

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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AUG 13 4 51 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: Air Pollution Control Commission TITLE NUMBER: 45CSR13

CITE AUTHORITY W. Va. Code §16-20-5

AMENDMENT TO AN EXISTING RULE: YES NO

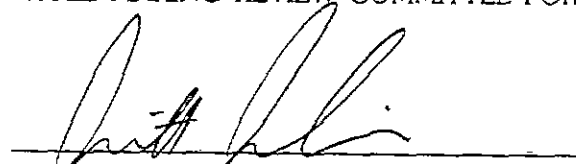
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR13

TITLE OF RULE BEING AMENDED: "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits, and Procedures for Evaluation"

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

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Brett A. Bernheim, Secretary
Air Pollution Control Commission

20.20

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: 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.

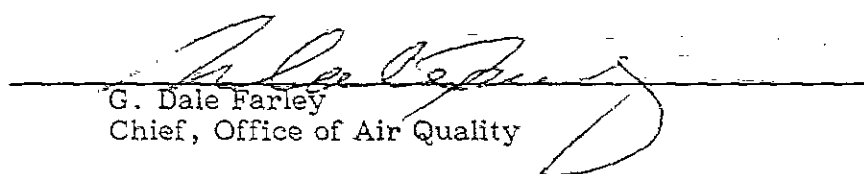
The proposed rule revisions may require some new facilities emitting hazardous air pollutants to obtain construction permits at a fee of \$1,000 which may not have been previously required.

C. Economic impact on citizens/public at large.

Minimal or no impact anticipated.

Date: June 1, 1993

Signature of agency head or authorized representative:


G. Dale Farley
Chief, Office of Air Quality

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

DATE: August 13, 1993
TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
FROM: G. DALE FARLEY
CHIEF, OFFICE OF AIR QUALITY

LEGISLATIVE 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"

1. Authorizing statute(s) citation W. Va. Code §16-20-5

2. a. Date filed in State Register with Notice of Hearing:
June 2, 1993 and July 28, 1993

- b. What other notice, including advertising, did you give of the hearing?
Class II legal advertisement filed in a newspaper published
in each of the Air Quality Control Regions of West Virginia.
Office of Air Quality Mailing List.

- c. Date of hearing(s): July 6, 1993
August 9, 1993

- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached X No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)
August 13, 1993

- f. Name and phone number of agency person to contact for additional information:
G. Dale Farley, Chief
Office of Air Quality
Phone: 558-2275

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

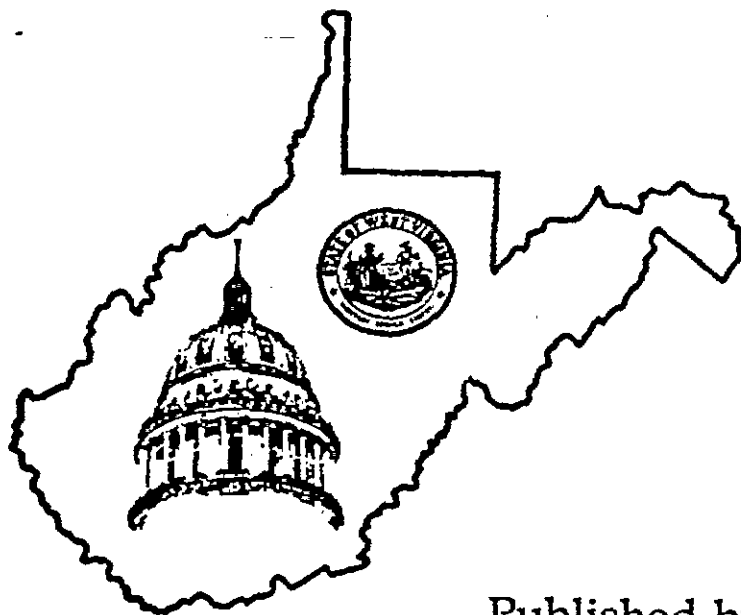
b. Date of hearing: N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A



WEST VIRGINIA REGISTER

Published by Ken Hechler, Secretary of State

Volume X

Issue 23

June 4, 1993

Pages 957-1004

A Weekly Publication

Administrative Law Division

*Judy Cooper
Director*

*Missy Phalen
Pam Reece
Administrative Assistants*

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

(304)558-6000

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 - e. Legislative Rule-Making Review Committee*
- VI. Legislative Interims*
- VII. Orders*
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- X. Attorney General Opinions*
- XI. Other Documents or Information Filed*
- XII. Publication Deadlines and Publication Dates*

LEGISLATIVE

SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

FILED

JUN 2 4 34 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Air Pollution Control Commission TITLE NUMBER: 45CSR15
RULE TYPE: Legislative; CITE AUTHORITY: W. Va. Code §16-20-5
AMENDMENT TO AN EXISTING RULE: YES NO
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR15
TITLE OF RULE BEING AMENDED: "Enforce Standards for Hazardous Air Pollutants"
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____
TITLE OF RULE BEING PROPOSED: _____

DATE OF PUBLIC HEARING: Tuesday, July 6, 1993 TIME: 9:00 a.m.
LOCATION OF PUBLIC HEARING: Office of Air Quality
Conference Room
1558 Washington Street, East
Charleston, WV 25311

COMMENTS LIMITED TO: ORAL _____, WRITTEN _____, BOTH
COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Britt A. Bernhelm, Secretary
Air Pollution Control Comm.
1615 Washington Street, East
Charleston, WV 25311
The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.
The issues to be heard shall be limited to the proposed rule.
ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL.

3.10
989

SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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JUN 2 4 40 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Air Pollution Control Commission TITLE NUMBER: 45CSR13
RULE TYPE: Legislative; CITE AUTHORITY: W. Va. Code §16-20-5
AMENDMENT TO AN EXISTING RULE: YES NO
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR13
TITLE OF RULE BEING AMENDED: "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, and Notification Requirements, Temporary Permits, General Permits, and Procedures for Evaluation"
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1558 Washington Street, East
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ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL.

July 6, 1993 Agenda



WEST VIRGINIA REGISTER

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June 25, 1993

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Administrative Law Division

*Judy Cooper
Director*

*Missy Phalen
Pam Reece
Administrative Assistants*

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

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OTHER

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

n. Caperton
Governor
M. Raouan
Secretary

David C. Callaghan
Director
Ann A. Spener
Deputy Director

AGENDA

WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION
Conference Room

1558 Washington Street, East
Charleston, West Virginia 25311

July 6, 1993
9:00 a.m.

FILED
JUL 10 1993
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

I. HEARINGS ON PROPOSED RULES

- 1. 45CSR28 "Regulation to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds From Vehicle Refueling Emissions at Gasoline Dispensing Facilities" (continuation of January 7, 1993 hearing)
- 2. 45CSR30 "Requirements for Operating Permits"
- 3. 45CSR13 "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits, and Procedures for Evaluation"
- 4. 45CSR25 "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"
- 5. 45CSR15 "Emission Standards for Hazardous Air Pollutants"
- 6. 45CSR16 "Standards of Performance for New Stationary Sources"
- 7. 45CSR7 "To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations"
- 8. 45CSR10 "To Prevent and Control Air Pollution From the Emission of Sulfur Oxides"

*The following is quoted from the West Virginia Air Pollution Control Law of West Virginia, 16-20-4:

At its first meeting the Commission shall elect from its membership a chairman, and at the first meeting in each fiscal year thereafter the Commission shall elect from its membership a chairman to act during such fiscal year. At similar times the Commission shall elect from its membership a vice-chairman and appoint a secretary. The secretary need not be a member of the Commission.

II. COMMISSION MEETING

- 1. Final Adoption of Rules Authorized by the Legislature.
 - a. 45CSR5 "To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations"
 - b. 45CSR14 "Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration"



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

AGENDA

WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION
Conference Room

1558 Washington Street, East
Charleston, West Virginia 25311

July 6, 1993
9:00 a.m.

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

JUL 10 1993

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- c. 45CSR19 "Requirements for Pre-Construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrasource Pollutants"
 - d. 45CSR21 "Regulation to Prevent and Control Air Pollution from the Emission of Volatile Organic Compounds"
 - e. 45CSR29 "Regulation Requiring the Submission of Emission Statements for Volatile Organic Compound Emissions and Oxides of Nitrogen Emissions"
 - f. 45CSR31 "Confidential Information"
 - g. 45CSR32 "Serious and Minor Violations of Applicable Rules"
2. Election of Chairman.*
 3. Election of Vice-Chairman.*
 4. Appointment of Secretary.*
 5. Such other business as the Commission deems timely and appropriate.

*The following is quoted from the West Virginia Air Pollution Control Law of West Virginia, 16-20-4:

At its first meeting the Commission shall elect from its membership a chairman, and at the first meeting in each fiscal year thereafter the Commission shall elect from its membership a chairman to act during such fiscal year. At similar times the Commission shall elect from its membership a vice-chairman and appoint a secretary. The secretary need not be a member of the Commission.



WEST VIRGINIA REGISTER

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Administrative Law Division

*Judy Cooper
Director*

*Missy Phalen
Pam Reece
Administrative Assistants*

*Secretary of State
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Bldg. 1, Suite 157K
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Charleston, WV 25305-0770*

(304)558-6000

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1402

MEETING NOTICES
Open Government Proceedings Act
§6-9A-1

<u>AGENCY</u>	<u>DATE FILED</u>	<u>PURPOSE</u>	<u>MEETING DATE/LOCATION</u>
Air Pollution Control Comm.	7/28/93	Final consideration of proposed rules Title 45-7, 10, 13, 15, 16, & 30 & other business	August 9, 1993, 9:00 a.m. 1558 Washington St. E. Charleston, WV
Barbers & Cosmetologists, Bd. of	7/29/93	Executive meeting	August 8, 1993, 6:00 p.m. Holiday Inn 100 Lodgeville Rd. Clarksburg, WV
Coal Mine Health & Safety, Bd. of	7/29/93	Regular monthly meeting	August 10, 1993, 9:00 a.m. Lakeview Resort & Conference Center Morgantown, WV
Commercial Hazardous Waste Mngt. Facility Siting Bd.	7/14/93	To receive public comment on draft regulations and respond to same.	August 10, 1993, 9:00 p.m. Ofc. of Air Quality 1558 Washington St. Charleston, WV
Consolidated Public Retirement Bd.	7/7/93	Regular business	August 5, 1993, 10:00 a.m. Gov.'s Con. Rm. State Capitol, Suite 157J Charleston, WV
Directors, State College & Univ. Systems Bd. of	7/22/93	Emergency meeting by conference call for purpose of adopting policy for payment of fees by credit cards & installment payments	July 22, 1993, 4:00 p.m. 10th Fl. Con. Rm. 1019 Kanawha Blvd. E. Charleston, WV
Educational Broadcasting Authority	7/20/93	Not specified	August 5, 1993, 1:00 p.m. Studios of WSWP-TV Beckley, WV

*Meeting Notice Does Not Comply With Open Government Proceeding Act



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
AIR POLLUTION CONTROL COMMISSION

1615 Washington Street, East Suite 301
Charleston, West Virginia 25311

Telephone: (304) 558-4002
Telefax: 558-1222

A G E N D A

WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION
Office of Air Quality Conference Room
1558 Washington Street East
Charleston, West Virginia 25311

August 9, 1993
9:00 a.m.

I. FINAL CONSIDERATION OF PROPOSED RULES

1. 45 CSR 30 "Requirements for Operating Permits"
2. 45 CSR 13 "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits, and Procedures for Evaluation."
3. 45 CSR 25 "To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities."
4. 45 CSR 15 "Emission Standards for Hazardous Air Pollutants."
5. 45 CSR 16 "Standards of Performance for New Stationary Sources."
6. 45 CSR 7 "To Prevent and Control Particulate Air Pollution from Manufacturing Process Operations."
7. 45 CSR 10 "To Prevent and Control Air Pollution from the Emission of Sulfur Oxides."

II. COMMISSION MEETING

Such other business as the Commission deems timely and appropriate.

AFFIDAVIT OF PUBLICATION

STATE OF WEST VIRGINIA,

KANAWHA COUNTY, TO-WIT:

I, Landra Beff OF

THE DAILY MAIL, A DAILY REPUBLICAN NEWSPAPER,
PUBLISHED IN THE CITY OF CHARLESTON, KANAWHA COUNTY,
WEST VIRGINIA, DO SOLEMNLY SWEAR THAT THE ANNEXED
NOTICE OF: LEGISLATIVE RULES
WAS DULY PUBLISHED IN SAID PAPER(S) ON THE DATES
LISTED BELOW, AND WAS POSTED AT THE FRONT DOOR OF TH
COURT HOUSE OF SAID KANAWHA COUNTY, WEST VIRGINIA,
ON THE

28TH DAY OF MAY , 1993 .

DATES PUBLISHED:

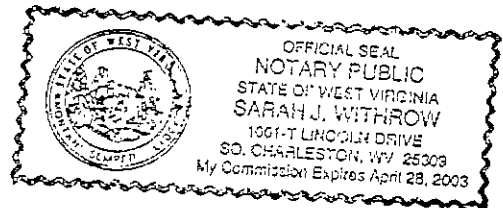
05/27/93 DAILY MAIL 06/03/93 DAILY MAIL

SUBSCRIBED AND SWORN TO BEFORE ME THIS

4TH DAY OF JUNE , 1993 .

Sarah J. Withrow
NOTARY PUBLIC OF KANAWHA COUNTY, WEST VIRGINIA

PRINTERS FEE \$ 90.34



NOTICE OF
PUBLIC HEARING

On Tuesday, July 6, 1993, beginning at 9 a.m., the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules:

45CSR5 - "To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations"

45CSR7 - "To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations"

45CSR10 - "To Prevent and Control Air Pollution From the Emission of Sulfur Oxides"

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

45CSR15 - "Emission Standards for Hazardous Air Pollutants"

45CSR16 - "Standards of Performance for New Stationary Sources"

45CSR25 - "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"

45CSR28 - "Regulation to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds From Vehicle Refueling Emissions at Gasoline Dispensing Facilities"

45CSR30 - "Requirements for Operating Permits"

Upon authorization and promulgation of revisions to the following rules, 45CSR5, 45CSR7, 45CSR10, 45CSR13, and 45CSR28 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the federal Clean Air Act.

Upon authorization and promulgation, 45CSR30 will be submitted to the U.S. Environmental Protection Agency as the rule establishing a comprehensive air quality permitting system consistent with Title V of the federal Clean Air Act Amendments of 1990.

Upon authorization and

LEGAL ADVERTISEMENT

promulgation of revisions to 45CSR15 and 45CSR16, which adopts by reference federal standards for certain regulated pollutants and sources, the Office of Air Quality will seek federal delegation from the U.S. Environmental Protection Agency to enforce the revised standards.

Upon authorization and promulgation of 45CSR25, the rule will be submitted to U.S. EPA as part of the State Hazardous Waste Management Program.

The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record. All questions and comments concerning the proposed rules should be directed to Britt A. Bernheim, Commission Secretary, at the address below:

Britt A. Bernheim,
Secretary
West Virginia Air Pollution
Control Commission
1615 Washington Street East
Charleston, WV 25311
(304) 558-4002

Copies of such written comments should also be sent to:

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

Copies of the proposed legislative rules will be available for public review on or before June 4, 1993, at the Library of the Office of Air Quality located at the address above.

(124995)

RECEIVED

JUN -9 1993

OFFICE OF ENVIRONMENTAL PROTECTION

NOTICE OF PUBLIC HEARING

On Tuesday, July 6, 1993, beginning at 9 a.m., the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules:

- 45CSR5 "To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations"
 - 45CSR7 "To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations"
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 - 45CSR16 "Standards of Performance for New Stationary Sources"
 - 45CSR25 "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"
 - 45CSR28 "Regulation to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds From Vehicle Refueling Emissions at Gasoline Dispensing Facilities"
 - 45CSR30 "Requirements for Operating Permits"
- Upon authorization and promulgation of revisions to the following rules, 45CSR5, 45CSR7, 45CSR10, 45CSR13, and 45CSR28 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the federal Clean Air Act.
- Upon authorization and promulgation, 45CSR30 will be submitted to the U.S. Environmental Protection Agency as the rule establishing a comprehensive air quality permitting system consistent with Title 5 of the federal Clean Air Act Amendments of 1990.
- Upon authorization and promulgation of revisions to 45CSR15 and 45CSR16, which adopts by reference federal standards for certain regulated pollutants and sources, the Office of Air Quality will seek federal delegation from the U.S. Environmental Protection Agency to enforce the revised standards.
- Upon authorization and promulgation of 45CSR25, the rule will be submitted to U.S. EPA as part of the State Hazardous Waste Management Program.
- The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written oral testimony by all interested parties will be accepted and made part of the record. All questions and comments concerning the proposed rules should be directed to Britt A. Bernhelm, Commission Secretary, at the address below:

Britt A. Bernhelm, Secretary
West Virginia Air Pollution Control Commission
1615 Washington Street East
Charleston, WV 25311
(304) 558-4002

Copies of such written comments should also be sent to:

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

Copies of the proposed legislative rules will be available for public review on or before June 4, 1993, at the Office of Air Quality, Northern Panhandle Regional Office, 1911 Warwood Avenue, Wheeling, WV.
Intel., May 28, June 4
N.R., May 28, June 4

STATE OF WEST VIRGINIA,
COUNTY OF OHIO.

I, Bonnie Mattern for the publisher of the

WHEELING NEWS-REGISTER
WHEELING INTELLIGENCER

newspapers published in the CITY OF

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

May 28, June 4, 1993

commencing on the 28 day of May, 19 93

Given under my hand this 8 day of June, 19 93

Bonnie Mattern

Sworn to and subscribed before me this 8th day of

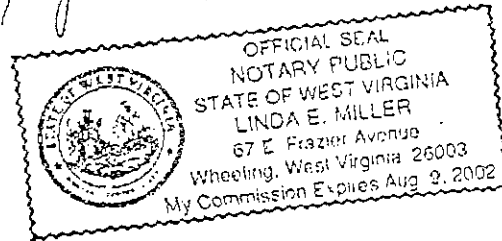
June 19 93 at WHEELING, OHIO COUNTY, WEST VIRGINIA

Linda E. Miller

Notary Public

of, in and for OHIO COUNTY, WEST VIRGINIA.

My Commission expires August 9, 2002



LEGAL ADVERTISEMENTS

NOTICE OF PUBLIC HEARING

On Tuesday, July 6, 1993, beginning at 9 a.m., the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR5 "To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations" 45CSR7 "To Prevent and Control Particulate Air Pollution from Manufacturing Process Operations" 45CSR10 "To Prevent and Control Air Pollution From the Emission of Sulfur Oxides" 45CSR13 "Permits for Construction, Modification, Relocation and Operation of Sanitary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits, and Procedures for Evaluation" 45CSR15 "Emission Standards for Hazardous Air Pollutants" 45CSR16 "Standards of Performance for New Stationary Sources" 45CSR25 "To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities" 45CSR28 "Regulation to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds From Vehicle Refueling Emissions at Gasoline Dispensing Facilities" (continuation of January 7, 1993 hearing) 45CSR30 "Requirements for Operating Permits" Upon authorization and promulgation of revisions to the following rules, 45CSR5, 45CSR7, 45CSR10, 45CSR13, and 45CSR28 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the federal Clean Air Act.

Upon authorization and promulgation, 45CSR30 will be submitted to the U.S. Environmental Protection Agency as the rule establishing a comprehensive air quality permitting system consistent with Title V of the federal Clean Air Act Amendments of 1990.

Upon authorization and promulgation of revisions to 45CSR15 and 45CSR16, which adopts by reference federal standards for certain regulated pollutants and sources, the Office of Air Quality will seek federal delegation from the U.S. Environmental Protection Agency to enforce the revised standards.

Upon authorization and promulgation of 45CSR25, the rule will be submitted to U.S. EPA as part of the State Hazardous Waste Management Program.

The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record. All questions and comments concerning the proposed rules should be directed to Britt A. Bernheim, Commission Secretary, at the address below:

Britt A. Bernheim, Secretary
West Virginia Air Pollution
Control Commission
1615 Washington Street East
Charleston, WV 25311
(304) 558-4002

Copies of such written comments should also be sent to:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street East
Charleston, WV 25311-2590

Copies of the proposed legislative rules will be available for public review on or before June 4, 1993, at the Parkersburg/Wood County Public Library, 3100 Emerson Avenue, Parkersburg, West Virginia.

May 28 N
June 4 N

MARCIA MOORE

being first duly sworn, says that the

notice of public hearing-- JULY 6th

hereto attached was printed in the **Parkersburg News**
daily newspaper published

in the City of Parkersburg, Wood County, West Virginia, and posted
at the front door of the Court House for two

successive weeks, the first publication and posting thereon being on
the 28th day of MAY 19 93, and subse-
quent publication on the 4th day of JUNE 19⁹³,
the day of 19, the day of
19, and the day of 19.

Printer's Fee \$ 73.23

6 1/2 " x 103 = 669.5 words @ 10.9375 *Marcia Moore*

Subscribed and sworn to before me this 4th day of

John 19⁹³
Volax C. Covey
Notary Public for Wood County, West Virginia

My commission expires *July 23 1994*

NOTICE OF PUBLIC HEARING
 On Tuesday, July 6, 1993, beginning at 9 a.m., the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules:

- 45CSR5 "To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations"
- 45CSR7 "To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations"
- 45CSR10 "To Prevent and Control Air Pollution From the Emission of Sulfur Oxides"
- 45CSR13 "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits, and Procedures for Evaluation"
- 45CSR15 "Emission Standards for Hazardous Air Pollutants"
- 45CSR16 "Standards of Performance for New Stationary Sources"
- 45CSR "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"
- 45CSR "Regulation to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds From Vehicle Refueling Emissions at Gasoline Dispensing Facilities"
- (continuation of January 7, 1993 hearing)
- 45CSR30 "Requirements for Operating Permits"

Upon authorization and promulgation of the following legislative rules, 45CSR5, 45CSR10, 45CSR13, and 45CSR28 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the federal Clean Air Act.

Upon authorization and promulgation, 45CSR30 will be submitted to the U.S. Environmental Protection Agency as the rule establishing a comprehensive air quality permitting system consistent with Title V of the federal Clean Air Act Amendments of 1990.

Upon authorization and promulgation of revisions to 45CSR15 and 45CSR 16, which adopts by reference federal standards for certain regulated pollutants and sources, the Office of Air Quality will seek federal delegation from the U.S. Environmental Protection Agency to enforce the revised

Upon authorization and promulgation of 45CSR25, the rule will be submitted to U.S. EPA as part of the State Hazardous Waste Management Program.

The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record. All questions and comments concerning the proposed rules should be directed to Britt A. Bernheim, Commission Secretary, at the address below:

Britt A. Bernheim,
 Secretary
 West Virginia Air Pollution Control Commission
 1615 Washington St. E.
 Charleston, WV 25311
 (304) 558-4002

Copies of such written comments should also be sent to:
 G. Dale Farley
 Office of Air Quality
 Division of Environmental Protection
 1558 Washington St. E.
 Charleston, WV 25311-2599

Copies of the proposed legislative rules will be available for public review on or before June 4, 1993, at the Cabell County Public Library, 455 9th Street Plaza, Huntington, WV. LH-696 5-28,6-4,93

AFFIDAVIT OF PUBLICATION

WEST VIRGINIA, LL, TO-WIT:

Rappold being first duly sworn, depose and say for The Herald-Dispatch, a corporation, who publishes at Huntington, Virginia, the newspaper: The Herald-Dispatch, a independent newspaper seven days each week, Monday through Sunday including New Year's the Fourth of July, Labor Day, Thanksgiving and Christmas; that I have by the Board of Directors of such corporation to execute this affidavit of behalf of such corporation and the newspaper mentioned herein; that the reached in the left margin of this affidavit and made a part hereof and -696 was duly published in

Dispatch
 for 2 successive weeks, commencing with its issue of the 24th day of June, 1993, and ending with the issue of the 4th day of July, 1993, and was posted at the East door of Courthouse of May, 1993: that said legal advertisement was following dates: May 28, 1993
Jun 3 4, 1993

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

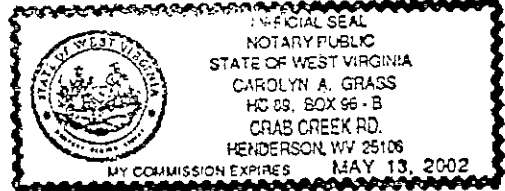
that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper on each date published consists of not less than four pages without a cover; and that it is a newspaper to which the general public resorts for passing events of a political, religious, commercial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

Connie Rappold

Taken, subscribed and sworn to before me in my said county this 4th day of June, 1993
 My commission expires May 13, 2002

Carolyn A. Grass

Notary Public
 Cabell County,
 West Virginia



AFFIDAVIT OF PUBLICATION
 WV DIV OF ENVIRONMENTAL PROTECTION
 OFFICE OF AIR QUALITY
BECKLEY NEWSPAPERS INC.

1993 JUN -17
BECKLEY, WEST VIRGINIA 25801

RECEIVED

June 3, 19 93

STATE OF WEST VIRGINIA
 COUNTY OF RALEIGH, to wit:

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

of Public Hearing
 (Description of notice)

was duly published in said newspaper once a week for two successive weeks (Class II), commencing with the issue of the 27th day of May, 1993, and ending with the issue of the 3rd day of June, 1993, (and was posted at the

on the _____ day of _____); that said annexed notice was published on the following dates: 5/27 & 6/3/93 and that the cost of publishing said annexed notice as aforesaid was \$ 63.74

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

Taken, subscribed and sworn to before me in my said county this 3rd day of June 19 93

My commission expires March 27, 2001

Notary Public of Raleigh County,
 West Virginia
 OFFICIAL SEAL
 NOTARY PUBLIC
 STATE OF WEST VIRGINIA
 DIANA L. SLONIS
 BECKLEY NEWSPAPER
 P. O. DRAWER P O R R
 BECKLEY, WV 25801

R/H

COPY OF PUBLICATION

NOTICE OF PUBLIC HEARING
 On Tuesday, July 6, 1993, beginning at 9 a.m., the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules:
 45CSR5 "To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations"
 45CSR7 "To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations"
 45CSR10 "To Prevent and Control Air Pollution From the Emission of Sulfur Oxides"
 45CSR13 "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits, and Procedures for Evaluation"
 45CSR15 "Emission Standards for Hazardous Air Pollutants"
 45CSR16 "Standards of Performance for New Stationary Sources"
 45CSR25 "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"
 45CSR28 "Regulation to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds From Vehicle Refueling Emissions at Gasoline Dispensing Facilities" (continuation of January 7, 1993 hearing)
 45CSR30 "Requirements for Operating Permits"
 Upon authorization and promulgation of revisions to the following rules, 45CSR5, 45CSR7, 45CSR10, 45CSR13, and 45CSR28 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the federal Clean Air Act.
 Upon authorization and promulgation, 45CSR30 will be submitted to the U.S. Environmental Protection Agency as the rule establishing a comprehensive air quality permitting system consistent with Title V of the federal Clean Air Act Amendments of 1990.
 Upon authorization and promulgation of revisions to 45CSR15 and 45CSR16, which adopts by reference federal standards for certain regulated pollutants and sources, the Office of Air Quality will seek federal delegation from the U.S. Environmental Protection Agency to enforce the revised standards.

Upon authorization and promulgation of 45CSR25, the rule will be submitted to U.S. EPA as part of the State Hazardous Waste Management Program.
 The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record. All questions and comments concerning the proposed rules should be directed to Britt A. Bernheim, Commission Secretary, at the address below:
 Britt A. Bernheim, Secretary
 West Virginia Air Pollution Control Commission
 1615 Washington Street East
 Charleston, WV 25311
 (304) 658-4002

Copies of such written comments should also be sent to:
 G. Dale Farley
 Office of Air Quality
 Division of Environmental Protection
 1558 Washington Street East
 Charleston, WV 25311-2599

Copies of the proposed legislative rules will be available for public review on or before June 4, 1993, at the Raleigh County Public Library, P.O. Box 1876, Beckley, WV.
 63-THE-2-RH

PUBLISHER'S CERTIFICATE

NOTICE OF PUBLIC HEARING

On Tuesday, July 6, 1993, beginning at 9 a.m., the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules:

45CSR5 "To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Operations"

45CSR7 "To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations"

45CSR10 "To Prevent and Control Air Pollution From the Emission of Sulfur Oxides"

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

45CSR15 "Emission Standards for Hazardous Air Pollutants"

45CSR16 "Standards of Performance for New Stationary Sources"

45CSR25 "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"

45CSR28 "Regulation to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds From Vehicle Refueling Emissions at Gasoline Dispensing Facilities"

(continuation of January 7, 1993 hearing)

45CSR30 "Requirements for Operating Permits"

Upon authorization and promulgation of revisions to the following rules, 45CSR5, 45CSR7, 45CSR10, 45CSR13, and 45CSR28 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the federal Clean Air Act.

Upon authorization and promulgation, 45CSR30 will be submitted to the U.S. Environmental Protection Agency as the rule establishing a comprehensive air quality permitting system consistent with Title V of the federal Clean Air Act Amendments of 1990.

Upon authorization and promulgation of revisions to 45CSR15 and 45CSR16, which adopts by reference federal standards for certain regulated pollutants and sources, the Office of Air Quality will seek federal delegation from the U.S. Environmental Protection Agency to enforce the revised standards.

Upon authorization and promulgation of 45CSR25, the rule will be submitted to U.S. EPA as part of the State Hazardous Waste Management Program.

The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record. All questions and comments concerning the proposed rules should be directed to Britt A. Bernheim, Commission Secretary, at the address below:

Britt A. Bernheim, Secretary
West Virginia Air Pollution
Control Commission
1615 Washington Street East
Charleston, WV 25311
(304) 558-4002

Copies of such written comments should also be sent to:

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

Copies of the proposed legislative rules will be available for public review on or before June 4, 1993, at the Office of Air Quality, North Central Regional Office, 109 Adams Street, Room M-2, Fairmont, WV.

VS.

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON

I, Deborah S. Veltri

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

Notice of Public Hearing

was published in said THE CLARKSBURG EXPONENT once a week for 2 successive weeks,

commencing on the 26 day of May 1993 and ending on the 2 day of June 1993

The publisher's fee for said publication is \$ 39.29

Given under my hand this 2 day of June 1993

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



Subscribed and sworn to before me this 2 day

of June 1993

[Signature]
Notary Public in and for Harrison County, WV.

My commission expires on the 24th day of October 1993.

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

of Public Hearing
in the case of WV Air Pollution Control Commission

vs. _____

a copy whereof is hereto annexed has been published for 2 consecutive weeks

in said NEWS-TRIBUNE, the first publication being on the 26th day of,

May
19 93

Given under my hand at Keyser this 2nd day of June

19 93

A. Judith Keyser
Publisher

Publisher's Fee

\$ 64.31

NOTICE OF PUBLIC HEARING

On Tues., July 6, 1993, beginning at 9 a.m., the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules:

- 45CSR5 "To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations"
- 45CSR7 "To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations"
- 45CSR10 "To Prevent and Control Air Pollution From the Emission of Sulfur Oxides"
- 45CSR13 "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits, and Procedures for Evaluation"
- 45CSR15 "Emission Standards for Hazardous Air Pollutants"
- 45CSR16 "Standards of Performance for New Stationary Sources"
- 45CSR25 "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"
- 45CSR28 "Regulation to prevent and Control Air Pollution From the Emission of Volatile Organic Compounds from Vehicle Refueling Emissions at Gasoline Dispensing Facilities" (continuation of January 7, 1993 hearing)
- 45CSR30 "Requirements for Operating Permits"

Upon authorization and promulgation of revisions to the following rules, 45CSR5, 45CSR7, 45CSR10, 45CSR13, and 45CSR28 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the Federal Clean Air Act.

Upon authorization and promulgation, 45CSR30 will be submitted to the U.S. Environmental Protection Agency as the rule establishing a comprehensive air quality permitting system consistent with Title V of the federal Clean Air Act Amendments of 1990.

Upon authorization and promulgation of revisions of 45CSR15 and 45CSR16, which adopts by reference federal standards for certain regulated pollutants and sources, the Office of Air Quality will seek federal delegation from the U.S. Environmental Protection Agency to enforce the revised standards.

Upon authorization and promulgation of 45CSR25, the rule will be submitted to U.S. EPA as part of the State Hazardous Waste Management Program.

The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record. All questions and comments concerning the proposed rules should be directed to Britt A. Bernheim, Commission Secretary, at the address below:

Britt A. Bernheim, Secretary
West Virginia Air Pollution Control Commission
1615 Washington Street East,
Charleston, WV 25311 (304) 558-4002

Copies of such written comments should also be sent to:

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

Copies of the proposed legislative rules will be available for public review on or before June 4, 1993, at the Keyser-Mineral County Public Library, 105 North Main Street, Keyser, WV.

State of West Virginia, County of Randolph, ss.

NOTICE OF PUBLIC HEARING

On Tuesday, July 6, 1993, beginning at 9 a.m., the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules:

45CSR5 — "To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations"

45CSR7 — "To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations"

45CSR10 — "To Prevent and Control Air Pollution From the Emission of Sulfur Oxides"

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

45CSR15 — "Emission Standards for Hazardous Air Pollutants"

45CSR16 — "Standards of Performance for New Stationary Sources"

45CSR25 — "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"

45CSR28 — "Regulation to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds From Vehicle Refueling Emissions at Gasoline Dispensing Facilities" (continuation of January 7, 1993 hearing)

45CSR30 "Requirements for Operating Permits"

Upon authorization and promulgation of revisions to the following rules, 45CSR5, 45CSR7, 45CSR10, 45CSR13, and 45CSR28 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the federal Clean Air Act.

Upon authorization and promulgation, 45CSR30 will be submitted to the U.S. Environmental Protection Agency as the rule establishing a comprehensive air quality permitting system consistent with Title V of the federal Clean Air Act Amendments of 1990.

Upon authorization and promulgation of revisions 45CSR15 and 45CSR16, which adopts by reference federal standards for certain regulated pollutants and sources, the Office of Air Quality will seek federal delegation from the U.S. Environmental Protection Agency to enforce the revised standards.

Upon authorization and promulgation of 45CSR25, the rule will be submitted to U.S. EPA as part of the State Hazardous Waste Management Program.

The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record. All questions and comments concerning the proposed rules should be directed to Britt A. Bernheim, Commission Secretary, at the address below:

Britt A. Bernheim, Secretary
West Virginia Air Pollution
Control Commission
1815 Washington Street East
Charleston, WV 25311
(304)558-4002

Copies of such written comments should also be sent to:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street East
Charleston, WV 25311-2508

Copies of the proposed legislative rules will be available for public review on or before June 4, 1993, at the Elkins-Randolph County Public Library, 416 Davis Avenue, Elkins, WV.

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

May 26 June 02

19 93 as required by law.

Given under my hand this 02 day of June 19 93

James Hoffman
Publisher

Printer's Fee: \$ 7301

Done this 02 day of June 19 93

Shirley A. Menear
Notary Public

15 day of April 19 2002

WV DIV OF ENVIR.
OFFICE OF AIR
1993 JUN -3
RECEIVED

NOTICE OF PUBLIC HEARING

On Tuesday, July 6, 1993, beginning at 9 a.m., the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules:

- 45CSR15 "To prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations"
- 45CSR17 "To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations"
- 45CSR110 "To Prevent and Control Air Pollution From the Emission of Sulfur Oxides"
- 45CSR113 "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits, and Procedures for Evaluation"
- 45CSR115 "Emission Standards for Hazardous Air Pollutants"
- 45CSR116 "Standards of Performances of New Stationary Sources"
- 45CSR25 "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"
- 45CSR28 "Regulation to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds From Vehicle Refueling Emissions at Gasoline Dispensing Facilities"
- 45CSR30 (continuation of January 7, 1993, hearing)
- "Requirements for Operating Permits"

Upon authorization and promulgation of revisions to the following rules, 45CSR5, 45CSR7, 45CSR10, 45CSR28 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the federal Clean Air Act.

Upon authorization and promulgation, 45CSR20 will be submitted to the U.S. Environmental Protection Agency as the rule establishing a comprehensive air quality permitting system consistent with title V of the federal Clean Air Act Amendments of 1990.

Upon authorization and promulgation of revisions to 45CSR15 and 45CSR16, which adopts by reference federal standards for certain standards for certain regulated pollutants and sources, the Office of Air Quality will seek federal delegation from the U.S. Environmental Protection Agency to enforce the revised standards.

Upon authorization and promulgation of 45CSR25, the rule will be submitted to U.S. EPA as part of the State Hazardous Waste Management Program.

The hearing will be held in the Commission's Conference Room at 1558 Washington Street, East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record. All questions and comments concerning the proposed rules should be directed to Britt A. Berheim, Commission Secretary, at the address below:

Britt A. Berheim, Secretary
West Virginia
Air Pollution
Control Commission
1615 Washington Street East
Charleston, WV 25311
(304) 558-4002

Copies of such written comments should also be sent to:
G. Dale Farley
Office of Air Quality
Division of
Environmental Protection
1558 Washington Street East
Charleston, WV 25311-2599

Copies of the proposed legislative rules will be available for public review on or before June 4, 1993, at the Martinsburg-Berkley County Public Library, 101 King Street, Martinsburg, WV 25401.
S:28.6:1(2)

Certificate of Publication

This is to certify the annexed advertisement

WV DEPT. COMM., DIV. ENV. PROTECTION

NOTICE OF PUBLIC HEARING

appeared for 2 consecutive ^{days} weeks in The Journal Publishing Company a newspaper published in the City of Martinsburg, W. Va., in its issue beginning

5/28

and ending

6/1

The Journal

Fee \$ 79.43



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

May 21, 1993

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

Dear Sir:

Please publish the enclosed "Notice of Public Hearing" as a Class II legal advertisement once a week for two (2) successive weeks. Please note that the publications must occur within a period of fourteen consecutive days with at least an interval of six full days between the dates of first and second publication date. The second publication of this Notice must occur on or before June 5, 1993

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

Sincerely yours,

A handwritten signature in cursive that reads "Dale Farley" with a small "4" above the "l" and "asm" at the end.

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 4, 1993

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

Dear Ms. Riggs:

On Tuesday, July 6, 1993 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR7, 45CSR10, 45CSR13, 45CSR15, 45CSR16, 45CSR25, 45CSR28 and 45CSR30. Please retain the enclosed documents for public review until after the July 6th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

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

Sincerely yours,

A handwritten signature in cursive that reads "Dale Farley" followed by the initials "asm".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

May 21, 1993

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

Dear Sir:

Please publish the enclosed "Notice of Public Hearing" as a Class II legal advertisement once a week for two (2) successive weeks. Please note that the publications must occur within a period of fourteen consecutive days with at least an interval of six full days between the dates of first and second publication date. The second publication of this Notice must occur on or before June 5, 1993.

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

Sincerely yours,

A handwritten signature in cursive script that reads "Dale Farley" followed by a small mark.

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 4, 1993

Ms. Jeanne Chandler
Librarian
WV Air Pollution Control Commission
1558 Washington Street, East
Charleston, WV 25311

Dear Ms. Chandler:

On Tuesday, July 6, 1993 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR7, 45CSR10, 45CSR13, 45CSR15, 45CSR16, 45CSR25, 45CSR28 and 45CSR30. Please retain the enclosed documents for public review until after the July 6th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

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

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

May 21, 1993

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

Dear Sir:

Please publish the enclosed "Notice of Public Hearing" as a Class II legal advertisement once a week for two (2) successive weeks. Please note that the publications must occur within a period of fourteen consecutive days with at least an interval of six full days between the dates of first and second publication date. The second publication of this Notice must occur on or before June 5, 1993.

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

Sincerely yours,

A handwritten signature in cursive script that reads "Dale Farley" followed by the initials "sam".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 4, 1993

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

Dear Mr. Onion:

On Tuesday, July 6, 1993 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR7, 45CSR10, 45CSR13, 45CSR15, 45CSR16, 45CSR25, 45CSR28 and 45CSR30. Please retain the enclosed documents for public review until after the July 6th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

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

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

May 21, 1993

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

Dear Sir:

Please publish the enclosed "Notice of Public Hearing" as a Class II legal advertisement once a week for two (2) successive weeks. Please note that the publications must occur within a period of fourteen consecutive days with at least an interval of six full days between the dates of first and second publication date. The second publication of this Notice must occur on or before June 5, 1993.

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

Sincerely yours,

A handwritten signature in cursive script that reads "Dale Farley" followed by the initials "DFM".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 4, 1993

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

Dear Ms. Chittum:

On Tuesday, July 6, 1993 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR7, 45CSR10, 45CSR13, 45CSR15, 45CSR16, 45CSR25, 45CSR28 and 45CSR30. Please retain the enclosed documents for public review until after the July 6th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

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

Sincerely yours,

Dale Farley sam

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

May 21, 1993

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

Dear Sir:

Please publish the enclosed "Notice of Public Hearing" as a Class II legal advertisement once a week for two (2) successive weeks. Please note that the publications must occur within a period of fourteen consecutive days with at least an interval of six full days between the dates of first and second publication date. The second publication of this Notice must occur on or before June 5, 1993

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Sincerely yours,

A handwritten signature in cursive script that reads "Dale Farley" followed by the initials "DFM".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 4, 1993

Ms. Judith Tredway
Regional Engineer
WV Air Pollution Control Commission
Northern Panhandle Regional Office
1911 Warwood Avenue
Wheeling, West Virginia 26003

Dear Ms. Tredway:

On Tuesday, July 6, 1993 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR7, 45CSR10, 45CSR13, 45CSR15, 45CSR16, 45CSR25, 45CSR28 and 45CSR30. Please retain the enclosed documents for public review until after the July 6th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

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

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

May 21, 1993

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

Dear Sir:

Please publish the enclosed "Notice of Public Hearing" as a Class II legal advertisement once a week for two (2) successive weeks. Please note that the publications must occur within a period of fourteen consecutive days with at least an interval of six full days between the dates of first and second publication date. The second publication of this Notice must occur on or before June 5, 1993

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

Sincerely yours,

A handwritten signature in cursive script that reads "Dale Farley" followed by the initials "DFM".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 4, 1993

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

Dear Librarian:

On Tuesday, July 6, 1993 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR7, 45CSR10, 45CSR13, 45CSR15, 45CSR16, 45CSR25, 45CSR28 and 45CSR30. Please retain the enclosed documents for public review until after the July 6th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

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

Sincerely yours,

A handwritten signature in cursive script that reads "Dale Farley".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

May 21, 1993

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

Dear Sir:

Please publish the enclosed "Notice of Public Hearing" as a Class II legal advertisement once a week for two (2) successive weeks. Please note that the publications must occur within a period of fourteen consecutive days with at least an interval of six full days between the dates of first and second publication date. The second publication of this Notice must occur on or before June 5, 1993

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

Sincerely yours,

A handwritten signature in cursive script that reads "Dale Farley".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 4, 1993

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

Dear Ms. Hiser:

On Tuesday, July 6, 1993 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR7, 45CSR10, 45CSR13, 45CSR15, 45CSR16, 45CSR25, 45CSR28 and 45CSR30. Please retain the enclosed documents for public review until after the July 6th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

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

Sincerely yours,

A handwritten signature in cursive script that reads "Dale Farley" followed by the initials "DFM".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

May 21, 1993

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

Dear Sir:

Please publish the enclosed "Notice of Public Hearing" as a Class II legal advertisement once a week for two (2) successive weeks. Please note that the publications must occur within a period of fourteen consecutive days with at least an interval of six full days between the dates of first and second publication date. The second publication of this Notice must occur on or before June 5, 1993

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Sincerely yours,

A handwritten signature in cursive script that reads "Dale Farley" followed by a small mark.

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 4, 1993

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

Dear Ms. Batten:

On Tuesday, July 6, 1993 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR7, 45CSR10, 45CSR13, 45CSR15, 45CSR16, 45CSR25, 45CSR28 and 45CSR30. Please retain the enclosed documents for public review until after the July 6th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

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

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

May 21, 1993

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

Dear Sir:

Please publish the enclosed "Notice of Public Hearing" as a Class II legal advertisement once a week for two (2) successive weeks. Please note that the publications must occur within a period of fourteen consecutive days with at least an interval of six full days between the dates of first and second publication date. The second publication of this Notice must occur on or before June 5, 1993

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Sincerely yours,

A handwritten signature in cursive script that reads "Dale Farley" followed by a small mark that appears to be "zsm".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

June 4, 1993

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

Dear Ms. Vidovich:

On Tuesday, July 6, 1993 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR7, 45CSR10, 45CSR13, 45CSR15, 45CSR16, 45CSR25, 45CSR28 and 45CSR30. Please retain the enclosed documents for public review until after the July 6th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

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

Sincerely yours,

A handwritten signature in cursive script that reads "Dale Farley sam".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

May 21, 1993

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

Dear Sir:

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

Sincerely yours,

A handwritten signature in cursive script that reads "Dale Farley sam".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosure



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor
John M. Ranson
Cabinet Secretary

David C. Callaghan
Director
Ann A. Spaner
Deputy Director

June 4, 1993

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

Dear Ms. Six:

On Tuesday, July 6, 1993 the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules: 45CSR7, 45CSR10, 45CSR13, 45CSR15, 45CSR16, 45CSR25, 45CSR28 and 45CSR30. Please retain the enclosed documents for public review until after the July 6th hearing. Also, please have any interested party sign the enclosed register and return the register and any correspondence you may have regarding the proposed legislative rules.

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

Sincerely yours,

A handwritten signature in cursive script that reads "Dale Farley" followed by the initials "asm".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

NOTICE OF PUBLIC HEARING

On Tuesday, July 6, 1993, beginning at 9 a.m., the West Virginia Air Pollution Control Commission will hold a public hearing on the following proposed legislative rules:

- 45CSR5 "To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations"
- 45CSR7 "To Prevent and Control Particulate Air Pollution From Manufacturing Process Operations"
- 45CSR10 "To Prevent and Control Air Pollution From the Emission of Sulfur Oxides"
- 45CSR13 "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits, and Procedures for Evaluation"
- 45CSR15 "Emission Standards for Hazardous Air Pollutants"
- 45CSR16 "Standards of Performance for New Stationary Sources"
- 45CSR25 "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"
- 45CSR28 "Regulation to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds From Vehicle Refueling Emissions at Gasoline Dispensing Facilities"
(continuation of January 7, 1993 hearing)
- 45CSR30 "Requirements for Operating Permits"

Upon authorization and promulgation of revisions to the following rules, 45CSR5, 45CSR7, 45CSR10, 45CSR13, and 45CSR28 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the federal Clean Air Act.

Upon authorization and promulgation, 45CSR30 will be submitted to the U.S. Environmental Protection Agency as the rule establishing a comprehensive air quality permitting system consistent with Title V of the federal Clean Air Act Amendments of 1990.

Upon authorization and promulgation of revisions to 45CSR15 and 45CSR16, which adopts by reference federal standards for certain regulated pollutants and sources, the Office of Air Quality will seek federal delegation from the U.S. Environmental Protection Agency to enforce the revised standards.

Upon authorization and promulgation of 45CSR25, the rule will be submitted to U.S. EPA as part of the State Hazardous Waste Management Program.

The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record. All questions and comments concerning the proposed rules should be directed to Britt A. Bernheim, Commission Secretary, at the address below:

Britt A. Bernheim, Secretary
West Virginia Air Pollution Control Commission
1615 Washington Street East
Charleston WV 25311
(304) 558-4002

Copies of such written comments should also be sent to:

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

Copies of the proposed legislative rules will be available for public review on or before June 4, 1993, at the 1 .

OAQ MAILING LIST FOR PUBLIC HEARINGS/MEETINGS

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

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

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

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

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

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

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

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

Ms. Lillian Erskin
52 Bailes Drive
Nitro, WV 25143

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

Mr. Charles White
Chairman, Sub-Area Planning
Committee
P. O. Box 113
Institute, West Virginia 25112

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

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

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

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

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

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

Mr. Ira H. Dorfman
Vice-President, Energy & Environment
Ryan-McGinn
2300 Clarendon Blvd., Suite 610
Arlington, VA 22201

Larry G. Kopelman
Special Assistant Attorney General
WV Air Pollution Control Commission
No. 9 Pennsylvania Avenue
Charleston, WV 25302

Ms. Kim Baker
Ohio Valley Environmental Coalition
P. O. Box 970
Proctorville, OH 45669

Ms. Helen Gibbins
6128 Gideon Road
Huntington, WV 25705

Ms. Missy Woolverton
WV Citizen Action Group
1324 Virginia Street, East
Charleston, WV 25301

Ms. Rhonda Hooper
Monsanto
1 Monsanto Road
Nitro, WV 25143

Mr. Richard Poling
Engineer II
c/o WV Division of Highways
P. O. Box 88
Burlington, WV 26710

Ms. Claudia Banner
Appalachian Power Company
P. O. Box 2021
Roanoke, Virginia 24022-2121

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

Ms. Kim Baker
OVEC
2630 Collis Avenue
Huntington, WV 25702

Act Foundation
523 Central Avenue
Charleston, WV 25302

John M. Ranson
Cabinet Secretary
WV Department Commerce, Labor, &
Environmental Resources
Capitol Complex
Main Building, Room 146
Charleston, WV 25305-0310

Ms. Pamela Nixon
406 Grandview Point
Dunbar, WV 25064

Mr. Oliver A. Fick
Air Program Manager
Engineering-Science, Inc.
57 Executive Park South, N.E.
Suite 590
Atlanta, Georgia 30329-2265

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

COMMISSION MEETING

JULY 6, 1993

NAME	COMPANY AFFILIATION	ADDRESS
Yvonne Clarkson	Allegheny Power (Mon Power)	Greensburg, PA
Claudia Banner	APPALACHIAN POWER	ROANOKE, VA
Gary Coess	Capital Cement	Martinsburg WV
Tom Vandenberg	Union Carbide Synthol	→
Bob Parsons	Jackson & Kelly	Charlottesville
Ernest Hogan	Elkton Metall Co	Altoona Pa
Bob HICE	American Alloys	New Haven, CN
Scott Drankos	DKWM	Fgh. Pa
Emil Varney	WORK-TU IS	Char. W. Va
Charlie Olt	DuPont	Partersburg
K. B. Poland	Robinson & Mc Elrue	Charlottesville, VA
Hy M. Uy	Johnson + Miller	Charl.
Richard G. Baird	UNION CARBIDE	S. CHARLESTON
Paul W. Jones	WV DEP	Charlottesville

COMMISSION MEETING

JULY 6, 1993

NAME	COMPANY AFFILIATION	ADDRESS
Chris Vineyard	WV Petro. Mkt.	Suite 912, Atlas Bldg. Chas
Gary A Jack	Monongahela River	Fairmont
Dave Yaussey	Robinson & McElwee	Charleston, WV
Talwade Hager	Elkem Metals C.	Alloy, WV
Jean Quinn	SEET	Chas. WV
Charles M. Borek	Wilton's Churnam	Hghtn WVa.
JACK HARRISON	WV PETROLEUM COUNCIL	CHAS. WV
RANDY RAPP	Vienna Chevron	VIENNA WV
LAWRENCE PIFER	Pifer's Spruce Leader	MARPLE WVA
MARVIN GRAY	WV GASOLINE DEPTS	HUNT WV
Jackie Hallum	ACT	
William D. Kopley	Kopley's Management	ST. Albans, WVa
Paul R. Borek	Capitol Extension	Chas. WV.
Robert Gray	Robinson McElwee	

COMMISSION MEETING

JULY 6, 1993

NAME	COMPANY AFFILIATION	ADDRESS
C.R. Semphas	Cablecasting - Pittsburgh Steel	WHEELING
STEVE GUZY	"	"
Brian Farkas	DEP	N. F. V.
Sean R. Steigh	CNC Transmission Corp.	Charleston WV
David M Flannery	Robinson McElwee	Charleston
Bill Ravery	WV Coal Association	
CRA Ellenbach	Elkton	N. F. V. Y.
A. K. ...	Work-TV	
Mark ...	Work	
Kay ...	Robin McElwee	600 United Center
Mully Stapp	AG's of	Build 3
Barbara ...	Jackson Kelly	1600 Wiley Tower

W VA AIR POLLUTION CONTROL COMMISSION MEETING

AUGUST 9, 1993

NAME	COMPANY AFFILIATION	ADDRESS
C J BANNER	APPALACHIAN POWER	ROANOKE, VA
Y F Clarkson	APS - Monongahela Power	Greensburg, PA
K.G. Beckett	Robinson & McElwee	CHAS. WV
W.R. Samples	Cohending - Pittsburgh & Steel	Cohending, W.V.
K.B. Paland	Robinson & McElwee	Charleston, WV
D. Yanson	Robinson & McElwee	Charleston WV
Charles T. Oelt	Du Pont	Parkersburg, WV
Seth Seavel	Appalachian Power	Chas.
Bob Foster	Chas. Ryan Assoc.	Chas

WEST VIRGINIA DEPARTMENT OF
COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

IN RE: Public Hearing on Permits for
Construction, Modification, Relocation and
Operation of Stationary Sources of Air
Pollutants, Notification Requirements,
Temporary Permits, General Permits, and
Procedures for Evaluation

TRANSCRIPT OF PROCEEDINGS had and/or
testimony adduced in the hearing held before the West
Virginia Air Pollution Control Commission in the
Conference Room at 1558 Washington Street, East,
Charleston, Kanawha County, West Virginia, on the 6th day
of July, 1993, commencing at 11:42 a.m.

BEFORE: L. NEWTON THOMAS, JR., Chairman
JOSEPH P. SCHOCK, Commissioner
SAMUEL KUSIC, Commissioner
ALLEN HAMNER, Commissioner
JEAN NEELY, Commissioner

G. DALE FARLEY, Chief, Office of Air
Quality
LARRY KOPELMAN, Special Assistant A.G.
RANDALL SUTER, Staff Attorney
BRITT A. BERNHEIM, Secretary

DONNA KAY MILLER
Certified Court Reporter
7724 Sissonville Drive
Sissonville, West Virginia 25320
(304) 988-9581

P R O C E E D I N G S

(11:42 AM)

CHAIRMAN THOMAS: I would like to call the hearing of the Air Pollution Control Commission to order.

Let us now convene the hearing for Regulation 13, Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits, and Procedures for Evaluation.

Let the record indicate that we have a quorum of the Commissioners present with the attendance of Commissioner Jean Neely, Allen Hamner, Sam Kusic, Joseph Shock, and L. Newton Thomas, Junior.

Let me also state that we have a Court Reporter here who is taking a transcript of these proceedings. Her name is Donna Miller. Any of those interested in receiving a copy of the transcript will make arrangements with Ms. Miller following the conclusion of the hearing.

I would ask Mr. Farley to introduce

this regulation with his comments.

MR. FARLEY: First, let me just comment that Reg 13 has been around since 1972 as far as its original adoption. It was last modified or amended in June of 1974.

It was originally adopted to satisfy the requirement, which was probably at that time under Section 110 of the Clean Air Act of 1970, the Clean Air Act, to have a new source review program. That was one of the things that was required.

The changes that we are talking about in Reg 30 and other things that are going on in relation to the implementation of the Clean Air Act, it does not necessarily mandate any change to Reg 13.

When we got into the whole subject of looking at permit requirements, which really started last year with respect to major new source permitting with the changes in Reg 14 and 19, working on the operating permit reg, looking at comments that we received from the West Virginia Manufacturers at one time or another and

some recent suggesting certain changes to Reg 13 and looking at what has happened in the last 20 years nearly with nomenclature and the definition of hazardous air pollutants and all that sort of thing, we thought this might be a good time to put forward a proposal to restructure that regulation.

Rather than to go exhaustively into what Regulation 13 does or how we implement it, what I thought I would do is just simply note at this point what the principal changes are as we have proposed within the proposal relative to the existing regulation.

To start out, one of the things we are doing is changing a lot of definitions and adding definitions that have been changed over the years. We are changing some of the terminology. Where we used to talk about direct affected sources being affected, now we are talking about the more typical term of stationary source.

We are trying to clarify pursuant to what has already been done with Regulations 14 and 19 that Reg 13 will become solely a minor source permitting

regulation. It will not affect or have an administrative procedure for major sources or major modifications.

We have established -- where we use to have no cutoff for criteria air pollutant emission increases that would trigger a permit requirement, we have proposed a two pounds per hour, five tons per year cutoff now, meaning that if a proposed modification or construction of some sort within a plant, an existing plant, has less than -- a potential to emit less than those amounts, there would be no permit required. Today a permit would be required.

One thing we have done, which I am sure is going to bring about a lot of comment -- because this there again gets into threshold levels, perhaps scope of the whole regulation. We have expanded the list of hazardous air pollutants in the proposal to the entire 189 spelled out in the Clean Air Act as opposed to the current 7 or so that the Commission would have defined as hazardous air pollutants by its promulgation of Reg 13 and other regulations.

To clarify that a little bit, basically the regulation says that you are a source subject to permit requirements -- as the proposal is now and as the reg exists today using the term hazardous air pollutant, you are a source subject to a permit if you have constructed a new facility that has any emissions of a hazardous air pollutant, any level of emissions of a hazardous air pollutant.

Also, if you are an existing facility and you would modify that facility where there would be any increase in a hazardous air pollutant under the proposal and under the current reg, you would require a permit.

One section we have in the reg which has had very little applicability, we have found that under the procedures there and the level of applicability, it has been a fairly useless part of the regulation, which we are proposing to eliminate. It's the so-called indirect source review program.

That gets into things like building

shopping centers or airports or something that is spelled out to be an indirect source of air pollution. We would under this proposal eliminate that review program.

We would change -- and this is consistent with changes that were made in the Air Pollution Law -- the maximum time period for a new source review of a construction or modification to 180 days from the current 90.

Relocation applications would stay the same with a 45 day period.

We would restructure the section dealing with permit transfers to allow transfers of new source permits under a certain condition.

We would change -- and this has really triggered on an '89 Federal Register put out by EPA that spelled out EPA's requirements for a provable permit programs, but we would change the public participation procedures under Reg 13 to require that the Chief make findings and issue a public notice of his intent to approve a permit and make available a draft permit upon

request prior to the issuance of the final approval.

There are also sections that have been added. This is something that has been suggested by the Manufacturers Association before for the issuance of temporary approvals or temporary permits and general permits for appropriate sources.

So that is the basic changes outlined, and with that, I would answer any questions.

CHAIRMAN THOMAS: Are there questions of the Commissioners?

COMMISSIONER NEELY: I would like to go back to Page 2, I guess it is, where you talk about major source and so forth.

MR. FARLEY: Okay.

COMMISSIONER NEELY: I am not quite sure about the emission business. "Any major stationary source which emits -- I am reading from A under (a) -- which has potential to emit 100 tons a year." In other words, above a hundred tons you get a permit, right?

MR. FARLEY: Yes.

COMMISSIONER NEELY: Now what if it
is --

MR. FARLEY: But let me clarify
that, if you are talking about a facility that is major
under either Provision 2.13 (a) or (b), that is not even
in this rule anymore. That review process goes under 14
or 19.

COMMISSIONER NEELY: Okay, so you
are not omitting; you are just transferring?

MR. FARLEY: Right. We are just
putting that definition in there so that you know what a
major source is when that term is used in this regulation.

COMMISSIONER NEELY: Can we put
language -- I really like this whole business of tying
things together. Can we put language in here that says
that?

CHAIRMAN THOMAS: All other sources
would fall under Reg 14.

COMMISSIONER NEELY: Yes. Can't we
tie this to another reg so that people don't have to hire

expensive people like Larry to do this for them and just say please see whatever the other thing is? It looks like it is just falling out.

MR. FARLEY: Well, what we tried to do here without -- because I know there is a comment about this in a different context maybe. The lawyers that review these regs a lot of times will tell you not to try to cross-reference a reg or link something or say this reg because of something in this reg, it changes something over here in this reg, okay? That can be a little bit --

COMMISSIONER NEELY: That is a little self-serving, isn't it?

MR. FARLEY: Yes. It is something you want to avoid. So to carry that to extremes, what we tried to do -- and maybe we didn't do it well in the draft -- is put the definitions and everything in here in the statement of intent and the scope to try to carve out literally that this regulation is a minor source, minor modification type permitting reg, and left Regs 14 and 19 with the provisions that have already been made stand on

their own as to what triggers -- or what those regulations cover.

So the coverage of Section 14 and 19 cover major sources and major modifications. The intent is 13 covers this other stuff we want to permit --

COMMISSIONER NEELY: And I recommend that in each of these you put some kind of parenthetical comment that says, "For stationary sources in excess of this or under this, see" -- or something like that, and do it in everything so that you have this cross-referencing.

What is the objection to cross-referencing, Larry?

MR. KOPELMAN: I think what Dale is talking about is where you cross-reference standards or you pull things from one reg and make it applicable to another.

I think your general statement in the general paragraph of one, Scope, stating that major sources may be subject to Reg 14 and Reg 19, I don't think

that will hurt anything.

CHAIRMAN THOMAS: In your reference to major sources, should we just have the language "See Reg 14"?

COMMISSIONER NEELY: Something like that so that it doesn't look like it is just falling out of the --

MR. KOPELMAN: Yes.

CHAIRMAN THOMAS: Any other comments or questions?

We have one person I am aware of that signed up to speak to this reg, Kim Poland. Kim?

MS. POLAND: I can still say good morning on my remarks; just a few minutes left. Good morning. My name is Kim Brown Poland. I am an attorney with the law firm of Robinson & McElwee here in Charleston.

I appear this morning to give comments on the proposed changes to Regulation 13 on behalf of the West Virginia Manufacturers Association.

The Manufacturers have taken an active interest in this major round of rule making that the Commission is undertaking. The changes to Regulation 30 and to Regulation 13 are obviously key pivotal amendments to that process of restructuring.

We wholeheartedly support the efforts of the Commission to segregate and define more clearly the regulation regarding construction, modification, and relocation on the one hand, and operation of such sources on the other hand.

Therefore, we applaud and endorse the changes to Regulation 13 and the adoption of Regulation 30, which will help to accomplish that segregation.

As it is proposed, however, under Regulation 13 we still identify some problems which we believe may need some correction to avoid confusion in the implementation of those two rules.

Some of those deal with concerns about creating in effect a mini operating program under

Regulation 13 from minor sources, which is not the intention.

Regulation 13 is a construction permit regulation. The substantive provisions which control the operations of sources subject to Regulation 13 permits are found in other substantive rules of the Commission, such as Regulation 7 or Regulation 5 or others which apply independently of Regulation 13.

So the written comments in detail, which we will submit later, will point out some areas in which we think that division could be more finely drawn.

We also have some concerns which stem from the rule's failure at times to conform with some of the provisions in counterpart rules of the Commission.

I believe that concern goes to the very point that Commissioner Neely made, which is it is helpful to have cross-references so that you are certain which rule is triggered given the activity you are about to undertake.

We do endorse the separation of

Regulation 13 control from PSD under Regulation 14 or non-attainment review under Regulation 19, which is a construction review permit program.

Sources which fall under those two regulations will also fall under Regulation 30 and will be highly controlled to make any changes or modifications at those facilities. So the overlay of a Regulation 13 construction permit really no longer serves any purpose other than delay and overburden in such a system for major sources.

So we believe it is appropriate to carve this out and to make it a minor source rule with appropriate cross-references to the obligations in other regulations.

Our third area of concern is one that was emphasized by Mr. Yaussy earlier with regard to Reg 30, and that is the speed with which permits and modifications would be issued under Regulation 13.

As it is currently drafted, the rule actually builds in a potential time of over a year to

simply get a modification to a minor source through the system.

This is because of the advanced timing requirements for submitting an application and then the time under which the staff is under an obligation to review an issue or deny that permit.

We urge the Commission to shorten up all of those periods to the maximum extent possible with appropriate review.

In today's international market economy, our state can't afford to be passed over because permitting is too slow or too difficult, if I can borrow the words of one of the members of the Manufacturers Association, compared with our competitors.

Again, I would reiterate that our members consistently believe that we can address the emission control concerns of the Commission and the OAQ Staff, but speed on permit issuance or modification is of the emphasis.

Since it is the summer and we are

into movies, that reminds me of a line from a movie, and I would like to borrow one from Top Gun. We feel a need, a need for speed with respect to modification permits, not only under Regulation 13 but also under 30. That cannot be overemphasized in our concern.

Finally, we are very concerned about the proposed significant expansion of the rule with respect to hazardous air pollutants referred to by Chief Farley.

Regulation 13 has historically been applied to hazardous pollutants as defined by the Commission. Those pollutants were so defined and regulated and now are through Regulation 15.

It is totally inappropriate to adopt wholesale, the Section 112 list, from the Clean Air Act. That action would be contrary to state law as well.

Accordingly, we strongly urge that that definition be revised to refer only to substances which are regulated under and through Regulation 15 or Regulation 27 of the Commission so that appropriate

thresholds and other limiting factors are applied.

To illustrate the importance of this change where we have it simply defined by reference to a list of 189 pollutants, that would result in a requirement for a permit of any increase in any of those pollutants at any source no matter what amount it is.

Therefore, the addition of a new pump handle at a service station, a new unit at a dry cleaners, any sort of small facility which adds another molecule of any of those substances to the air would be required to get a Regulation 13 permit under this rule.

It is hard for us to imagine the Commission wants to create such an overreaching burdensome permit provision for small sources when even for major sources under the Clean Air Act MACT standards, such regulation is not authorized by the very terms of the Act after much debate by Congress.

So we urge a serious reformation of the definition of hazardous air pollutant to tie it to the substantive regulations of the Commission, 15 and 27.

At some point if this Commission adopts MACT standards for those hazardous air pollutants, once they are developed with considered scientific thought and input from the public, this Commission will be in a position to adopt those standards, and some adjustment to this definition might be appropriate at that time.

I thank you for the opportunity to bring you these comments. I would be glad to answer any questions you might have.

CHAIRMAN THOMAS: You mentioned it might take up to a year to get a permit?

MS. BROWN: Yes, yes.

CHAIRMAN THOMAS: Help me --

MS. POLAND: Maybe I can give you an example.

CHAIRMAN THOMAS: You have 180 days advance notice before --

MR. POLAND: It says that 180 days prior to the date on which you want to begin construction you have to submit a permit application. Then the staff

will have 30 days to review it for completeness, and then they have 180 days in which to issue the permit.

CHAIRMAN THOMAS: But those two 180 day periods are concurrent to a certain extent except for the 30 days, right?

MS. POLAND: The application is prior to. So they are not necessarily concurrent, no.

CHAIRMAN THOMAS: Well, if you give them the 30 days for completeness in their designated completeness, then their 180 day time clock begins, right?

MS. POLAND: If it is deemed complete, then the 180 day time clock begins upon that completion.

CHAIRMAN THOMAS: Right. So to that extent it would be concurrent with the 180 advance notice prior to construction, would it not?

MS. POLAND: The 180 days is in advance of the completion determination altogether. The way it is written out, it says 180 days before you want to begin construction.

CHAIRMAN THOMAS: Right.

MS. POLAND: And you cannot begin construction without a permit. You have to get your application in.

CHAIRMAN THOMAS: Right.

MS. POLAND: We believe that that provision in the regulation, frankly, is an artifact that needs to be eliminated, if I can explain that, and we will detail this in our comments, but we don't think it really needs to be there anymore.

It was there before because the law had the 90 day default permit provision in it, so that it was important for a source to get their application in so that it could be looked at in 90 days. Otherwise, it was deemed to be issued.

Those advance days now for submitting a request for modification or an application for construction appear to us to be an artifact and really don't need to be there anymore.

You simply need to say that you are

required to have a permit to either construct, modify, or relocate as required here, and then build the timing starting with the date of submission of the application or request and then go forward.

COMMISSIONER NEELY: What kind of timing would you do, though? What kind of a timing would you require if you just put the words that you suggest?

MS. POLAND: If it is for construction for these minor sources --

COMMISSIONER NEELY: Right.

MS. POLAND: -- the statute already indicates that 180 days was thought sufficient by the Legislature.

For relocation or for modifications to minor sources, we think that can be shortened up a lot. Minor modifications ought to be able to be handled, for example, in 60 days; relocations within 45 days.

With relocations, terms and conditions are not likely to change at all, for example. There you may have a source that has all of its permits

terms and conditions set but is going to go to another location.

For example, a unit which is cleaning up petroleum contaminated soil and is licensed to do that at X location, they want to go to another job in West Virginia, but they are going to have to get permission to that next job; that is a relocation. That ought to be a fairly simple procedure.

So we are suggesting that you just make the timing consistent with the request, not make it all 180 days for construction or modification both.

COMMISSIONER NEELY: Do you have any comments on that, Dale?

MR. FARLEY: Well, I understand her comment about that sort of being an artifact or whatever the term was, because basically without the default in there, I don't know that we need to have that clarified.

The only thing we really need to clarify is the Agency has up to 180 days, and I don't know exactly how you construed the year. You have lost me on

that one, but I think it was never the intent to have more than 180 days.

CHAIRMAN THOMAS: I don't think so either.

MR. FARLEY: The 45 day relocation provision was just retained from an existing rule, and that has as 25 days -- 25 days of that 45 day period is for public participation. That is a public notice that you are going to relocate in an area or that kind of thing.

So it really hard to shorten that much more than 30 or 35 days, just the way the cycle runs.

MS. POLAND: We appreciate the administrative burdens that are built in that have to be in the timing.

MR. FARLEY: Right, but I don't think there was ever any intent to have more than 180 day process unless someone files an incomplete application. We are saying that the 180 days doesn't start -- but I think it was simply to be one 180 day period for a

completed application maximum.

MS. POLAND: I think the elimination of those paragraphs that talk about so many days before construction beginning the artifact provisions I am talking about, will help eliminate a lot of confusion about timing on that section.

CHAIRMAN THOMAS: Yes. That would certainly clarify it. I still maintain that the portion of that is concurrent --

COMMISSIONER NEELY: Overlapped.

CHAIRMAN THOMAS: Yes, it runs concurrent.

COMMISSIONER SCHOCK: It doesn't have to. I can read it like she is saying.

CHAIRMAN THOMAS: Once the permit is certified complete, the application has 180 days. So whatever that period is for certification of completion is all that you tack onto the 180 days, not 180 days more.

MS. POLAND: If you give any meaning to it, to the requirement that if permit

application has to be submitted 180 days prior to beginning construction --

CHAIRMAN THOMAS: Well, it should be that you have 180 days to obtain a permit; it should be.

MS. POLAND: Well, it should be, but what we are suggesting is that it really no longer fits up with the new timing provisions on issuance of the permit, and its elimination would be clarify the timing.

CHAIRMAN THOMAS: Any other questions of the Commissioners? Thank you.

MS. POLAND: Thank you.

COMMISSIONER HAMNER: I will ask you to be on Page 5, please, on Section D -- I am sorry, make that Section C. Now I'm looking at that --

COMMISSIONER NEELY: Which Section C?

COMMISSIONER HAMNER: That is right; thank you; 2.21 (c). I take that to mean that any source of the chemicals listed in Table 45 of 13 (b) to

define hazardous air pollutants, right?

That will include every hardware store, every barn, every high school biology lab, every analytical lab, every hospital lab, every cold testing laboratory.

That will include virtually everything in the state. How will you use discretion? How can one possibly know whether Wesleyan College chemistry laboratory has to get a permit?

MR. FARLEY: I think that point is well taken and I really anticipated -- and I think we even had a proposal -- anticipated that what we would probably get if that construction stays in there at all was some concurrence on what the minimum level would be.

COMMISSIONER HAMNER: It has to be.

MR. FARLEY: Yes.

COMMISSIONER HAMNER: This written now includes fingernail polish remover.

MR. FARLEY: Well, yes.

COMMISSIONER HAMNER: So presumably

every home where a bottle opens becomes -- when you do that, you trivialize --

MR. FARLEY: That is true, and the only reason it is like that is because the reg, even though it is very limited in scope because of the number fully specified, it reads exactly like that today, but it only covers seven --

COMMISSIONER NEELY: Yes, but you have enhanced the field by 180.

MR. FARLEY: 180, right.

COMMISSIONER HAMNER: And I might add that there are a few million more. If you are determined to impress the public with your thoroughness, you might as well include the entire handbook of chemistry.

These are the ones that EPA has designated in some form; is that correct?

MR. FARLEY: Right, in the Clean Air Act. It is hazardous air pollutants.

COMMISSIONER NEELY: Can't you put

some levels in there?

MR. FARLEY: Well, honestly, we anticipated that would probably be proposed and that would be accepted.

COMMISSIONER HAMNER: What kind of minimum were you thinking?

MR. FARLEY: Well, that has been a point of discussion with the Manufacturers. I think they made a proposal once, I think more in the context of what is already on the list, which is maybe the seven or eight or whatever, at I believe a pound an hour trigger.

But we have a little problem with that because a pound an hour trigger, even on our Reg 27 toxic air pollutants, that is essentially for a continuous process, 8760 pounds per year.

In the analysis that was done in the Kanawha Valley for some of the chemicals, there was health significance at 500 and 600 pounds a year emissions. So it is really hard to figure out how to spell that out.

I know it is going to be very difficult for 189 chemicals, but I expected that that is something there would be some agreement as to where the cutting point ought to be on that list or a reduced list.

COMMISSIONER HAMNER: Well, even an ounce per hour could be dangerous without proper regulation. I don't doubt that -- or even smaller quantities; in some of these cases parts per million.

So far what you have presented us with can't be considered until we have some knowledge of averaging, for example. You know, a pound per hour -- suppose it is only one pound per year?

COMMISSIONER NEELY: Is it possible to put something in this table opposite each name, or would that be too much, make it more individualized?

COMMISSIONER HAMNER: The trouble is that putting numbers on it is mighty hard, as you say, but if you don't put numbers on it, you have done something --

COMMISSIONER NEELY: Well, what is

a reasonable amount?

COMMISSIONER HAMNER: You don't want high school biology labs to get a permit, I don't think.

MR. FARLEY: No.

COMMISSIONER NEELY: But you want them to be properly ventilated.

COMMISSIONER HAMNER: A dealership with a lot of new cars would release a few pounds of plasticizers in the course of a July day. We have got to have numbers somehow, and if we can't put numbers on it, we can't have it in the reg as far as that goes.

That Section (c) of 2.21 is new, isn't it?

MR. FARLEY: Yes, but the language is exactly as it is other than the fact that we listed the toxic air pollutants. The list is very different.

Before the Commission had defined lead by an action and about six hazardous air pollutants under NESHAP standards.

COMMISSIONER NEELY: Somebody must have numbers. Does EPA have numbers? This is their list.

MR. FARLEY: That has been a problem because there has been a big argument since the Clean Air Act was passed about lower quantity shutoffs.

COMMISSIONER HAMNER: Maybe you better not change it if you don't know how to change it.

MR. FARLEY: I think that that comment has already been made, that there needs to be a lower quantity cutoff, but maybe it needs to be one that is segregated by classes like has already been attempted to be done with hazardous pollutants.

In other words, there is a short list of four or five that have an incredibly low threshold, and then there is a larger list that have a considerably higher threshold.

COMMISSIONER HAMNER: I want to make a point in public as well as to my colleagues that on many of these chemicals if you told me you were releasing a pound per hour, I would flee in terror, but on the other

hand, some of them, a release of these chemicals is a routine, daily occurrence.

MR. FARLEY: I understand.

COMMISSIONER NEELY: Some of the stuff that is over and above that list of seven are carcinogenics.

COMMISSIONER HAMNER: Oh, yes, but proof on most of them is slim.

COMMISSIONER NEELY: Exactly, but there has got to be something somewhere in the literature that is going to be able to give you a handle on this.

MR. FARLEY: There probably would be for a number of these chemicals, and then you would probably end up with a dozen or 15 or 20 of them, and then you would just say, "Okay, I am going to use those to set a bracket and I am just going to start arbitrarily throwing some of the other ones in there." It is how you bracket them.

COMMISSIONER SCHOCK: Why don't you talk to the NIOSH people up in Morgantown to see if they

can help?

MR. FARLEY: That is possible too.

COMMISSIONER NEELY: NIOSH?

COMMISSIONER SCHOCK: National
Institute of Occupational Health and Safety.

CHAIRMAN THOMAS: Are there any
other comments on Reg 13?

COMMISSIONER NEELY: I want to ask,
if you know, we were talking about -- I think Ms. Poland
commented on the separation of the regs and making sure
that there was cross-referencing and so forth.

Would there be any merit to putting
like a grid or something, a display of if you want this,
you go to that. If you want something else, you go to
this, you know, a little block, something very simple that
even I could understand?

COMMISSIONER SCHOCK: You mean a
chart?

COMMISSIONER NEELY: Yes, you chart
it.

COMMISSIONER SCHOCK: An administrative processing -- a permit processing.

COMMISSIONER NEELY: Yes.

CHAIRMAN THOMAS: What would you recommend that we do?

COMMISSIONER NEELY: Well, I don't know. I don't want to put a burden on these folks. I am trying to figure out a way that people coming into the state on business would be able to pick up something very handy and look at it and see what is required and under what circumstances and what rule to look to which they should go and then that would be it, instead of having to come up here and plow through --

Did you hear what I said, Dale?

MR. FARLEY: I was just asking --

MR. KOPELMAN: I was asking Dale what the status was of the Small Business Technical Advisory Bureau, whatever is being created under it. He was saying that it is off the ground, but --

MR. FARLEY: But there is only one

person there now, and that is not something that we have looked at in this regard, because the flow charting you are talking about sort of looks at all the rules and when you get into the bigger -- most of the rules, they start to hit the medium and larger size facilities as far as --

COMMISSIONER NEELY: I am talking about -- I think I might be talking about two different things, okay?

MR. FARLEY: Okay.

COMMISSIONER NEELY: I think the first thing I am thinking about is what this applies to; if you want to do this you apply Reg 13. If you want to do something else, you apply Reg 30 or something like that.

MR. FARLEY: Right.

COMMISSIONER NEELY: That is just as a simple list. A flow chart is another step and that is something --

COMMISSIONER HAMNER: Maybe the words like fugitive emissions and design potential, et

cetera, could be used just to avoid the question of how many pounds per hour or whatnot, because then places like high school laboratories that don't even follow maybe could be excluded through the language rather than the numbers.

COMMISSIONER NEELY: But we have to define all of that?

COMMISSIONER HAMNER: But it is defined elsewhere.

MR. FARLEY: To get around the extremes of the problem, you could probably add a section that would simply establish if we may -- we may have to talk to several people about this -- establish some bracketing.

The philosophy was to keep the whole 189 list but also make it sensible by putting fully across the board -- putting some lower quantity triggers in them.

We can do that and add a provision that would simply clarify what this reg is not intended to

cover like research and development laboratories, that kind of stuff.

COMMISSIONER HAMNER: That is what I was --

MR. FARLEY: Just exempt them as long as certain facts are true. Some labs you have to cover because their emissions are high, but I think you could put a certain set of criteria in there that says anything that meets this particular -- the following specifications would just be completely out of there. That has not be done before.

CHAIRMAN THOMAS: You are not exempting R & D?

MR. FARLEY: Well, I don't think you could do that in total. What you could do -- I think you still get kind of back into the same thing. You would have to exempt them under a condition that says as long as none of the emissions are above some level or some criteria like that, because there are some labs that --

CHAIRMAN THOMAS: The issue is

currently out on the table and the Staff would be advised to try to come up with some language that satisfies this concern and then it will be up to the Commission to take action on the regulation.

Any other issues with regard to Reg 13? If not, let's adjourn the hearing on Reg 13.

(WHEREUPON, the hearing was concluded at 12:20 p.m.)

REPORTER'S CERTIFICATE

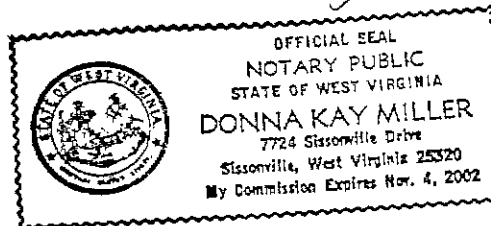
STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to-wit:

I, Donna Kay Miller, do hereby
certify that the foregoing is, to the best of my skill and
ability, a true and accurate transcript of all the testimony
adduced or proceedings as set forth in the caption hereof.

Given under my hand this 24th day
of July, 1993.



Donna Kay Miller
Certified Court Reporter



June 29, 1993

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

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

CNG Transmission Corporation respectfully offers the attached comments regarding the proposed rule - 45CSR13. These rules pose a significant administrative and compliance burden, and your careful consideration of our recommendations is greatly appreciated.

Please call if you have any questions (304-623-8472).

Sincerely,



Robert D. Cotherman, P.E.

cc: S.L. Burkett

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AIR POLLUTION COMMISSION

Certified #: P 270 338 838

Comments
Proposed Rule
45CSR13

45-13-3, 3.1 - The reporting period should be limited to semi-annual to maintain consistency with Federal guidelines and avoid excessive reporting requirements for sources which are minor.

45-13-4, 4.8 - "which results in an emission increase" should be revised to "which results in an increase in the potential to emit, based on the performance at rated conditions".

45-13-5, 5.2 - Minor sources which demonstrate emission rates satisfying the requirement for minor source classification through initial registration or initial testing as specified by the Chief, should be exempt from any requirement for permanent/continuous stack gas monitoring.

45-13-9, 9.1, 9.2 - Provisions must be made to ensure the confidentiality of any experimental or testing programs to protect any potential market incentives and ensure that the regulations do not stifle the development of new technologies. Moreover, experimental or testing programs conducted on minor sources should be unconditionally exempt from any and all requirements for notification or approval provided that testing is not reasonably expected to increase emissions.

Table 45-13A - The section should be revised to substitute the word "of" for the word "totaling".

Table 45-13B - This section should be revised to include only those compounds identified in 45-13-2, 2.22, definition of Toxic Air Pollutant.

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WV DIV OF ENVIR. PROTECT.
OFFICE OF AIR QUALITY

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COMMENTS OF
THE WEST VIRGINIA MANUFACTURERS ASSOCIATION
REGARDING THE PROPOSED AMENDMENTS TO REGULATION 13 PERTAINING TO
PERMITS FOR CONSTRUCTION, MODIFICATION, RELOCATION, AND
OPERATION OF STATIONARY SOURCES OF AIR POLLUTANTS,
NOTIFICATION REQUIREMENTS, TEMPORARY PERMITS,
GENERAL PERMITS, AND PROCEDURES FOR EVALUATION

Prepared By:

Environmental, Safety & Health Committee
West Virginia Manufacturers Association
405 Capitol Street, Suite 503
Charleston, West Virginia 25301

and

Robinson & McElwee
600 United Center
Post Office Box 1791
Charleston, West Virginia 25326

Counsel for
West Virginia Manufacturers Association

July 22, 1993

COMMENTS OF
THE WEST VIRGINIA MANUFACTURERS ASSOCIATION
REGARDING THE PROPOSED AMENDMENTS TO REGULATION 13 PERTAINING TO
PERMITS FOR CONSTRUCTION, MODIFICATION, RELOCATION, AND
OPERATION OF STATIONARY SOURCES OF AIR POLLUTANTS,
NOTIFICATION REQUIREMENTS, TEMPORARY PERMITS,
GENERAL PERMITS, AND PROCEDURES FOR EVALUATION

I. INTRODUCTION

On June 2, 1993, the West Virginia Air Pollution Control Commission ("APCC" or "Commission") filed with the Secretary of State proposed legislative rules pertaining to permits for construction, modification, relocation, and operation of stationary sources of air pollutants, notification requirements, temporary and general permits and procedures for evaluation as authorized under the West Virginia Air Pollution Control Act at Chapter 16, Article 20 of the West Virginia Code ("the Act"). The rule, which will repeal and replace the current Regulation 13 (which became effective on June 1, 1974) is proposed for inclusion in the Code of State Regulations at Title 45, Series 13.

The West Virginia Manufacturers Association ("WVMA") represents a broad cross-section of large, medium, and small industrial concerns in West Virginia. Because many of its members must comply with the provisions of the Act, the WVMA has been, and continues to be, extensively involved in the development of these and the other regulations promulgated to implement the Act. We strongly support the amendments to Regulation 13 to focus its application on minor sources and to coordinate its provisions with those of proposed Regulation 30 for major sources. It is in

furtherance of this active and supportive role that the WVMA offers these comments.

II. COMMENTS

1. Fiscal Note (Appendix B)

Paragraph 4B appearing on page 2 of the Fiscal Note states that certain facilities may be required to obtain a construction permit at a fee of \$1,000. Although such a fee is set forth under the fee schedule contained in Regulation 22 as promulgated by the Commission, nowhere in the corpus of the rule is reference made to this fee (or, for that matter, to the fee schedule itself). The WVMA urges that any fee purporting to be applicable under this rule should be identified by regulatory cross-reference in order to adequately provide the regulated community with notice of the applicability and imposition of fees and their costs.

2. Section 1.1 (page 1); Scope

The WVMA supports the inclusion in this section of a description of the relationship between APCC Regulations 13 and 30. However, this section still states that the scope of this rule includes the criteria for obtaining a permit ". . . . to make modifications which are not major modifications to an existing major stationary source" Given the fact that virtually any change to an existing major stationary source will impact that source's operating permit issued under Regulation 30, to require such source to obtain a Regulation 13 permit would be nothing more

than duplicative. To allow for instances where the permitting requirements of both regulations would be implicated and applicable to a single source would only result in costly duplicative and superfluous work to be undertaken by both the regulated community and the state alike. Thus, the WVMA urges the deletion of this language from the Scope section of Regulation 13 in order to allow for clear regulatory interpretation as to the applicability of Regulation 13 and Regulation 30 in any given source's permitting process. We also support the inclusion of language that makes it clear that major sources are governed instead by other rules of the Commission, i.e. Regulations 14, 19, 30.

Additionally, the last full sentence of this section, as drafted, should be clarified with regard to the rule's stated scope in the area of filings of notifications of changes not required to be formally permitted. This sentence, in pertinent part, states that the rule establishes the requirements ". . . . for filing notifications of changes not otherwise subject to a permit requirements". Beyond the typographical error contained in the use of the plural form of the word "requirements", this phrase should be deleted and substituted with the following language: ". . . . for filing notifications of changes not otherwise subject to the permit requirements of this rule."

3. Section 2.6 (page 2): Construction

This section defines the term "Construction" and, as drafted, is not yet as clear as it might be in its attempt to cross-reference the applicable meaning of this term to individual

sources based on whether or not they are regulated under this proposed rule or APCC Regulations 14, 15, 16 or 19. This section defines the term to mean "any physical change 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 45 CSR 14, 45 CSR 15, 45 CSR 16 or 45 CSR 19." This section should be revised to specify the types of major modifications that should be deemed construction, i.e., major modifications triggering Regulation 14 (PSD Review), Regulation 15 (NESHAP's), Regulation 16 (NSPS) and Regulation 19 (Nonattainment Review). Although these regulations cover virtually all the types of major modifications for which Regulation 30 sources would be required to obtain a modification to their operating permit, this section, as proposed, begs for greater specificity with regard to the definition of the term "construction" itself as it applies to individual sources. The WVMA urges that this section be amended by deleting all of the text following the second appearance of the word "source" in the third line and substituting it with the following language: "subject to, and as defined by, the provisions of this Rule or in 45 CSR 14, 45 CSR 15, 45 CSR 16 or 45 CSR 19, where applicable to the activity to be undertaken."

4. Section 2.11 (page 2); Hazardous Air Pollutant

This section purports to define the term "Hazardous Air Pollutant" by listing, in a Table appended to the Rule (Table 45-13B), all of the hazardous air pollutants listed in Section 112 of the Federal Clean Air Act Amendments of 1990. Thus, as proposed,

this section represents an enormous expansion of current Regulation 13 jurisdiction as it would enable the Commission to regulate independently almost 200 individual substances, any increase or emission of which would require separate permitting. The end result of this would be the independent regulation of individual substances for which an emission standard (MACT) may not even have been created or adopted by the Commission or the United States Environmental Protection Agency ("EPA"). In developing the Section 112 list, it was not Congress' intention to enable the various States to regulate individually these substances, but rather to cause EPA to promulgate, and the States to adopt, standards (e.g., MACT) pertaining to them and to regulate on such a basis. As proposed, this section of the regulations is far more stringent than that provided for (and envisioned) under the federal program and clearly contravenes state law thereby. In fact, the federal program does not even subject the Section 112 listed substances, as a whole, to PSD review. See §112(b)(6). Under 45 CSR 15 (NESHAP's), the Commission has adopted emission standards for hazardous air pollutants promulgated by EPA. Thus, in order to embrace Congress' intent in its development of the hazardous air pollutant program, the WVMA urges that this section of the proposed rule and its corresponding table be deleted and amended to define the term "Hazardous Air Pollutant" to mean any substance as regulated under 45 CSR 15 or 45 CSR 27 if in a quantity exceeding the de minimis values in those rules.

Although EPA is statutorily mandated to issue MACT standards for given major source categories on a tight schedule, Congress limited the situations for which case-by-case MACT can be imposed. Section 112(g)(2)(B) specifically provides:

After the effective date of a permit program under subchapter V of this chapter in any State, no person may construct or reconstruct any major source of hazardous air pollutants, unless the Administrator (or the State) determines that the maximum achievable control technology emission limitation under this section for new sources will be met. Such determinations shall be made on a case-by-case basis where no applicable emission limitations have been established by the Administrator. (emphasis added)

Accordingly, regulation of §112 pollutants on a case-by-case basis is authorized:

1. Only after the effective date of the operating permit program.
2. Only as to major sources.
3. Only to construction or reconstruction of major sources.
4. Only where no applicable MACT standards have been established by EPA.

The proposed amendments to Regulation 13 do not properly reflect any of these clear restrictions. There is no reason unique to West Virginia to so expand our rule, particularly given the adoption of the updates to Regulation 15 standards and the impact of Regulation 27 governing toxic air pollutants specifically chosen for this State for greater control. We therefore strongly urge that the proposed amendments be revised to reference not the §112 list, but rather those substances where and as regulated by the terms of

Regulations 15 and 27. Any other language or case-by-case regulation should be placed in Regulations 15 or 30 and should faithfully track the restrictions in §112(g)(2)(B).

5. Section 2.14 (page 3); Modification

This section defines the term "modification" to mean, among other things, "any physical change in or change in the method of operation of any existing stationary source which. . . results in any increase in emissions of a hazardous or toxic air pollutant." In order to conform this definition with the emission standards and threshold levels adopted and/or promulgated under 45 CSR 15 and 45 CSR 27, this language should be amended to embrace the de minimis levels of such substance which must be breached before permitting is even required under those above-referenced regulations. Thus, the WVMA suggests that this section be amended to state that modification means "any physical change. . . which results in any net increase in emissions of a hazardous or toxic air pollutant in excess of the standards and/or thresholds provided for under 45 CSR 15 and 45 CSR 27 as applicable."

6. Section 2.21 (page 5); Stationary Source

This section defines the term "stationary source" to mean "any building, structure, facility, installation, or emission unit or combination thereof, which. . . ." However, not defined under the regulation, as proposed, is what is meant by "building," "structure," "facility" or "installation." A definition of such terms is provided for under other APCC regulations (e.g., 45 CSR 14) and, thus, should be adopted within this proposed rule in order

to provide the regulated community with consistency in regulatory interpretation, thereby furthering consistency in regulatory compliance. To this end, a new section should be added to the proposed rule which states:

"Building, Structure, Facility, or Installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities are a part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two (2)-digit code) as described in the Standard Industrial Classification Manual, (U.S. Government Printing Office Stock numbers GPO 1987 0-185-718:QL3).

7. Section 3.1 (page 6); Reporting Requirements

This section sets forth the reporting requirements for registered and permitted stationary sources. As proposed, this section grants the Chief of the Office of Air Quality the right to request monthly reports on the operation of stationary sources. The WVMA suggests that this section is overly burdensome in that Regulation 13, as proposed (and described in Section 1.1.) is meant to provide a construction permit program -- not an operating permit program. Thus, operational permitting and procedures should be kept separate from this rule and covered under the provisions of Regulation 30. The WVMA urges that this section be amended to require the submission of operational or progress reports only during periods of construction, modification or relocation. Any other reporting obligations should be part of any applicable

standards rules, such as Regulations 2, 5, 7 and 10, for example, not Regulation 13.

8. Section 4.1 (pages 6-7); Permit Application

This section establishes the requirement of obtaining a permit prior to the commencement of construction, modification or relocation of a stationary source. However, in order to conform with the regulatory intent of which sources must obtain such permits, this section should be amended to state that no permit is required under this rule for the construction, modification or relocation of sources which are not subject to any emission rule promulgated by the Commission, or which do not discharge any hazardous or toxic pollutant regulated under Regulation 15 or 27, or lead or lead compound in excess of any standard promulgated or adopted by the Commission, or which do not emit (nor have the potential to emit) more than six pounds per hour of volatile organic compounds or any air pollutant for which the Commission has promulgated an ambient air quality standard. The incorporation of such language into this section of the rule would not only conform it to the regulatory meaning of what actually constitutes a "stationary source" as provided for under Section 2.21, but would also allow for clear and consistent regulatory interpretation of the rule's applicability to any given source, while, at the same time, better enabling the regulated community to assess the rule's applicability and their corresponding compliance posture with regard to it.

9. Sections 4.2 through 4.4 (page 7); Permit Timing

Sections 4.2 through 4.4 all deal with the time periods during which construction, modification and relocation applications must be submitted and processed. As written, even a request for the simplest modification on a minor source would have to be submitted 6 months prior to commencing the modification. The Chief also has up to 6 months to act on an application. However, this 6 month period does not begin to run until the application is found "complete." Applications must be reviewed for "completeness" within 30 days of receipt and additional information may be requested that would extend even further the time for processing. Accordingly, even a straightforward application for a modification to a minor source could take 13 months or more and be perfectly within the rule.

This kind of time delay is inordinate in light of the significant staff increases which will result from the implementation of the new operating permit program. Since Regulation 13 would, in effect, become a minor source rule, the WVMA urges the Commission to adopt reasonable timeframes that will facilitate thorough, but expedient, permit issuance.

Additionally, it is important to note that a strong argument in support of keeping the permit processing time as short as practically possible is that West Virginia must remain competitive with other states for attracting and maintaining industry within its borders. If industry perceives that West Virginia is an unreasonably slow and/or difficult place to permit

facilities, they will certainly lean to constructing or expanding new or existing facilities in other states where permitting may be faster and simpler. Industry must be able to respond quickly to changes in opportunities occurring in the marketplace. Long, drawn out permitting periods will inhibit West Virginia industry's ability to react and remain competitive.

Accordingly, the WVMA respectfully suggests that the timeframes be revised as follows:

a. Revise 4.2 to eliminate the requirement that applications be submitted within a fixed number of days prior to project commencement. This is no longer needed since "default" permits can no longer be issued. This section need only state the affirmative obligation to submit an application and obtain a permit in order to construct, modify, or relocate.

b. Section 4.4 should be revised to replace 180 days with 90 days for construction and 60 days for modification by which the Chief must issue or deny a permit for such minor sources after receipt of a complete application. Additionally, this Section should be revised to reduce the "completeness" review period to 7 business days from receipt (as opposed to the proposed 30 days), as there exists no need for any longer period for such initial review given the fact that the Staff may still request additional information even after completeness has been determined and approved. Any longer timeframe for such review would only front-end load needless delay into the permitting process.

10. Section 5.1 and 5.2 (page 8); Determination of Compliance

This section pertains to agency verification, via monitoring and testing, of the compliance status of stationary sources. To this end, this section grants the Chief the authority to require on request the installation of stack gas monitoring devices. Clearly this language implies that the Chief can mandate, without the issuance of an administrative order or notice (not to mention the lack of any provision for appeal of such request), operational monitoring. As has been mentioned above, this rule is not meant to be a mini operating rule, nor is it meant to be a regulatory program to monitor in any way the operation of minor source facilities. The scope of the rule is to oversee construction, modification and relocation of non-major sources. Thus, and in order to conform the corpus of the rule with its intended scope, the WVMA urges the complete deletion of these sections from the proposed rule. The rule should contain only simple provisions that empower the Chief to require the source to demonstrate that it has been constructed or modified in conformance with its permit and the representations in the application therefor. Operational activity is thereafter governed by the rules which establish standards, such as those in Regulation 7.

11. Section 7.1-3 (page 9); Public Meetings

This section, as proposed, permits the holding of public meetings to receive comments on permit applications at the discretion of the Chief. Although the WVMA supports the public notice requirements provided for under this proposed rule, it is

not apparent as to why any provision for the holding of a public hearing on stationary source construction/modification permit applications which are, by definition, minor should be included in this rule. Public hearings may be necessary with regard to Regulation 30 operating permit modifications and the like, and, to that end, Regulation 30 provides extensive public participation procedures. Thus, the WVMA urges the deletion of this entire section in favor of simple notice and opportunity for written comments. Additionally, it should be noted that a typographical error appears in subsection 7.2 at the appearance of the word "insure". This word should be deleted and substituted with the word "ensure".

12. Section 10.1 (page 11); Conflict With Other Rules and Regulations

Consistent with previous comments, the WVMA urges the inclusion of language in this section to specifically address the relationship between this rule and Regulation 30 in order to make it clear that sources subject to Regulation 30 permitting obligations need not also obtain Regulation 13 permits for modifications to such facilities.

13. Section 2.16 (page 4); Potential to Emit

This section defines the term "Potential to Emit" and states that any physical or operational limitation on a source or emissions unit's capacity to emit a pollutant will be treated as part of its design, if such limitation or effect on emissions is enforceable in any permit or consent order by the "Chief and U.S. EPA" (emphasis added). This section should be amended by deleting

this phrase and simply referring to limitations as "federally enforceable." Specific approval by EPA is not necessary to render such limits enforceable by EPA.

Additionally, this section includes the following statement: "Secondary emissions do not count in determining the potential to emit of a stationary source." As drafted, this sentence is vague and would be clarified by replacing it with the following language: "Secondary emissions shall not be included in any determination of a stationary source's potential to emit."

14. Section 2.8 (page 2); Discharged

In order to conform the definition of this term to its statutory counterpart contained in Section 2 of the Act, the letter "d" should be deleted from it, thereby transforming this term to present, as opposed to past, tense.

15. Section 6.2 (page 9); Public Review Procedures

A typographical error appears mid-way in this section at the appearance of the phrase "as a minimum." The word "as" appearing in this phrase should be deleted and substituted with the word "at."

16. Section 9.2 (pages 10-11); Temporary Permits

A typographical error appears in sub-paragraph A of this section at the appearance of the phrase "as a minimum." The word "as" appearing in this phrase should be deleted and replaced with the word "at."

III. CONCLUSION

In these comments, the WVMA offers its position on major concerns presented by the APCC's proposed Regulation 13. The WVMA, together with .OAQ staff, have spent many hours developing and analyzing these and various other revisions to the state's air regulations. We appreciate and endorse the open and frank regulatory negotiation process which this represents. Because not all of the multitude of issues and provisions contained within this proposed rule have been fully resolved, the WVMA presents these remaining concerns and comments and offers its full cooperation and assistance in refining the current regulatory proposal to as much a position of mutual acceptance and ease of implementation as possible.



**WEST VIRGINIA
MANUFACTURERS ASSOCIATION**

SUITE 503
405 CAPITOL STREET
CHARLESTON, WV 25301
TELEPHONE (304) 342-2123

August 5, 1993

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

Re: 45 CSR 13 Revisions

RECEIVED
Aug 5 PM 3:35
WEST VIRGINIA
AIR POLLUTION
CONTROL COMMISSION

Dear Ms. Bernheim:

Hazardous Air Pollutants

On July 22, 1993, the West Virginia Manufacturers Association submitted detailed comments on the Commission's proposed revisions to 45 CSR 13. One of the key points of objection involves the definition of "hazardous air pollutant" in section 2.11 and related provisions. The Manufacturers do not support any expansion of this definition to sweep in all substances listed in § 112 of the Clean Air Act Amendments of 1990 or the use of any threshold(s) to apply it. Accordingly, we urge the Commission to adopt our suggested modifications to Section 2.1 of Reg. 13 to define "hazardous air pollutant" to include only those substances as, and if, subject to a standard adopted in Reg. 15 or if emitted above the thresholds in Reg. 27, and lead and lead compounds. Revisions to correct and delete language will also be required in at least sections 2.14, 2.17, 2.21 and 2.22.

Optional Permits and De Minimis Increases

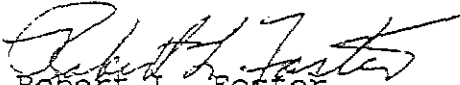
To allow a situation in which a source might voluntarily agree to obtain a permit in order to cap emissions or create any other enforceable limitation on operations, the definition of "modification" in section 2.14 of Reg. 13 should be changed. First, to provide for an exemption for de minimus increases in hazardous or toxics air pollutants of less than 2TPY to replace current language triggering a permit for any increase in such pollutants; and, second to modify the last sentence in that section to delete the words "emission increase" and substitute therefor the phrase "limitation or change." This will allow Reg. 13 permits to bind operators even where no increase in emissions will occur in appropriate cases, such as where a source agrees to

Britt A. Bernheim, Esquire
Page 2
August 5, 1993

limit its operations to levels below the applicable definition of "major source." This will very much simplify this process and eliminate the need to go through SIP revisions for each such change. This will benefit the environment and greatly lessen the time which would otherwise have to be devoted to an issue by the state, the source, and EPA.

We urge the Commission to adopt these changes to Reg. 13 to address these concerns. Please contact me at 342-0161 or Kim Brown Poland at 347-8348 with any questions.

Very truly yours,


Robert L. Foster
Chairman, Environment,
Safety & Health Committee

cc: Ms. Karen S. Price
G. Dale Farley, Chief, OAQ

**RESPONSE TO COMMENTS ON PROPOSED 45CSR13
SUGGESTED REVISIONS TO THE PROPOSED RULE**

Written comments on the proposed revisions to 45CSR13 were received from the West Virginia Manufacturers Association (WVMA) and CNG Transmission Corporation. The staff of the Office of Air Quality of the West Virginia Division of Environmental Protection reviewed the comments and provided response and suggested changes for the Commission's consideration. In addition, the OAQ staff reviewed comments from USEPA on 45CSR30 proposed concurrently with the 45CSR13 amendments. Commission response to the USEPA comments resulted in the addition of provisions for optional operating permits in this rule and their deletion from 45CSR30.

WVMA Comments

COMMENT 1: Any fee applicable under the proposed rule should be referenced in the rule.

RESPONSE: OAQ agrees with the comment and proposed adding as section 10 an appropriate statement concerning the application permit fee. The original section 10 had been "Conflict with Other Rules and Regulations" and is now renumbered and revised as section 11.

The Commission concurred with this change.

COMMENTS 2 & 12: The scope of the proposed rule with respect to its relationship to proposed 45CSR30 was questioned and the WVMA suggested rewording of the last sentence of subsection 1.1. WVMA asked that a provision be included to excuse sources subject to permits under proposed 45CSR30 (Title V operating permits) from 45CSR13 requirements.

RESPONSE: The WVMA comment concerning the eventual duplicative requirements of proposed 45CSR13 and 45CSR30 was given extensive consideration in developing suggested changes to both rules. As noted above, provisions were added to new section 11 (which had been section 10) to provide that 45CSR13 would no longer apply to a facility when the facility became subject to a permit issued pursuant to Title V of the Clean Air Act. This results in a slight revision to the statement of scope at subsection 1.1 and resulted in suggested complimentary changes to 45CSR30. The WVMA-suggested rewording of the last provision of subsection 1.1 was recommended for incorporation as it did not change the meaning or scope of the rule.

The Commission concurred with the suggested changes to proposed 45CSR13 and 45CSR30.

COMMENT 3:

The wording and meaning of the definition "construction" was questioned again with reference to interaction with proposed 45CSR30 and the WVMA comment suggested that the term covered major sources only.

RESPONSE:

This comment resulted in a review by OAQ staff of the revised term in the proposed rule and a review of the prior definition and historical application of 45CSR13. As a result, the OAQ suggested new wording which was believed to better characterize the intent and long-term application of the current 45CSR13. The rewording is as follows:

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in an increase in the potential to emit or an increase in actual emissions of regulated air pollutants.

The original references to 45CSR14, 45CSR15, 45CSR16, and 45CSR19 were deemed to be misleading and inappropriate and deletion was suggested.

The Commission concurred with the OAQ's suggested change.

COMMENTS 4 & 5:

The applicability of the proposed rule to a newly suggested and much more expansive list of hazardous air pollutants (from the federal Clean Air Act) was questioned as well as the applicability of the term "modification" to changes in emissions of hazardous air pollutants.

RESPONSE:

To address these comments, the OAQ proposed a re-write of the terms "stationary source" and "modification" and, for toxic and hazardous air pollutants currently regulated by the Commission, suggested or included emissions threshold (rule applicability) levels currently required by 45CSR27 for toxic air pollutants and threshold levels for currently regulated hazardous air pollutants now incorporated into 45CSR14. A threshold emission level of 200 pounds per year was suggested for inorganic arsenic based upon the order of magnitude of cancer potency values. The OAQ noted that these suggested changes would retain current permit review authority with respect to toxic air pollutants (45CSR27) and relax current review authority by establishing emissions significance levels for the limited number of currently regulated hazardous air pollutants.

The OAQ also suggested that the amended regulation require all major hazardous air pollutant sources (20,000 pounds per year or more of emissions of a hazardous air pollutant) to obtain a permit for construction and proposed a 5,000 pounds per year emission increase trigger level to require permits to modify existing stationary sources.

After some discussion, the Commission accepted the first proposal with respect to hazardous and toxic air pollutants currently regulated by the Commission but rejected the OAQ suggestion with respect to preconstruction permit review of the expanded list of hazardous air pollutants using the 20,000/5,000 pound per year criteria.

COMMENT 6:

The meaning of the term "stationary source" was questioned and the WVMA suggested substituting the definition used by EPA and the state for major stationary sources.

RESPONSE:

The OAQ doesn't believe that a definition change is appropriate and the WVMA-suggested definition is believed to be in conflict with the original and current intent of the rule and its application during the roughly 20 years of its existence.

45CSR13 is primarily intended to require review of new or substantially modified emissions units which are individually regulated as well as to require permits for construction of entire new production facilities which emit regulated air pollutants. 45CSR13 has always incorporated a "dual definition" provision for the term stationary source and the inclusion of the WVMA suggested definition would defeat or severely confuse the rule's intended permitting coverage.

The "dual definition" nature of the term stationary source is also flexible in its application to entire facilities which may seek existing stationary source operating permits under the proposed rule amendments in lieu of being covered under new Title V operating permits.

COMMENT 8:

A point was raised again concerning the scope of the proposed rule with respect to the type of sources or pollutant discharges which would be required to file a permit application. The WVMA apparently suggested providing statements in the rule of what was not required to have a permit.

RESPONSE: The OAQ believes that the scope of coverage is clearly stated and that reiterating what is not covered as the negative of the stated coverage provisions does not improve clarity.

COMMENT 9: (A) It was suggested that the permit application completeness review provision in conjunction with the stated timeframe for application review and statements in the rule concerning lead time for application submission (original section 4.2 and 4.4) could result in a 13-month review period for permit issuance. WVMA suggested deletion of the language requiring application submission within a limited number of days before project construction.

(B) The WVMA also suggested decreasing the entire review period to no more than ninety days for construction permits or sixty days for modification permits and decreasing the completeness review period to seven days.

RESPONSE: The OAQ concurs with the WVMA comment characterized in (A) above and suggested deletion of the stated pre-application timeframes in section 4.2 as originally proposed. The rule provides that permit applicant must be issued a permit prior to commencement of construction of a new source. Compliance with this provision is what is intended.

With respect to the changes to the rule suggested in (B) the OAQ strongly suggested that the proposed language be retained. Although many permit application reviews should be completed in less than 180 days, others can be very voluminous and complex to review. The OAQ believes that the proposed amended rule could not be approved by USEPA as part of the state implementation plan without the enhanced public participation procedures that are proposed. These procedures provide for preparation of a fact sheet and draft permit after application review and a public notice and opportunity for a hearing. This process could not be accomplished in sixty to ninety days for many permit applications.

A seven day completeness check would also be impossible to accomplish for many complex applications particularly when many of these applications are concurrently pending.

The commission did not adopt the WVMA suggestions.

COMMENT 10:

The WVMA suggested that the provisions in the existing rule for the Chief of Air Quality to require the installation of emissions monitoring equipment (section 5.2 in proposed amendments) should be entirely deleted and also objected to the Chief having the right to require monthly operating or emission reports (provided in section 3.1) from registered or permitted stationary sources. The WVMA's basis for the objections and suggested changes was that 45CSR13 was a construction permit program, not an operating permit program.

RESPONSE:

The current version of 45CSR13 established procedures to register stationary sources in existence on the rule's original effective date (1974) and to require permits to construct, modify, or relocate stationary sources ("direct or indirect affected sources") after the rule's 1974 effective date. The rule has always contained provisions to require submission, by source owners, of reports, but not more frequently than once per month in accordance with §16-20. The rule has also always contained provisions which allow the Chief to request the installation of stack gas monitoring equipment.

The lack of such provisions would render the existing rule and proposed amended rule meaningless with respect to the establishment of any means to enforce certain types of permits. Reports have been required from many permitted facilities on a monthly, quarterly, semi-annual or annual basis depending the nature of the operation. During the 20-year history of 45CSR13, very few facilities have been requested to install continuous stack gas monitoring devices that were not required by other, typically federal, regulations to do so. The OAQ does not believe that this authority to require stack gas monitoring has ever been abused. Consequently, the OAQ strongly recommended to the Commission the retention of the current reporting and monitoring provisions.

The Commission changed the proposed language in its agency-approved rule at subsection 5.2 to provide that stack gas monitoring be requested by the Chief "for cause".

COMMENT 11: The WVMA suggested deletion of the provision for possible public meetings in response to adverse public comments on a permit application. Correction of a typographical error in subsection 7.2 (the word "insure") was also suggested.

RESPONSE: 45CSR13 has always provided for public meetings at the discretion of the Director (now Chief) if significant public interest is expressed. Most permit application notices do not result in public comment and public meetings are very infrequent. The OAQ, however, believes that an opportunity for public meetings on controversial projects should be provided and that USEPA would require such a provision for approval of the proposed rule as part of the State's implementation plan under the federal Clean Air Act.

COMMENT 13: The wording of the definition of "potential to emit" was questioned with respect to the reference to USEPA in the definition. WVMA also requested rewording of the last sentence of that definition as it related to "secondary emissions".

RESPONSE: The OAQ reviewed the definition and did not find that a change was necessary in the reference to USEPA. The definition only states that an emissions or operating limitation in any consent order or permit be enforceable by the Chief and USEPA. As a practical matter, USEPA would have to approve any state order for inclusion into the state implementation plan (SIP) for federal enforceability. State issued permits would not have to be approved by USEPA for federal enforceability if USEPA approves this rule for inclusion into the SIP. The OAQ recommended and accepted the WVMA's proposed language concerning secondary emissions.

The Commission accepted the OAQ's recommendations.

COMMENT 14: Changing the term "discharged" in subsection 7.8 was recommended.

RESPONSE: The WVMA-recommended change was incorporated into the final agency-proposed rule.

COMMENTS 15 & 16: The WVMA recommended correcting the word "as" in the phrase "as a minimum" in subsection 6.2 and 9.2 to "at".

RESPONSE: The WVMA's proposed corrections were incorporated.

CNG COMMENTS

COMMENT 1: It was suggest that the reporting period be changed to semi-annually only.

RESPONSE: See response to WVMA Comment 10 above.

COMMENT 2: CNG suggested using the phrase "potential to emit based on the performance at rated conditions" as the determinant condition for notification to the OAQ of emission increases below levels that would require a permit.

RESPONSE: Since subsection 4.8 (now 4.11) relates to the addition of an emissions unit or an operational change which could cause increases in potential to emit and actual emissions, the OAQ did not see that a change in the language was necessary. Also "rated conditions" may not be the appropriate conditions to calculate "potential to emit" for all facilities. Some facilities, due to age and other constraints, cannot operate at rated or design conditions while others actually operate in excess of their design level. This is a technical case-by-case determination for each emissions unit.

The Commission did not change the original proposed language.

COMMENT 3: It was suggested that sources demonstrated to be minor should be exempted from any "permanent/continuous stack gas monitoring."

RESPONSE: As a practical matter in the implementation of 45CSR13 most minor sources and major sources, have been exempted from continuous stack gas monitoring requirements. Minor sources also include very large so called "synthetic" minor sources emitting up to 249 tons per year of a single regulated pollutant. Stack gas monitoring for some of these sources may be very important to practical emission standards enforcement. The OAQ believes that the ability of the Chief to request stack gas monitoring on a case-specific basis is a very important provision of this rule and that the current provision should be retained. As noted, very few sources are actually required to install continuous monitors.

The Commission did not substantially change subsection 5.2 but did insert language in that subsection providing that monitoring requests should be "for cause".

COMMENT 4:

CNG noted that provisions ensuring confidentiality for experimental or testing programs be made and suggested exemption of such programs from any requirement for notification or approval provided that they are not "reasonably expected" to increase emissions (reference subsection 9.0).

RESPONSE:

The Code of West Virginia, in particular §16-20 and 45CSR31 provide for the treatment of legitimate confidential data by the OAQ. Newly proposed section 9 of this rule also provides for temporary authorization of experimental or test units or changes. With these provisions, the OAQ believes that the CNG concern should be at least partly met. The OAQ does not believe that experimental or test units should have blanket exemption from permitting or notification requirements but rather that coverage and requirements must be based upon potential air pollutant emission increases.

The Commission did not change or add any provision in the proposed rule amendments.

COMMENT 5:

CNG suggested that the word "of" should be substituted for the word "totally" on line 24 in Table 45-13A.

RESPONSE:

The OAQ staff reviewed language in the more recently promulgated federal rules including the Part 70 operating permit requirements and found that the word "totaling" is correct.

The Commission made no change to proposed rule.

COMMENT 6:

CNG suggested that only Toxic Air Pollutants as identified in subsection 2.22 (2.26 in final agency-approved rule) be included in Table 45-13B.

RESPONSE:

See the prior response to WVMA Comments 4 & 5. The Commission largely satisfied CNG's suggestion as discussed previously.

USEPA COMMENTS AFFECTING PROPOSED 45CSR13

COMMENT:

USEPA provided written comments and comments in a teleconference with OAQ staff covering problems USEPA anticipated with approval of the so-called conditioned minor source provisions in proposed 45CSR30. The WVMA also took exception to the structure and requirements of the 45CSR30 provisions for "conditioned minor sources". Both commentors for different reasons expressed their preference for including any provisions for operating permits for so-called "synthetic" or "conditioned" minor sources in 45CSR13 or another appropriate rule. WVMA objected to the fact that 45CSR30 would require a permit review process for conditioned minor sources similar to a review that would be required for Title V permits. USEPA believed that it would be very difficult or impossible to complete federal rulemaking for a single rule which would contain overlapping provisions which USEPA would have to approve under separate authorities (e.g. Title I and Title V of the Clean Air Act).

RESPONSE:

After much consideration, the OAQ suggested incorporating language into 45CSR13 providing for an opt-in permit program for existing stationary sources. Accordingly, the following changes to proposed 45CSR13 were drafted:

- Minor change to subsection 1.1 "scope"
- New definition for "existing stationary source operating permits" (subsection 2.14)
- New subsection 4.3
- New subsection 4.6
- New subsection 4.12
- Other minor language in sections to conform the proposed rule to the additional operating permit language.

The Commission considered and adopted the OAQ's proposed changes in the agency-approved rule.

skm



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
OFFICE OF THE SECRETARY
State Capitol, Room M-146
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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

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
Cabinet Secretary

JMR:ro

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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 (including indirect sources) and to register previously unregistered facilities. The effect of this rule has been changed to exempt major sources and major modification from review under 45CSR13 since such facilities 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, the relocation of non-major stationary sources, and to provide an existing stationary source operating permit program which facilities can at their option enter.

The proposed amendments now delete indirect affected sources as defined by the current rule from permit requirements. Such sources would include highway projects, parking facilities and airport construction or expansion from review. The proposed amendments also provide that this rule will cease to be applicable to modifications at sources that have been issued operating permits pursuant to Title V of the 1990 Clean Air Act Amendments.

TITLE 45
LEGISLATIVE RULE
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 and operate 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 which has not been issued a permit pursuant to 45 CSR 30, 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 or a general permit, and for filing notifications of changes not otherwise subject to the permit requirements of this rule.

1.2. Authority. -- W. Va. Code §16-20-5.

1.3. Filing Date. -- April 27, 1994

1.4. Effective Date. -- April 27, 1994

1.5. ~~Repealed~~ Former RuleS. -- This legislative rule amends and replaces 45 CSR 13 "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. "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as described below:

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two (2)-year period which precedes the particular date and which is representative of normal source operation. The Chief may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b. The Chief may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

c. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

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

2.3. "Air pollution" and 'statutory air pollution' shall have the meaning ascribed to it in article twenty, chapter sixteen of the W. Va. Code, as amended.

2.4. "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.

2.5. "Clean Air Act" ("CAA") means 42 U.S.C. 7401, et seq.

2.6. "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.

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

2.8. "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in an increase in the potential to emit or an increase in actual emissions of regulated air pollutants.

2.9. "Discharge" means the release, escape, or emission of air pollutants into the air.

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

2.11. "Emissions unit" means any part or activity of a stationary source that emits or discharges or has the potential to discharge or emit any regulated air pollutant.

2.12. "Enforceable" means enforceable by the Chief and U.S. EPA unless specifically designated to mean otherwise in this rule.

2.13. "EPA" or "U.S. EPA" means the United States Environmental Protection Agency.

2.14. "Existing stationary source operating permit" means a permit issued by the Chief at the request of an owner or operator of a stationary source which establishes enforceable emission rates, operating conditions, and compliance determination procedures for that source based upon applicable rules and terms agreed to by the Chief and the owner or operator.

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

2.16. "Hazardous air pollutant" means any substance listed on Table 45-13B.

2.17. "Major modification" shall have the meanings ascribed to this term in 45 CSR 14 or 45 CSR 19 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.

2.17. "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 U.S. EPA 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 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 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 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 PM_{10} nonattainment areas, sources which emit or have the potential to emit seventy (70) tons per year or more of PM_{10} or PM_{10} precursors.

2.18. "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:

a. Results in an emissions increase of two (2) pounds per hour or more or five (5) tons per year or more of any regulated air pollutant other than a hazardous or toxic air pollutant;

b. Results in any increase in emissions of a hazardous or toxic air pollutant listed in Table 45-13B at a facility which, prior to the modification, has the potential to emit the hazardous or toxic air pollutant at or above the amount set forth in Table 45-13B;

c. Results in an increase in emissions of any hazardous or toxic air pollutant listed in Table 45-13B that would in turn result in total emissions of the hazardous or toxic air pollutant at the stationary source equal to or greater than the amounts in Table 45-13B; or

d. Results in any regulated air pollutant emissions 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 45 CSR 16);

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.

2.19. "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.

2.20. "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 shall not be included in any determination of a stationary sources potential to emit.

2.21. "Regulated air pollutant" for the purpose of this rule means the following:

a. Nitrogen oxides (NO_x), 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 (PM₁₀), sulfur dioxide, carbon monoxide,

nitrogen dioxide, ozone and lead or lead compounds;

c. Any hazardous or toxic air pollutant listed on table 45-13B; or

d. Any other air pollutant subject to an emission standard promulgated by the Commission including mineral acids in 45 CSR 7.

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

2.23. "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 1990 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 U.S. EPA); or

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

2.24. "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.

2.25. "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 control rule promulgated by the Commission; or

b. Discharges or has the potential to discharge 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 any hazardous or toxic air pollutant(s) listed in Table 45-13B in the amounts shown in Table 45-13B or greater; 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.

2.26. "Toxic air pollutant" means any of the following substances which are included on Table 45-13B: Acrylonitrile, Allyl chloride, Benzene, 1,3-Butadiene, Carbon tetrachloride, Chloroform, Ethylene dichloride, Ethylene oxide, Formaldehyde, Methylene chloride,

Propylene oxide, Trichloroethylene, Vinyl chloride, Vinylidene chloride.

2.27. "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), HFC-125 (2-chloro-1,1,1,2-tetrafluoroethane), HFC-134 (pentafluoroethane), HFC-143a (tetrafluoroethane), HFC-152a (1,1,1-trifluoroethane), (1,1,1-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.

2.28. 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 that is registered or permitted pursuant to this rule 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 a 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 45 CSR 14 or 45 CSR 19 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 45 CSR 14 or 45 CSR 19 is not subject to the requirements of this rule.

4.2. Any person proposing to construct, modify or relocate a stationary source after the effective date of this rule shall file a complete permit application with the Chief and shall not construct, modify or relocate such stationary source until the Chief issues a permit approving of such construction, modification or relocation. Such application shall contain sufficient information as, in the judgment of the Chief, will enable the Chief to determine whether such source construction, modification, or relocation will be in conformance with the provisions of

any applicable 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. Any person who owns or operates an existing stationary source may voluntarily request a permit to operate such stationary source under enforceable terms established in an existing stationary source operating permit issued pursuant to this rule. The owner or operator shall submit a complete permit application requesting coverage under the terms and conditions of an existing source operating permit issued in accordance with the permit application and all applicable rules of the Commission. The issuance of existing stationary source operating permits by the Chief shall be in accordance with all provisions of this rule including public participation provisions under Section 6.

4.4. All permit applications under this rule 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.

4.5. 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 standards, 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.

4.6. The Chief shall complete a review of any application for an existing stationary source operating permit within twelve (12) months of receipt of a complete application and either issue an operating permit or deny coverage under an existing stationary source operating permit if a determination is made that the source or some portion thereof does not comply with applicable rules of the Commission or if the Chief determines that acceptable compliance determination provisions cannot be incorporated to satisfy permit terms requested by the permit applicant.

4.7. The Chief shall review all permit 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 Chief shall act upon all applications, however, 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.

4.8. 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.

4.9. The Chief may impose any reasonable condition as part of a granted construction, modification, existing stationary source operating permit 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.

4.10. 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.

4.11. The owner or operator of any new stationary source or existing stationary 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.

4.12. Any person holding a permit issued pursuant to subsection 4.3 may make a written request to the Chief for a cancellation of such permit. If granted by the Chief, such a cancellation shall not excuse any violation of the permit terms or conditions prior to the Chief's cancellation of such permit. In no case shall such a permit cancellation become effective until the permittee and U.S. EPA are provided with a sixty (60) day written notice of such a permit cancellation.

§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. For cause, the Chief may request the owner or operator of a stationary source to 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 or applications for operating permits containing the name of the applicant, the type and location of the source, and the proposed start-up date for a proposed new stationary source, modification, or relocation. 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 in accordance with Section 6.2 and the application has been on the permit application list for at

least thirty (30) days for construction, modification, or 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, at 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, the nature of the permit being sought and the proposed start-up date for new, modified or relocated sources.

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 or modification, or the area of the existing stationary source seeking an operating permit 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 assure 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 or proposed location of the stationary source.

7.3. At a reasonable time prior to such meeting, the Chief shall provide appropriate information to news media in the area where the stationary source or proposed stationary source is located or 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 construction, modification, or relocation, if applicable, 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, at 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.

§45-13-10. Permit Application Fees.

Applications for permits required under sections 4 and 9 of this rule shall be subject to the fee provisions of section 3 of 45 CSR 22.

§45-13-11. Relationship of this Rule to Other Rules and Regulations.

11.1. 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.

11.2. Upon approval and incorporation of this rule by U.S. EPA into the West Virginia Implementation Plan under Title I of the federal Clean Air Act, any stationary source for which a permit has been issued pursuant to Commission rules implementing Title V of the federal Clean Air Act shall be exempt from the requirement to obtain permits for construction and modification under this rule.

11.3. The issuance of a valid operating permit issued in accordance with rules promulgated by the Commission pursuant to Title V of the Clean Air Act shall operate to revoke an existing stationary source operating permit issued under this rule.

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

<u>Hazardous/Toxic Pollutant</u>	<u>Potential Emission Rate pounds/year</u>
Acrylonitrile	500
Allyl Chloride	10,000
Arsenic Compounds (Inorganic).....	200
Asbestos.....	14
Benzene.....	1,000
Beryllium	0.8
1,3 Butadiene.....	500
Carbon Tetrachloride.....	1,000
Chloroform.....	1,000
Ethylene Dichloride.....	1,000
Ethylene Oxide	500
Formaldehyde.....	1,000
Lead or lead compounds.....	1,200
Mercury	200
Methylene Chloride	5,000
Propylene Oxide.....	5,000
Trichloroethylene	10,000
Vinyl chloride	1,000
Vinylidene Chloride.....	2,000