



APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR13 "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General permits, and Procedures for Evaluation"

Type of Rule:  X  Legislative   Interpretive   Procedural

Agency: Office of Air Quality

Address: 1558 Washington Street, East

Charleston, WV 25311-2599

1. Effect of Proposed Rule	Annual		Fiscal Year		
	Increase	Decrease	Current	Next 1993-94	1994-95
Estimated Total Cost	\$23,000	\$ -----	\$471,000	\$484,000	\$494,000
Personal Services	23,000	-----	357,000	370,000	380,000
Current Expense	-----	-----	109,000	109,000	109,000
Repairs and Alterations	-----	-----	-----	-----	-----
Equipment	-----	-----	5,000	5,000	5,000
Other	-----	-----	-----	-----	-----

2. Explanation of above estimates:

The above cost reflects salaries, benefits and related office expenses for 7 technical staff personnel, 1 supervisor and 1 assistant plus related office, equipment and supports expenses. No additional costs are anticipated due to the proposed rule revisions. Slight increases shown for salary adjustments.

3. Objectives of these rules:

45CSR13 which was first enacted in 1972 required the registration of existing source of air pollution and establishes the requirements for obtaining permits to construct new stationary air pollution sources or to modify or relocate existing air pollution sources.

4. Explanation of overall economic impact of proposed rule.

A. Economic impact on state government.

The proposed rule revisions should have minimal impact on state government.

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

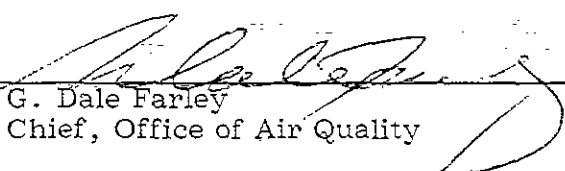
The proposed rule revisions may require some new facilities emitting hazardous air pollutants to obtain construction permits at a fee of \$1,000 which may not have been previously required.

C. Economic impact on citizens/public at large.

Minimal or no impact anticipated.

Date: September 1, 1993

Signature of agency head or authorized representative:

  
\_\_\_\_\_  
G. Dale Farley  
Chief, Office of Air Quality

## 45CSR13

### SUMMARY

45CSR13 was last promulgated June 1, 1974. The original intent of the rule was to provide a process for obtaining permits to construct, modify, or relocate all stationary sources of air pollution. The effect of this rule has been modified for major sources which must obtain pre-construction and major modification permits under 45CSR14 (Prevention of Significant Deterioration) and 45CSR19 (New Source Review for Nonattainment Areas). Further, proposed rule 45CSR30 "Requirements for Operating Permits" provides procedures for modifications to operating permits for major sources.

As such, 45CSR13 has been revised to apply only to construction of new stationary sources which are not major sources, modification of non-major stationary sources, non-major modification to existing major stationary sources, and the relocation of non-major stationary sources.

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45CSR13

TITLE 45

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

LEGISLATIVE RULES  
AIR POLLUTION CONTROL COMMISSION

SERIES 13  
PERMITS FOR CONSTRUCTION,  
MODIFICATION, RELOCATION AND OPERATION OF STATIONARY SOURCES  
OF AIR POLLUTANTS, NOTIFICATION REQUIREMENTS, TEMPORARY PERMITS,  
GENERAL PERMITS, AND PROCEDURES FOR EVALUATION

§ 45-13-1. General.

1.1. Scope. The purpose of this rule is to set forth the procedures for stationary source reporting, and the criteria for obtaining a permit to construct a new stationary source which is not a major stationary source, to modify a non-major stationary source, to make modifications which are not major modifications to an existing major stationary source, and to relocate non-major stationary sources within the state of West Virginia. Such construction, modification, or relocation without a required permit is a violation of this rule. This rule also establishes the requirements for obtaining a temporary permit, a general permit, and for filing notifications of changes not otherwise subject to a permit requirements.

1.2. Authority. W. Va. Code §16-20-5.

1.3. Filing Date. \_\_\_\_\_

1.4. Effective Date. \_\_\_\_\_

1.5. Repeal of Former Rules. This legislative rule repeals and replaces 45CSR13 "Regulations Pertaining to Permits for Construction, Modification, or Relocation of Stationary Sources of Air Pollutants, and Procedures for Registration and Evaluation" which was filed on April 29, 1974 and which became effective June 1, 1974.

§45-13-2. Definitions.

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

2.2. "Air Pollution" 'Statutory Air Pollution' shall have the meaning ascribed to it in Section two of Chapter sixteen, Article twenty of the Code of West Virginia.

2.3. "Chief" means the chief of the Office of Air Quality of the Division of Environmental Protection.

2.4. "Commenced" means that an owner or operator has all necessary preconstruction approval or permits and has undertaken a continuous program of physical site preparation, construction, modification, or relocation, or that a binding general construction contract has been entered into which obligates one (1) party to such contract to perform the physical work involved in such program of construction, modification, or relocation of a source or emissions unit. Interruptions resulting from acts of God, strikes, or other matters beyond the control of the owner shall be disregarded in determining whether a construction, modification, or relocation program is continuous.

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

2.6. "Construction" means any physical change (including fabrication, erection, installation, or demolition of an emissions unit) which would result in the establishment of a new source or the modification of an existing source as regulated under the provisions of this rule and 45CSR14, 45CSR15, 45CSR16 or 45CSR19.

2.7. "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 WV Code §22-1-1, et seq.

2.8. "Discharged" means the release, escape, or emission of air pollutants into the air.

2.9. "Emissions Unit" means any part of a stationary source which emits or would have the potential to emit any regulated pollutant.

2.10. "Fugitive Emissions" means those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

2.11. "Hazardous Air Pollutant" means any substance listed in Table 45-13B.

2.12. "Major Modification" shall have the meanings ascribed to this term in 45CSR14 or 45CSR19 depending upon the attainment status, with respect to the National Ambient Air Quality Standards, of the area in which a particular stationary source is located.

2.13. "Major Stationary Source" means:

a. In all areas which are in attainment with the National Ambient Air Quality Standards or unclassifiable relative to these standards:

A. Any stationary source which emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant and is one of the stationary sources named in Table 45-13A of this rule;

B. Any stationary source which emits or has the potential to emit two hundred fifty (250) tons per year or more of any regulated air pollutant and is not one of the stationary sources named in Table 45-13A of this rule; or

C. Any physical change at a stationary source if the change itself would constitute a major stationary source.

b. In all areas which are formally designated by United States Environmental Protection Agency (USEPA) as areas not attaining the National Ambient Air Quality Standards:

A. Any stationary source of air pollutants which emits or has the potential to emit one hundred (100) tons per year or more of any regulated pollutant for which a National Ambient Air Quality Standard is not attained; or

B. Any physical change that would occur at a stationary source not qualifying under subparagraph 2.13.b.A above as a major stationary source if the change would constitute a major stationary source by itself.

c. Notwithstanding the major source size specified in subparagraph 2.13.b.A of this rule, the following source sizes are also defined as major stationary sources:

A. In serious ozone nonattainment areas, sources which emit or have the potential to emit fifty (50) tons per year or more of VOC or fifty (50) tons per year or more of  $\text{NO}_x$ ;

B. In severe ozone nonattainment areas, sources which emit or have the potential to emit twenty-five (25) tons per year or more of VOC or twenty-five (25) tons per year or more of  $\text{NO}_x$ ;

C. In extreme ozone nonattainment areas, sources which emit or have the potential to emit ten (10) tons per year or more of VOC or ten (10) tons per year or more of  $\text{NO}_x$ ;

D. In serious carbon monoxide nonattainment areas, sources which emit or have the potential to emit fifty (50) tons per year or more of carbon monoxide; or

E. In serious  $\text{PM}_{10}$  nonattainment areas, sources which emit or have the potential to emit seventy (70) tons per year or more of  $\text{PM}_{10}$  or  $\text{PM}_{10}$  precursors.

2.14. "Modification" for the purpose of this rule means any physical change in or change in the method of operation of any existing stationary source which results in an emissions increase of two (2) pounds per hour or more or five (5) TPY or more of any regulated air pollutant other than a hazardous or toxic air pollutant or results in any increase in emissions of a hazardous or toxic air pollutant. Also included is any emission increase for which the owner or operator of a source voluntarily chooses to obtain a modification permit pursuant to this rule, even though the owner or operator is not otherwise required to do so.

The following actions, however, shall not constitute a modification of a stationary source:

a. Installation or replacement of air pollution control equipment, provided that such new equipment is at least as effective in the control of air pollutant emissions as any equipment replaced and that no new air pollutant discharge results from its installation;

b. Routine maintenance, repair, and replacement (excluding such activities that are subject to new source performance standards under 45CSR16);

c. An increase in hours of operation unless a limitation has been explicitly placed upon hours of operation in an applicable permit or order;

d. An increase in throughput or production rate if such increase does not exceed the design capacity of the source or emissions unit, or increase emissions above the levels provided in this paragraph and there is no explicit limitation of production rate in an applicable permit or order; or

e. Use of an alternative fuel or raw material, provided that the source is designed to accommodate such alternative use without increasing emissions above the levels provided in this paragraph and such usage is not prohibited by an applicable permit or order.

2.15. "Person" means any and all persons, natural or artificial, including the state of West Virginia or any other state, 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.

2.16. "Potential to Emit" means the maximum design capacity of a stationary source or emissions unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source or emissions unit to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable by the Chief and USEPA in any permit or consent order. Secondary emissions do not count in determining the potential to emit of a stationary source.

2.17. "Regulated Air Pollutant" for the purpose of this rule means the following:

a. Nitrogen oxides (NO<sub>x</sub>), any volatile organic compounds, or particulate matter;

b. Any air pollutant for which a national ambient air quality standard has been promulgated including particulate matter (PM<sub>10</sub>), sulfur dioxide, carbon monoxide, nitrogen dioxide, ozone and lead;

c. Any hazardous or toxic air pollutant; or

d. Any other air pollutant subject to an emission standard promulgated by the Commission including mineral acids in 45CSR7.

2.18. "Relocation" means the physical movement of a source outside the existing plant boundaries.

2.19. "Responsible Official" means one of the following:

a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either (i) the facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty five (\$25) million (in second quarter 1980 dollars), or (ii) a representative delegated with such authority and approved in advance by the Chief;

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

c. For a municipality, State, Federal, or other public entity: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of USEPA); or

d. The designated representative delegated with such authority and approved in advance by the Chief.

2.20. "Secondary Emissions" means emissions which would occur as a result of the construction or operation of a stationary source or modification, but do not come from the stationary source or modification itself. For the purpose of this rule, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include, but are not limited to, emissions from any off-site support facility which would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the stationary source or modification.

2.21. "Stationary Source" means, for the purpose of this rule, any building, structure, facility, installation, or emission unit or combination thereof, which:

a. Is subject to any emission rule promulgated by the Commission;  
or

b. Emits or has the potential to emit more than six (6) pounds per hour of volatile organic compounds or any air pollutant for which the Commission has promulgated an ambient air quality standard; or

c. Discharges or may discharge hazardous or toxic air pollutant(s) or lead and/or compounds containing lead; or

d. An owner or operator voluntarily chooses to be subjected to a construction or modification permit pursuant to this rule, even though not otherwise required to do so.

2.22. "Toxic Air Pollutant" means any of the following chemicals: Acrylonitrile, Allyl chloride, Benzene, 1,3-Butadiene, Carbon tetrachloride, Chloroform, Ethylene dichloride, Ethylene oxide, Formaldehyde, Methylene chloride, Propylene oxide, Trichloroethylene, Vinyl chloride, Vinylidene chloride.

2.23. "Volatile Organic Compound" (VOC) means any organic compound that participates in atmospheric photochemical reactions. This includes any organic compound other than the following exempt compounds: methane, ethane, methyl chloroform (1,1,1-trichloromethane), CFC-113 (trichlorotrifluoroethane), methylene chloride, CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane), CFC-22 (chlorodifluoromethane), CFC-23 (trifluoromethane), CFC-114 (dichlorotetrafluoroethane), CFC-115 (chloropentafluoroethane), HCFC-123 (dichlorotrifluoroethane), HFC-134a (tetrafluoroethane), HCFC-141b (dichlorofluoroethane), HCFC-142b (chlorodifluoroethane), HCFC-124 (2-chloro-1,1,1,2-tetrafluoroethane), HFC-125 (pentafluoroethane), HFC-134 (1,1,2,2-tetrafluoroethane), HFC-143a (1,1,1-trifluoroethane), HFC-152a (1,1-difluoroethane), and perfluorocarbon compounds which fall into these classes:

- a. Cyclic, branched, or linear, completely fluorinated alkanes;
- b. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- c. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; or
- d. Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

2.24. Other words and phrases used in this rule, unless otherwise indicated, shall have the meaning ascribed to them in chapter sixteen, article twenty, section two of the Code of West Virginia, 1931, as amended, and any rules promulgated thereunder.

**§45-13-3. Reporting Requirements for Registered and Permitted Stationary Sources.**

3.1. The owner or operator of a stationary source registered or permitted as a direct affected source, issued a permit to modify or relocate a direct affected source under previous versions of this rule, or stationary sources subsequently permitted may be required by the Chief to collect, report and maintain data on the operation of such stationary source. The Chief, or his duly authorized representative, may request reports of such data in such reasonable manner and detail as the Chief may specify. If requested, such reports shall be filed within fifteen (15) days of the end of the established reporting period. However, reports on such data shall not exceed one (1) per month.

**§45-13-4. Permit Application and Reporting Requirements for Stationary Sources and Modifications.**

4.1. No person shall cause, suffer, allow or permit the construction, modification, or relocation of any stationary source to be commenced without notifying the Chief of such intent and obtaining a permit to so construct, modify, or relocate the stationary source as required in this rule or any other applicable rule promulgated by the Commission. Construction of a major stationary source or a major modification shall be subject to the pre-construction permit requirements of 45CSR14 or 45CSR19 depending upon the air pollutants involved and the attainment

status of the area in which the source or modification would occur. A source subject to 45CSR14 or 45CSR19 is not subject to the requirements of this rule.

4.2. Not later than one hundred eighty (180) days for construction or modification of a stationary source, or forty-five (45) days for relocation of a stationary source, prior to the time that such construction, modification, or relocation is commenced, the owner or operator of the source shall file with the Chief a permit application on a permit application form available from the Chief. Such application shall contain sufficient information as, in the judgement of the Chief, will enable him to determine whether such source construction, modification, or relocation will be in conformance with the provisions of any rules promulgated by the Commission. Such information may include, but not be limited to, site information, plans, descriptions, specifications, and drawings relating to the proposed construction, modification, or relocation of the source, the manner in which it will be operated, maximum emission rates and emissions control equipment data.

4.3. Each permit application shall be signed by a responsible official of the entity which will own or operate the stationary source, and such signature shall constitute an agreement that the applicant will assume responsibility for the construction, modification, or relocation and operation of the stationary source in accordance with the permit application, permit applicable rules promulgated by the Commission, and W. Va. Code §16-20-1, et seq.

4.4. Within one hundred eighty (180) days of the receipt of a complete permit application for construction or modification of a stationary source or within forty-five (45) days of receipt of a complete application for relocation of a stationary source, the Chief shall issue such permit unless a determination is made that the proposed construction, modification, or relocation will violate applicable emission standards, will interfere with attainment or maintenance of an applicable ambient air quality standard, cause or contribute to a violation of an applicable air quality increment, or be inconsistent with the intent and purpose of this rule or W. Va. Code §16-20-1, et seq., in which case an order for the prevention of such construction, modification, or relocation shall be issued. The Chief shall, to the extent possible, give priority to the issuance of any such permit so as to avoid undue delay and hardship. The Chief shall review all such applications for completeness within thirty (30) days from receipt and notify the applicant in writing as to whether the application is complete or specify any information required. Any determination of completeness or lack thereof shall not relieve the permit applicant of the requirement to subsequently submit, in a timely manner, any additional or corrected information deemed by the Chief to be necessary for permit approval. The periods set forth in this subsection for application review by the Chief shall not be deemed to have begun until such time as the permit application is deemed complete.

4.5. Any denial order for a permit application for the proposed construction, modification or relocation of any source shall set forth the reasons of such denial with reasonable specificity.

4.6. The Chief may impose any reasonable condition as part of a granted construction, modification, or relocation permit. Such condition may include, but not be limited to, the submission of periodic progress, operation or emissions reports, the provisions for a suitable emissions sampling site and the installation of air pollutant monitoring devices. The Chief shall impose or incorporate, consistent with all applicable rules, such enforcement conditions which assure that all emission limitations contained within the permit are quantifiable, permanent and practicably

enforceable. The Chief may, on the basis of information provided in a permit application or with the agreement of the permit applicant, impose source-specific emission limitations, limits on the hours of operation or production rates, or other constraints to minimize air pollutant discharges or establish enforceable emission caps for a stationary source not otherwise specifically required by rule.

4.7. The Chief may develop and issue general permits under this rule authorizing the construction or relocation of a category of sources by the same operator or involving the same or similar processes or pollutants upon the terms and conditions specified in the general permit.

4.8. The owner or operator of any new stationary source or existing source (requiring registration under previous versions of this rule) which adds an additional emissions unit or makes a change in the method of operation which results in an emissions increase, or in the discharge of a new regulated pollutant, in an amount below the levels which require a permit to modify, shall notify the Chief in writing even though a permit is not required. The notification shall briefly describe the emission unit or change, the pollutants involved, the potential to emit for each pollutant increased or added and supporting calculations. Within thirty (30) working days of receipt of such a notice, the Chief shall notify the owner or operator in writing if the Chief believes a permit is required, setting forth the reasons with reasonable specificity or shall notify the owner or operator that insufficient information was submitted to enable a determination to be made and specify the information required.

#### §45-13-5. Determination of Compliance of Stationary Sources.

5.1. At the time a stationary source is alleged to be in compliance with an applicable emission standard and at reasonable times to be determined by the Chief thereafter, appropriate tests consisting of visual determinations or conventional in-stack measurements or such other tests as the Chief may specify shall be conducted to determine such compliance.

5.2. At the request of the Chief, the owner or operator of a stationary source shall install such stack gas monitoring devices as the Chief deems necessary to determine continuing compliance. The data from such devices shall be readily available for review at the source location or such other reasonable location that the Chief may specify. At the request of the Chief, such data shall be made available for inspection or copying and the Chief may require periodic submission of excess emission reports.

#### §45-13-6. Public Review Procedures.

6.1. The Chief shall maintain for public review a permit application list of proposed new stationary sources, source modifications, or relocations containing the name of the applicant, the type and location of the source, and the proposed start-up date. No permit shall be issued to any applicant until at least thirty (30) days notice has been provided to the public by the applicant of the application (twenty-five (25) days for source relocation) in accordance with Section 6.2 and the application has been on the permit application list for at least thirty (30) days for construction or modification, or twenty-five (25) days for relocation.

6.2. At the same time that an application for a stationary source permit is filed with the Chief, the applicant shall also place a Class I legal advertisement in a newspaper of general circulation in the area where the source is or will be located. The advertisement shall contain, as a minimum, the name of the applicant, the type and location of the source, the type and amount of air pollutants that will be discharged, and the proposed start-up date.

6.3. During the time periods specified in Subsection 6.1. that an applicant's name appears on the permit application list, the Chief will receive and evaluate written comments relating to the permit application.

6.4. The Chief shall, prior to issuance of any permit, prepare a fact sheet or determination supporting his or her stated intent to issue such a permit and shall transmit to USEPA and any other interested party which so requests, a copy of the fact sheet or determination and a draft copy of the permit which is proposed for issuance. Concurrently with the transmission of this information, the Chief shall, through a Class I legal advertisement in a newspaper of general circulation in the area of the proposed new source, modification or relocation, notify the public of the Chief's intent to issue a permit and provide for a 30 day comment period by the public and USEPA. The legal advertisement shall summarize the Chief's findings and provide notice of the availability for public review of the draft permit and fact sheet.

6.5. The Chief shall review and appropriately address any comments received from the public and USEPA prior to permit issuance.

#### **§45-13-7. Public Meetings.**

7.1. A public meeting to receive comments on permit applications may be held when the Chief deems it appropriate or when substantial interest is expressed, in writing, by a significant number of persons who might reasonably be expected to be affected by the stationary source.

7.2. The Chief, or a duly authorized representative shall preside over such meeting and insure that all interested parties have ample opportunity to present comments. Such meeting shall be held at a convenient place as near as practicable to the location of the proposed construction, modification or relocation.

7.3. At a reasonable time prior to such meeting, the Chief shall provide appropriate information to news media in the area where the proposed source is to be located or otherwise provide notice of the meeting.

#### **§45-13-8. Permit Transfer, Suspension, Revocation and Responsibility.**

8.1. A permit may be transferred from a permittee to another person by modification of an existing permit or by transfer under this subsection. Any permit may be transferred to a new permittee if the Chief determines that the proposed permittee has all necessary permit responsibility and the current permittee notifies the Chief in writing at least 30 days in advance of the proposed transfer date. The proposed new permittee must certify to the Chief, at least thirty (30) days in advance of the proposed transfer date, that a complete copy of the existing permit application and permit has been obtained and reviewed and that the new permittee shall adhere to the design and operating parameters contained in the application and

comply with all terms and conditions in the permit. The notice must include a written agreement between the existing permittee and proposed new permittee containing a specific date for transfer of the permit and explaining the extent of permit responsibility between them. The Chief shall notify the existing and proposed new permittee in writing of his intent to require the transfer through permit amendment, the filing of a new application or deny the transfer request. If such notification from the Chief is not received by the existing permittee and proposed new permittee within thirty (30) days after the Chief's receipt of their respective notices, then the transfer is effective on the date specified in the written agreement between the permittees.

8.2. The Chief may suspend or revoke a permit if, after (6) months from the date of issuance, the holder of the permit cannot provide the Chief, at the Chief's request, with written proof of a good faith effort that such construction, modification, or relocation has commenced. Such proof shall be provided not later than thirty (30) days after the Chief's request. If construction or modification of a stationary source is discontinued for a period of eighteen (18) months or longer, the Chief may suspend or revoke the permit.

8.3. The Chief may suspend or revoke a permit if the plans and specifications upon which the approval was based or the conditions established in the permit are not adhered to.

8.4. Possession of a permit does not relieve any person of the responsibility of complying with any and all rules of the Commission or W. Va. Code §16-20-1, et seq.

#### **§45-13-9. Temporary Construction or Modification Permits.**

9.1. Upon written request by an owner or operator of a source, the Chief may allow the owner or operator to make limited changes for experimental and testing purposes for limited periods of time without applying for a construction permit or permit modification otherwise required under the provisions of this rule for such activity. If granted, the Chief shall respond in writing and indicate the nature of the activity being approved, the time period for which the approval is being granted, and any conditions to be imposed on the approved activity.

9.2. To permit experimental product or process changes, the Chief may issue temporary permits for periods up to six (6) months (which may be extended in writing for up to twelve (12) additional months at the Chief's discretion) upon the submission of a written application for such extension to the Chief by the owner or operator. The Chief may impose any reasonable conditions as part of a temporary permit which may include, but not be limited to, the submission of periodic progress or operation reports, the provision of suitable sampling sites for tests, emissions testing by the permittee, and the installation, operation, and maintenance of air pollutant monitoring devices.

a. The Chief shall maintain for public review a permit application list of all pending applications for temporary permits containing, as a minimum, the name of the applicant, the type and location of the source, and the nature of the request. At the same time that an application for a temporary permit is filed with the Chief, the applicant shall also place a Class I legal advertisement in a newspaper in general circulation where the source is or will be located. The advertisement shall contain

the name of the applicant, the type and location of the source and the nature of the permit sought and provide notice to the public that written comments may be submitted to the Chief regarding the application. No temporary permit may be issued by the Chief until a fifteen (15) day comment period is provided. During this time, the Chief will receive and evaluate written comments relating to the application. The Chief shall act to approve or deny the permit request within sixty (60) days of the publication of the required legal advertisement.

b. The Chief may suspend or revoke any temporary permit upon 24-hour notice to the permittee if the Chief determines that suspension or revocation is appropriate to protect human health or the environment. Notice may be given verbally, but shall be confirmed in writing by the Chief immediately thereafter.

c. Temporary permits shall not be granted to sources or proposed changes which must be reviewed as operating permit modifications under 45CSR30.

**§45-13-10. Conflict With Other Rules and Regulations.**

10.1. When a provision of this rule conflicts with the provisions of any other rule adopted by the Commission, the Chief shall require that the applicant or permittee comply with the more stringent or rigorous provision.

Table 45-13A  
STATIONARY SOURCES OF AIR  
POLLUTANTS

- Fossil-Fuel-Fired Steam Electric Plants Greater Than 250 Million Btu/Hour Heat Input
- Coal Cleaning Plants (with thermal dryers)
- Kraft Pulp Mills
- Portland Cement Plants
- Primary Zinc Smelters
- Iron and Steel Mill Plants
- Primary Aluminum Ore Reduction Plants
- Primary Copper Smelters
- Municipal Incinerators Capable of Charging Greater Than 250 Tons of Refuse/Day
- Hydrofluoric, Sulfuric, and Nitric Acid Plants
- Petroleum Refineries
- Lime Plants
- Phosphate Rock Processing Plants
- Coke Oven Batteries
- Sulfur Recovery Plants
- Carbon Black Plants (furnace process)
- Primary Lead Smelters
- Fuel Conversion Plants
- Sintering Plants
- Secondary Metal Production Plants
- Chemical Process Plants
- Fossil Fuel Boilers (or combinations thereof) Totaling More Than 250 Million Btu/Hour Heat Input
- Petroleum Storage and Transfer Units with a Total Storage Capacity Exceeding 300,000 Barrels
- Taconite Ore Processing Plants
- Glass Fiber Processing Plants
- Charcoal Production Plants

TABLE 45-13B.

		HAZARDOUS AIR POLLUTANTS	
CAS Number	Chemical Name		
		108394	m-Cresol
		106445	p-Cresol
75070	Acetaldehyde	98828	Cumene
60355	Acetamide	94757	2,4-D, salts and esters
75058	Acetonitrile		DDE
98862	Acetophenone	3547044	Diazomethane
53963	2-Acetylaminofluorene	334883	Dibenzofurans
107028	Acrolein	132649	1,2-Dibromo-3-chloropropane
79061	Acrylamide	96128	Dibutylphthalate
79107	Acrylic acid		1,4-Dichlorobenzene(p)
107131	Acrylonitrile	84742	3,3-Dichlorobenzidene
107051	Allyl chloride	106467	Dichloroethyl ether (Bis(2-chloroethyl) ether)
92671	4-Aminobiphenyl		1,3-Dichloropropene
62533	Aniline	91941	Dichlorvos
90040	o-Anisidine	111444	Diethanolamine
1332214	Asbestos		N,N-Diethyl aniline (N,N-Dimethylaniline)
71432	Benzene (including benzene from gasoline)	542756	Diethyl sulfate
		62737	3,3-Dimethoxybenzidine
92875	Benzidine	111422	Dimethyl aminoazobenzene
98077	Benzotrichloride	121697	3,3-Dimethyl benzidine
100447	Benzyl chloride		Dimethyl carbamoyl chloride
92524	Biphenyl	64675	Dimethyl formamide
117817	Bis(2-ethylhexyl) phthalate (DEHP)	119904	1,1-Dimethyl hydrazine
542881	Bis(chloromethyl) ether	60117	Dimethyl phthalate
			Dimethyl sulfate
75252	Bromoform	119937	4,6-Dinitro-o-cresol, and salts
106990	1,3-Butadiene		2,4-Dinitrophenol
156627	Calcium cyanamide	79447	2,4-Dinitrotoluene
105602	Caprolactam		1,4-Dioxane (1,4-Diethyleneoxide)
133062	Captan	68122	1,2-Diphenylhydrazine
63252	Carbaryl	57147	Epichlorohydrin (1-Chloro-2,3-epoxypropene)
75150	Carbon disulfide		1,2-Expoxybutane
56235	Carbon tetrachloride	131113	Ethyl acrylate
463581	Carbonyl sulfide	77781	Ethyl benzene
120809	Catechol	534521	Ethyl carbamate (Urethane)
133904	Chloramben		
57749	Chlordane	51285	
7782505	Chlorine	121142	
79118	Chloroacetic acid	123911	
532274	2-Chloroacetophenone		
108907	Chlorobenzene	122667	
510156	Chlorobenzilate	106898	
67663	Chloroform		
107302	Chloromethyl methyl ether	106887	
126998	Chloroprene	140885	
1319773	Cresols/Cresylic acid (isomers and mixture)	100414	
95487	o-Cresol	51796	

75003	Ethyl chloride (Chloroethane)	101144	4,4-Methylene bis (2-chloroaniline)
106934	Ethylene dibromide (Dibromoethane)	75092	Methylene chloride (Dichloromethane)
107062	Ethylene dichloride (1,2-Dichloroethane)	101688	Methylene diphenyl diisocyanate (MDI)
107211	Ethylene glycol	101779	4,4'-
151564	Ethylene imine (Aziridine)	91203	Methylenedianiline
75218	Ethylene oxide	98953	Naphthalene
96457	Ethylene thiourea	92933	Nitrobenzene
75343	Ethylidene dichloride (1,1-Dichloroethane)	100027	4-Nitrobiphenyl
50000	Formaldehyde	79469	4-Nitrophenol
76448	Heptachlor	684935	2-Nitropropane
118741	Hexachlorobenzene	62759	N-Nitroso-N- methylurea
87683	Hexachlorobutadiene	59892	N-
77474	Hexachlorocyclo- pentadiene	56382	Nitrosodimethylamine
67721	Hexachloroethane	82688	N-Nitrosomorpholine
822060	Hexamethylene-1,6- diisocyanate	87865	Parathion
680319	Hexamethyl- phosphoramidate	108952	Pentachloro- nitrobenzene
110543	Hexane	106503	(Quintobenzene)
302012	Hydrazine	75445	Pentachlorophenol
7647010	Hydrochloric acid	7803512	Phenol
7664393	Hydrogen fluoride (Hydrofluoric acid)	7723140	p-Phenylenediamine
123319	Hydroquinone	85449	Phosgene
78591	Isophorone	1336363	Phosphine
58899	Lindane (all isomers)	1120714	Phosphorus
108316	Maleic anhydride	57578	Phthalic anhydride
67561	Methanol	123386	Polychlorinated biphenyls (Aroclors)
72435	Methoxychlor	114261	1,3-Propane sulfone
74839	Methyl bromide (Bromomethane)	78875	beta-Propiolactone
74873	Methyl chloride (Chloromethane)	75569	Propionaldehyde
71556	Methyl chloroform (1,1,1- Trichloroethane)	75558	Propoxur (Baygon)
78933	Methyl ethyl ketone (2-Butanone)	91225	Propylene dichloride (1,2-Dichloropropane)
60344	Methyl hydrazine	106514	Propylene oxide
74884	Methyl iodide (Iodomethane)	100425	1,2-Propylenimine (2-Methyl aziridine)
108101	Methyl isobutyl ketone (Hexone)	96093	Quinoline
624839	Methyl isocyanate	1746016	Quinone
80626	Methyl methacrylate	79345	Styrene
1634044	Methyl tert butyl ether	127184	Styrene oxide
		7550450	2,3,7,8- Tetrachlorodibenzo-p- dioxin
		108883	1,1,2,2- Tetrachloroethane
			Tetrachloroethylene (Perchloroethylene)
			Titanium tetrachloride
			Toluene

95807	2,4-Toluene diamine
584849	2,4-Toluene diisocyanate
95534	o-Toluidine
8001352	Toxaphene (chlorinated camphene)
120821	1,2,4-Trichlorobenzene
79005	1,1,2-Trichloroethane
79016	Trichloroethylene
95954	2,4,5-Trichlorophenol
88062	2,4,6-Trichlorophenol
121448	Triethylamine
1582098	Trifluralin
540841	2,2,4-Trimethylpentane
108054	Vinyl acetate
593602	Vinyl bromide
75014	Vinyl chloride
75354	Vinylidene chloride (1,1-Dichloroethylene)
1330207	Xylenes (isomers and mixture)
95476	o-Xylenes
108383	m-Xylenes
106423	p-Xylenes
0	Antimony Compounds
0	Arsenic Compounds (inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
0	Cyanide Compounds <sup>1</sup>
0	Glycol ethers <sup>2</sup>
0	Lead Compounds
0	Manganese Compounds
0	Mercury Compounds
0	Fine mineral fibers <sup>3</sup>
0	Nickel Compounds
0	Polycyclic Organic Matter <sup>4</sup>
0	Radionuclides (including radon) <sup>5</sup>
0	Selenium Compounds

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemicals (i.e.,

antimony, arsenic, etc.) as part of that chemical's infrastructure.

<sup>1</sup>X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or Ca(CN)<sub>2</sub>

<sup>2</sup>Includes mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH<sub>2</sub>CH<sub>2</sub>)<sub>n</sub>-OR' where

n = 1, 2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure: R-(OCH<sub>2</sub>CH<sub>2</sub>)<sub>n</sub>-OH. Polymers are excluded from the glycol category.

<sup>3</sup>Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

<sup>4</sup>Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C.

<sup>5</sup>A type of atom which spontaneously undergoes radioactive decay.



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES

OFFICE OF THE SECRETARY

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GASTON CAPERTON  
Governor

JOHN M. RANSON  
Cabinet Secretary

June 2, 1993

Britt A. Bernheim, Secretary  
West Virginia Air Pollution  
Control Commission  
1615 Washington Street, East  
Charleston, West Virginia 25311

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

JUN 2 4 40 PM '93

FILED

Re: 45CSR13 - "Permits for Construction, Modification,  
Relocation and Operation of Stationary Sources  
of Air Pollutants, Notification Requirements,  
Temporary Permits, General Permits, and  
Procedures for Evaluation" and

45CSR30 - "Requirements for Operating Permits"

Dear Ms. Bernheim:

Pursuant to West Virginia Code Section 5F-2-2(a)(12), I hereby  
consent to the proposal of the rules specified above.

I am authorizing the proposal of Regulation 30 with the  
understanding that the fees it proposes will be subjected to public  
comment and scrutiny before final adoption. I reserve judgment on  
whether the fee levels proposed in these rules will be found  
appropriate after completion of the rulemaking process.

You may attach a copy of this letter to your filing with the  
Secretary of State as evidence of my consent.

Sincerely yours,

*John M. Ranson*  
John M. Ranson  
Cabinet Secretary

JMR:ro

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