "Prevention of Air Pollution
Emergency Episodes"

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

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


G. Dale Farley
Director

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Chapter 16-20 Series 11 - "Prevention of Air Pollution Emergency Episodes."

Type of Rule: X Legislative Interpretive Procedural

Agency Air Pollution Control Commission Address 1558 Washington Street, East
Charleston, West Virginia 25305

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

2. Explanation of above estimates:

This regulation will utilize existing PM₁₀ monitoring data and no additional cost is expected.

3. Objectives of these rules:

The existing regulation provides a mechanism to prevent the buildup of air pollutant concentrations during periods of adverse meteorological conditions. The revisions to this regulation are a result of EPA promulgating new PM₁₀ particulate matter standards of July 1, 1987.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

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

None anticipated.

C. Economic Impact on Citizens/Public at Large.

None

Date: September 6, 1989

Signature of Agency Head or Authorized Representative



G. Dale Farley
Director

FILED

1989 SEP -6 PM 4:17

OFFICE OF LEGISLATIVE COUNSEL
STATE OF MONTANA

DATE: September 6, 1989

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: G. Dale Farley, Director - WAPCC

LEGISLATIVE RULE TITLE: Regulation 11 - "Prevention of Air Pollution
Emergency Episodes"

1. Authorizing statute(s) citation Chapter 16, Article 20, Section 5

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

June 1, 1989

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

Notice of hearing was provided in one newspaper in each of ten

(10) designated air quality control regions in the state. (See

attached list with dates of publication.)

c. Date of hearing (s): July 31, 1989

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)

September 6, 1989

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

G. Dale Farley

Director

(304) 348-2275

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 _____

[PROPOSED]
45CSR11

SUMMARY

45CSR11 was promulgated by the Commission on January 19, 1972 and became effective on March 15, 1972. The regulation provides a mechanism to prevent the buildup of air pollutant concentrations during periods of adverse meteorological conditions. The revisions to this regulation are as a result of EPA promulgating new PM₁₀ particulate standards on July 1, 1987.

AMENDMENTS

ERRATA

CHANGES TO REGULATION 11
(45CSR11)

"Prevention of Air Pollution Emergency Episodes"

- Page 4, Line 3: STRIKE: ~~"be-deemed"~~.
- Page 6, Line 6: STRIKE: ~~"be-deemed"~~.
- Page 6, Line 13: ADD: "of this regulation".
- Page 7, Line 11: ADD: "WV Code".
- Page 10, Lines 23,
25 and 26: ADD: "of this regulation".
- Page 10, Line 27: Change ~~"identifying"~~ to "identification of".
- Page 11, Lines 12
21, 26 and 28: ADD: "of this regulation".
- Page 11, Line 22: ADD: "WV Code".
- Page 12, Lines 1 and 8: ADD: "WV Code".
- Page 12, Lines 5, 7
12 and 16: ADD: "of this regulation".
- Page 15, Line 12: Change or to of.
- Page 15, Line 13: Changes ~~"shall"~~ to "should".
- Page 19, Line 14: Change ~~"prohibited"~~ to "discouraged".
- Page 21, Lines 2 and 3: Change ~~"Chapter 16, Article 20, Section 10 of the Code of West Virginia"~~ to "WV Code 16-20-10".
- Page 21, Line 4: STRIKE: ~~"shall hereafter"~~, ADD: s to the word "enter".
- Page 21, Line 5: ADD: "of this regulation".

Regulation was amended as suggested by Legislative Rule Making Review Committee

ERRATA

CHANGES TO REGULATION 11 (45CSR11)

"Prevention of Air Pollution Emergency Episodes"

- Page 2, Section 2.6.: Deleted 2.6. reference to "TSP"
- Page 2, Section 2.7.: Deleted...the secretary of Health, Education and welfare or...
- Page 4, Section 3.1.b.: Deleted reference to "TSP"
- Page 5, Section 3.1.c.: Deleted reference to "TSP"
- Page 6, Section 3.1.d.: Deleted reference to "TSP"
- Page 8, Section 4.1.: Deleted 4.1. reference to "TSP" measurements.
- Page 8, Section 4.2.: Corrected: change "carbon" dioxide to "sulfur" dioxide
- Page 15, Part A.: Added: 5. The operation of coal or wood stoves shall be limited to daylight hour use only except in homes or buildings where the stoves are the sole source of heat.
- Page 19, Part A.: Added: 6. The operation of coal or wood stoves is prohibited except in homes where the stoves are the sole source of heat.

Renumbered subsections as required.

[PROPOSED]
45CSR11

SUMMARY

45CSR11 was promulgated by the Commission on January 19, 1972 and became effective on March 15, 1972. The regulation provides a mechanism to prevent the buildup of air pollutant concentrations during periods of adverse meteorological conditions. The revisions to this regulation are as a result of EPA promulgating new PM₁₀ particulate standards on July 1, 1987.

[PROPOSED]
45CSR11

TITLE 11
LEGISLATIVE RULES
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

SERIES 11
PREVENTION OF AIR POLLUTION EMERGENCY EPISODES

Index.

- §45-11-1. Intent and Purpose
- §45-11-2. Definitions
 - 2.1. "Air Pollution Episode"
 - 2.2. "Commission"
 - 2.3. "Director"
 - 2.4. "Particulate Matter"
 - 2.5. "PM₁₀"
 - 2.6. "Standard Conditions"
 - 2.7. "Region"
 - 2.8. "Person"
 - 2.9. "Priority"
- §45-11-3. Episode Criteria
- §45-11-4. Methods of Measurement
- §45-11-5. Preplanned Reduction Strategies
- §45-11-6. Emission Reduction Plans
- §45-11-7. Air Pollution Emergencies; Contents of Order; Hearings; Appeals
- §45-11-8. Inconsistency Between Regulations

[PROPOSED]
45CSR11

TITLE 11
LEGISLATIVE RULES
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

SERIES 11
PREVENTION OF AIR POLLUTION EMERGENCY EPISODES

§45-11-1. Intent and Purpose.

1.1. It is the intent of the Commission to provide a mechanism to prevent the buildup of air pollutant concentrations during periods of adverse meteorological conditions in which air pollutants may accumulate, thereby preventing the occurrence of an emergency due to the effects of these pollutants on health. To achieve this purpose, three (3) stages of criteria (pollutant concentration levels) have been established and specific emission reduction plans will be developed which will be initiated at each criteria stage to prevent further deterioration of the air supply to any air quality region or substantial portion thereof.

1.2. This regulation is issued under the authority of the West Virginia Code, Chapter 16, Article 20, Section 5. This regulation relates to West Virginia Code, Chapter 16, Article 20, Sections 1 through 13 inclusive.

1.3. Filing Date. - -

1.4. Effective Date. - -

1.5. Type.

This regulation is a legislative rule as defined in the West Virginia Code, Chapter 29A, Article 2.

§45-11-2. Definitions.

2.1. "Air Pollution Episode" means the occurrence of adverse meteorological conditions during which air pollutants accumulate, so that the population is exposed to an elevated concentration of airborne contaminants.

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

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

~~2.04. "COH" shall be the term used for the coefficient of haze. A COH unit is defined as that quantity of light scattering solids (on the filter) which produces an optical density equivalent of 0.01 when measured by light transmission.~~

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

2.5. "PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers.

~~2.6. "Photochemical Oxidant" shall be the term used to describe the net oxidizing ability of the ambient air.~~

2.7.2.6. "Standard Conditions" means, for the purposes of this regulation, a temperature of 25°C and a pressure of 760 millimeters of mercury column.

2.8.2.7. "Region" means a Federal Air Quality Control Region designated by ~~the Secretary of Health, Education and Welfare~~ or the Administrator of the Environmental Protection Agency.

2.9.2.8. "Person" means any and all persons, natural or artificial, including any municipal, 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.

2.10.2.9. "Priority" means the numerical classification assigned to each Air Quality Control Region by the Environmental Protection Agency as follows:

POLLUTANT						
REGION	<u>Particulate Matter</u>	Sulfur Oxides	Carbon Monoxide	Nitrogen Dioxide	<u>Photo-Chemical Oxidants (Ozone)</u>	Hydro-Carbons
Region I*	I	I	III	III	III	III
Region II*	I	II	III	III	III	III
Region III*	I	III	III	III	III	III
Region IV	I	III	III	III	III	III
Region V	III	III	III	III	III	III
Region VI	I	III	III	III	III	III
Region VII*	I	I	III	III	III	III
Region VIII	III	III	III	III	III	III
Region IX	III	III	III	III	III	III
Region X	III	III	III	III	III	III

* Interstate Regions

§45-11-3. Episode Criteria.

3.1. Conditions justifying the proclamation of an Air Pollution Alert or Air Pollution Warning shall ~~be deemed to~~ exist whenever the Director and/or Commission determines that the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are exceeded, lead to an Air Pollution Emergency. In making this determination the Director and/or Commission shall be guided by the following criteria:

(a)a. Air Pollution Forecast. An internal watch by the West Virginia Air Pollution Control Commission will be actuated by a National Weather Service advisory that an Atmospheric Stagnation Advisory is in effect or by the issuance of any equivalent local forecast or stagnant atmospheric conditions ~~is issued~~ by the Commission.

(~~b~~)b. Air Pollution Alert. An alert shall be declared by the Director and/or Commission when any one of the following levels is reached at any monitoring site and meteorological conditions are such that pollutant concentrations can be expected to remain at these levels for twelve (12) or more hours or increase unless control actions are taken:

Sulfur Dioxide

800 micrograms per cubic meter (0.3 parts per million), 24-hour average

~~Particulate-Matter~~

~~3.0 CO₂s, 24-hour average~~

PM₁₀

350 micrograms per cubic meter, 24-hour average

~~Sulfur-Dioxide-and-Particulate-Matter-Combined~~

~~Product-of-sulfur-dioxide-parts-per-million, 24-hour-average, and CO₂s, 24-hour-average, equal to 0.2~~

Carbon Monoxide

17 milligrams per cubic meter (15 parts per million), 8-hour average

~~Oxidant~~ Ozone (O₃)

2400 micrograms per cubic meter (0.12 parts per million), 1-hour average

Nitrogen Dioxide

1,130 micrograms per cubic meter (0.6 parts per million), 1-hour average

282 micrograms per cubic meter (0.15 parts per million), 24-hour average

(e)c. Air Pollution Warning. A warning shall be declared by the Commission when any one of the following levels is reached at any monitoring site and meteorological conditions are such that pollutant concentrations can be expected to remain at these levels for twelve (12) or more hours or increase unless control actions are taken:

Sulfur Dioxide

1600 micrograms per cubic meter (0.6 parts per million), 24-hour average

~~Particulate-Matter~~

~~5-GOHS, 24-hour average~~

~~Sulfur-Dioxide-and-Particulate-Matter-Combined~~

~~Product-of-sulfur-dioxide-parts-per-million, 24-hour average, and GOHS, 24-hour average, equal to 0.8~~

PM₁₀

420 micrograms per cubic meter, 24-hour average

Carbon Monoxide

34 milligrams per cubic meter (30 parts per million), 8-hour average

~~Oxidant~~ Ozone (O₃)

800 micrograms per cubic meter (0.4 parts per million), 1-hour average

Nitrogen Dioxide

2,260 micrograms per cubic meter (1.2 parts per million), 1-hour average

565 micrograms per cubic meter (0.3 parts per million), 24-hour average

(e)d. Air Pollution Emergency. Conditions justifying the proclamation of an Air Pollution Emergency shall ~~be deemed to exist~~ whenever the Commission determines that the accumulation of air pollutants in any place has attained levels which require immediate action for the protection of the public health. The emergency level indicates that air quality is continuing to degrade and is approaching a level that should never be reached, and that the most stringent control actions are necessary. In making this determination, the Commission shall declare any emergency when any one of the following levels is reached at any monitoring site and meteorological conditions are such that this condition can be expected to continue for twelve (12) or more hours:

Sulfur Dioxide

2100 micrograms per cubic meter (0.8 parts per million), 24-hour average

~~Particulate Matter~~

~~7.0 COHs, 24-hour average~~

~~Sulfur Dioxide and Particulate Matter Combined~~

~~Product of sulfur dioxide parts per million, 24-hour average and COHs, 24-hour average, equal to 1.2~~

PM₁₀

500 micrograms per cubic meter, 24-hour average

Carbon Monoxide

46 milligrams per cubic meter (40 parts per million), 8-hour average

Oxidant Ozone (O₃)

~~1200~~1000 micrograms per cubic meter (0.65 parts per million), 1-hour average

Nitrogen Dioxide

3,000 micrograms per cubic meter (1.6 parts per million), 1-hour average

750 micrograms per cubic meter (0.4 parts per million), 24-hour average

An air pollution emergency will be declared by an order entered by the Commission with the written approval of the Governor.

(e)e. Termination. Once declared, any status reached by application of these criteria will remain in effect until the criteria for that level are no longer met. At such time, the next lower status will be assumed.

3.2. The episode criteria presented in Section 3.1. of this Regulation establish the basis for emission control action to be initiated to prevent an Air Pollution Emergency Episode. The stringent control actions required in §WV Code 45-11-6. when the emergency stage has been declared are designed to prevent air pollutant concentrations from reaching levels which, in the judgement of the Commission, could constitute imminent and substantial endangerment to health. ~~These levels are as follows:~~

~~Sulfur Dioxide~~

~~2620 micrograms per cubic meter (1.0 parts per million), 24-hour average~~

~~Particulate Matter~~

~~1000 micrograms per cubic meter or 8 CO₂s, 24-hour average~~

~~Sulfur Dioxide and Particulate Matter Combined~~

~~Product of sulfur dioxide in micrograms per cubic meter, 24-hour average, and particulate matter in micrograms per cubic meter, 24-hour average, equal to 490×10^3 , or product of sulfur dioxide in parts per million, 24-hour average and CO₂s, 24-hour average, equal to 1.5~~

~~Carbon Monoxide~~

~~57.5 milligrams per cubic meter (50 parts per million), 8-hour average~~

~~86.3-milligrams-per-cubic-meter-(75-parts-per-million),-1-hour-average~~

~~144-milligrams-per-cubic-meter-(125-parts-per-million),-1-hour-average~~

~~Photochemical-Oxidants~~

~~800-micrograms-per-cubic-meter-(0.4-parts-per-million),-1-hour-average~~

~~1200-micrograms-per-cubic-meter-(0.6-parts-per-million),-2-hour-average~~

~~1400-micrograms-per-cubic-meter-(0.7-parts-per-million),-1-hour-average~~

~~Nitrogen-Dioxide~~

~~938-micrograms-per-cubic-meter-(0.5-parts-per-million),-24-hour-average~~

~~3750-micrograms-per-cubic-meter-(2.0-parts-per-million),-1-hour-average~~

~~Section 4.---Methods of Measurement.~~

§45-11-4. ~~Methods of Measurement.~~

4.1. PM₁₀ concentrations shall be measured in the ambient air as particulate matter with an aerodynamic diameter less than or equal to 10 micrometers by:

- a. Reference method based on Appendix J of 40 CFR 50, or
- b. An equivalent method designated in accordance with 40 CFR 53.

4.2. Sulfur dioxide concentrations shall be measured in ambient air as carbon sulfur dioxide by:

- a. Reference method based on Appendix A of 40 CFR 50, or
- b. An equivalent method designated in accordance with 40 CFR 53.

4.3. Carbon monoxide concentrations shall be measured in ambient air as carbon monoxide by:

- a. Reference method based on Appendix C of 40 CFR 50, or
- b. An equivalent method designated in accordance with 40 CFR 53.

4.4. Nitrogen dioxide concentrations shall be measured in ambient air as nitrogen dioxide by:

- a. Reference method based on Appendix F of 40 CFR 50, or
- b. An equivalent method designated in accordance with 40 CFR 53.

4.5. Ozone concentrations shall be measured in the ambient air as ozone by:

- a. Reference method based on Appendix D of 40 CFR 50, or
- b. An equivalent method designated in accordance with 40 CFR 53.

~~4.01 Sulfur dioxide concentrations shall be determined by any of the methods listed below or by such other methods approved as equally or more specific, accurate, sensitive, and reproducible by the West Virginia Air Pollution Control Commission:~~

~~(a) Utilization of the West-Gaeke (pararosaniline) method as modified by Searingelli, et al.~~

~~(b) The use of a continuous sampling and recording instrument based on coulometric, colorimetric, or an equivalent principle and utilizing the modified West-Gaeke analytical procedure as a standard means of calibration.~~

~~4.02. Suspended particulate matter concentrations shall be determined by any of the methods listed below or by such other methods approved as equally or more specific, accurate, sensitive, and reproducible by the West Virginia Air Pollution Control Commission:~~

- ~~(a) Filter-Tape Sampler~~
- ~~(b) High Volume Filtration~~

~~4.3. Carbon monoxide concentrations shall be determined by non-dispersive-infrared (NDIR) methods or by such other methods approved as equally or more specific, accurate, sensitive, and reproducible by the West Virginia Air Pollution Control Commission:~~

~~4.04. Photochemical oxidant concentrations shall be determined by the neutral-buffered potassium iodide method as modified by Saltzman, et al., or by such other methods approved as equally or more specific, accurate, sensitive, and reproducible by the West Virginia Air Pollution Control Commission:~~

~~4.05. Nitrogen dioxide concentrations shall be determined by any of the methods listed below or by such other methods approved as equally or more specific, accurate, sensitive, and reproducible by the West Virginia Air Pollution Control Commission:~~

~~(a) Utilization of Jacobs-Hocheiser method~~

~~(b) The use of a continuous sampling and recording instrument based on coulometric, colorimetric, or an equivalent principle~~

§45-11-5. Preplanned Reduction Strategies.

5.1. Any person responsible for the operation of a stationary source of air pollutants emitting 100 tons (90.7 metric tons) per year or more in a region classified Priority I or II for any pollutant, shall prepare standby plans for reducing the emission of air pollutants during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency. Standby plans shall be designed to reduce or eliminate emission of air pollutants in accordance with the objectives set forth in Tables I, II, and III of this Regulation.

5.2. Any person responsible for the operation of a source of air pollutants not set forth under Section 5.1. of this Regulation shall, when requested by the Commission, prepare standby plans for reducing the emissions of air pollutants in accordance with the objectives set forth in Table I, II, and III of this Regulation.

5.3. Standby plans as required under Section 5.1. and 5.2. shall be in writing and shall include, but not be limited to, ~~identifying~~ identification of the sources of air

pollutants, the approximate amount of reduction of pollutants, and a brief description of the manner in which the reduction will be achieved during an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency. Such information shall be filed on forms and in a manner acceptable to the Director.

5.4. During a condition of Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency, standby plans as required by this section shall also be made available on the premises to the Director or his duly authorized representative.

5.5. Standby plans as required by this section shall be submitted to the Director upon request within sixty (60) days of the receipt of such request. All standby plans shall be subject to review and approval by the Commission. If, in the opinion of the Commission, a standby plan does not effectively carry out the objectives as set forth in Tables I, II, and III of this Regulation, the Commission may disapprove it, state its reason for disapproval, and order the preparation of an amended standby plan within the time period specified in the order.

§45-11-6. Emission Reduction Plans.

(a) 6.1 Air Pollution Forecast. When the National Weather Service issues a public announcement that an Atmospheric Stagnation Advisory is in effect or the equivalent local forecast of stagnant atmospheric conditions is issued by the West Virginia Air Pollution Control Commission, no open burning shall be conducted.

(b) 6.2 Air Pollution Alert. When an Air Pollution Alert is declared in the manner provided in Section ~~3-01(b)~~3.1.b. of this Regulation, any person responsible for the operation of a source, who is required under §WV Code 45-11-5. to have standby plans, shall put into effect the preplanned abatement strategy for an Air Pollution Alert when notified by the Director or his duly authorized representative. All other persons responsible for the operation of sources of air pollution shall take actions as required in Table I of this Regulation.

(c) 6.3 Air Pollution Warning. When an Air Pollution Warning is declared in the manner provided in Section ~~3-01(c)~~3.1.c. of this Regulation, any person responsible for the

operation of a source, who is required under §WV Code 45-11-5. to have standby plans, shall put into effect the preplanned abatement strategy for an Air Pollution Warning when notified by the Director or his duly authorized representatives. All other persons responsible for the operation of sources of air pollutants shall take actions as required in Table II of this Regulation.

(d) 6.4 Air Pollution Emergency. When an Air Pollution Emergency is declared in the manner provided in Section ~~3:01(d)~~3.1.d. of this Regulation, any person responsible for the operation of a source, who is required under §WV Code 45-11-5. to have standby plans, shall put into effect the preplanned abatement strategy for an Air Pollution Emergency when notified by the Director or his duly authorized representative of such emergency. All other persons responsible for the operation of sources of air pollutants shall take actions as required in Table III of this Regulation.

(e) 6.5 When the Director and/or Commission determines that a specified criteria level has been reached at one or more monitoring sites solely because of emissions from a limited number of sources, the Director shall notify such source(s) that the preplanned abatement strategies of Tables I, II, and of this Regulation III or the standby plans are required, insofar as it applies to such source(s), and shall be put into effect until the criteria of the specified level are no longer met.

TABLE I - EMISSION REDUCTION PLANS
Alert Level

Part A. General

1. There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.
 2. The use of incinerators for the disposal of any form of solid waste shall be limited to the hours between 12 noon and 4 p.m.
 3. Persons operating motor vehicles should eliminate all unnecessary operations.
 4. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12 noon and 4 p.m.
-

Part B. Source Curtailment

Any person responsible for the operation of a source of air pollutants listed below shall take all required control actions for this Alert Level:

Source of Air Pollution	Control Action
1. Coal or oil-fired electric power generating facilities	a. Substantial reduction by utilization of fuels having low ash and sulfur content. b. Substantial reduction by diverting electric power generation to facilities outside of Alert Area. c. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
2. Coal and oil-fired process steam generating facilities	a. Substantial reduction by utilization of fuels having low ash and sulfur content. b. Substantial reduction of steam load demands consistent with continuing plant operations. c. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
3. Manufacturing industries of the following characteristics: Primary Metals Industry Petroleum Refining Operations	a. Substantial reduction of air pollutants from manufacturing operations by curtailing, postponing, or deferring production and allied operations.

Cont'd.

TABLE I (Cont'd).

Source of Air Pollution	Control Action
Chemical Industries Mineral Processing Industries Paper and Allied Products Grain Industry	b. Maximum reduction by deferring trade waste disposal operations which emit solid particles, gases vapors, or malodorous substances. c. Maximum reduction of heat load demands for processing. d. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

TABLE II - EMISSION REDUCTION PLANS
Warning Level

Part A. General

1. There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.
 2. The use of incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited.
 3. Persons operating motor vehicles must reduce operations by the use of car pools and increased use of public transportation and elimination of unnecessary operation.
 4. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12 noon and 4 p.m.
 5. The operation of coal or wood stoves shall be limited to daylight hour use only except in homes or buildings where the stoves are the sole source of heat.
-

Part B. Source Curtailment

Any person responsible for the operation of a source of air pollutants listed below shall take all required control actions for this Warning Level:

Source of Air Pollution	Control Action
1. Coal or oil-fired electric power generating facilities	<ol style="list-style-type: none"> a. Maximum reduction by utilization of fuels having lowest ash and sulfur content. b. Maximum reduction by diverting electric power generation to facilities outside of Warning area. c. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

Cont'd.

TABLE II (Cont'd.)

Source of Air Pollution	Control Action
2. Coal and oil-fired process steam generating facilities	<ul style="list-style-type: none"> a. Maximum reduction by utilization of fuels having lowest available ash and sulfur content. b. Substantial reduction of steam load demands consistent with continuing plant operations. c. Making ready for use a plan of action to be taken if an emergency develops. d. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
3. Manufacturing industries which require considerable lead time for shut-down including the following classifications: Petroleum Refining Chemical Industries Primary Metals Industries Glass Industries Paper and Allied Products	<ul style="list-style-type: none"> a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardships by postponing production and allied operations. b. Maximum reduction by deferring trade waste disposal operations which emit solid particles, gases, vapors, or malodorous substances. c. Maximum reductions of heat load demands for processing. d. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

Cont'd.

TABLE II (Cont'd.)

Source of Air Pollution	Control Action
4. Manufacturing industries which require relatively short lead times for shut-down including the following classifications:	a. Elimination of air pollutants from manufacturing operations by ceasing, curtailing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
Primary Metals Industries Chemical Industries Mineral Processing Industries Grain Industry	b. Elimination of air pollutants from trade waste disposal processes which emit solid particles, gases, vapors, or malodorous substances.
	c. Maximum reduction of heat load demands for processing.
	d. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

TABLE III - EMISSION REDUCTION PLANS
Emergency Level

Part A. General

1. There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.
2. The use of incinerators for the disposal of any form of solid or liquid waste shall be prohibited.
3. All places of employment described below shall immediately cease operations:
 - a. Mining and quarrying of nonmetallic minerals.
 - b. All construction work except that which must proceed to avoid emergent physical harm.
 - c. All manufacturing establishments except those required to have in force an air pollution emergency plan.
 - d. All wholesale trade establishments, i. e., places of business primarily engaged in selling merchandise to retailers, or industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies, except those engaged in the distribution of drugs, surgical supplies and food.
 - e. All offices of local, county, and State government including authorities, joint meetings, and other public bodies except such agencies which are determined by the chief administrative officer of local, county, or State government, authorities, joint meetings and other public bodies to be vital for public safety and welfare and the enforcement of the provisions of this order.
 - f. All retail trade establishments except pharmacies, surgical supply distributors, and stores primarily engaged in the sale of food.
 - g. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services; offices of insurance carriers, agents and brokers, real estate offices.
 - h. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studios; beauty shops, barber shops, shoe repair shops.
 - i. Advertising offices; consumer credit-reporting, adjustment and collection agencies; duplicating, addressing, blueprinting, photocopying, mailing, mailing list and stenographic services; equipment rental services, commercial testing laboratories.

Cont'd.

TABLE III (Cont'd.)

-
- j. Automobile repair, automobile services, garages.
 - k. Establishments rendering amusement and recreational services including motion picture theaters.
 - l. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools, and public and private libraries.
- 4. All commercial and manufacturing establishments not included in this order will institute such actions as will result in maximum reduction of air pollutants from their operation by ceasing, curtailing, or postponing operations which emit air pollutants to the extent possible without causing injury to persons or damage to equipment.
 - 5. The use of motor vehicles is prohibited except in emergencies with the approval of local or State police.
 - 6. The operation of coal or wood stoves is discouraged except in homes where the stoves are the sole source of heat.
-

Part B. Source Curtailment

Any person responsible for the operation of a source of air pollutants listed below shall take all required control actions for this Emergency Level:

Source of Air Pollution	Control Action
1. Coal or oil-fired electric power generating facilities	<ul style="list-style-type: none"> a. Maximum reduction by utilization of fuels having lowest ash and sulfur content. b. Maximum reduction by diverting electric power generation to facilities outside of Emergency area. c. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

Cont'd.

TABLE III (Cont.'d)

Source of Air Pollution	Control Action
2. Coal and oil-fired process steam generating facilities	<ul style="list-style-type: none"> a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage. b. Taking the action called for in the emergency plan. c. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
3. Manufacturing industries of the following classifications: Primary Metals Industries Petroleum Refining Chemical Industries Mineral Processing Industries Grain Industry Paper and Allied Products	<ul style="list-style-type: none"> a. Elimination of air pollutants from manufacturing operations by ceasing, curtailing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment. b. Elimination of air pollutants from trade waste disposal processes which emit solid particles, gases, vapors, or malodorous substances. c. Maximum reduction of heat load demands for processing. d. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

44-11-7. Air Pollution Emergencies; Contents of Order; Hearings; Appeals.

7.1 As is provided in ~~Chapter 16, Article 20, Section 10 of the Code of West Virginia~~ WV Code 16-20-10, as amended, if the Commission, with the written approval of the Governor, ~~shall hereafter~~ enters an order declaring an Air Pollution Emergency, as provided in Section 3.1~~(e)~~d. of this Regulation hereof, it shall, in such order, direct what action shall be taken by the Director to bring about the reduction or prevention of emissions substantially contributing to said Emergency. In such order the Commission shall also fix a time (which shall be not later than twenty-four (24) hours from the time of entry of such order) and place for a hearing to be held by the Commission for the purpose of investigating and determining the factors bearing upon the existence of and contribution to the alleged Emergency.

7.2 A true copy of any such order shall be served upon all persons whose interests are directly prejudiced by such order in the same manner as a summons in a civil action may be served, and a true copy shall also be posted on the front door of the courthouse of the county in which the alleged emergency conditions originated. All persons whose interests are prejudiced or affected in any manner by any such order shall have the right to appear in person or by counsel at such hearing and to present relevant evidence. Within twenty-four (24) hours after the completion of the hearing, the Commission shall affirm, modify or set aside said order in accordance and consistent with the evidence adduced at such hearing.

7.3 Any person aggrieved by any such final action of the Commission may thereafter exercise the rights of judicial review and appeal which are set forth in the statute hereinabove cited.

~~45-11-8~~ ~~Effective Date.~~

~~Regulation XI shall become effective March 15, 1972.~~

§45-11-8. Inconsistency Between Regulations.

8.1 In the event of any inconsistency between this regulation and any other regulation of the Commission, the resolution of such inconsistency shall be resolved by the determination of the Director and such determination shall be based upon the application of more stringent provision, term, condition, method, rule or regulation.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 345-4000
Corporations: 342-8000



STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

TO: Tammy Mowrer
AGENCY: APCC
FROM: JUDY COOPER, DIRECTOR ADMINISTRATIVE LAW DIVISION
DATE: March 15, 1991

THE ATTACHED RULE RECENTLY 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 YOUR 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: 11 TITLE Prevention of Air Pollution Emergency Episodes

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____
TITLE OF PERSON SIGNING: _____
DATE: _____

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

SIGNED: Tammy S. Mowrer
TITLE OF PERSON SIGNING: Secretary
DATE: April 1, 1991