

LEGISLATIVE HISTORY ABSTRACT

45CSR13

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

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

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

FILED

45CSR13

AUG 13 4 51 PM '93

TITLE 45

LEGISLATIVE RULES
AIR POLLUTION CONTROL COMMISSION

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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 45CSR30, 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. August 13, 1993.

1.4. Effective Date. _____.

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

§45-13-2. Definitions.

2.1. "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.

400

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

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.

2.23. "Air pollution" and 'statutory air pollution' shall have the meaning ascribed to it in ~~Section two of Chapter sixteen, Article twenty of the Code of West Virginia~~ article twenty, chapter sixteen of the W. Va. Code, as amended.

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

2.46. "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.

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

2.68. "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, or 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. in the establishment of a new source or the modification of an existing source as regulated under the provisions of this rule and 45CSR14, 45CSR15, 45CSR16 or 45CSR19.

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

2.710. "Division of Environmental Protection" or "DEP" means that division of the ~~West Virginia~~ Department of Commerce, Labor and Environmental Resources which ~~is~~ created by the provisions of ~~W.V.~~ Va. Code §22-1-1, et seq.

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

2.102. "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.

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

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

2.137. "Major stationary source" means:

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

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

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

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

b. In all areas which are formally designated by ~~United States Environmental Protection Agency (USEPA)~~ 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 PM₁₀ nonattainment areas, sources which emit or have the potential to emit seventy (70) tons per year or more of PM₁₀ or PM₁₀ precursors.

2.148. "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) TPY tons per year or more of any regulated air pollutant other than a hazardous or toxic air pollutant;

b. ~~Toxic air pollutant or~~ 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--~~Also included is any emission increase~~ for which the owner or operator of a source voluntarily chooses to obtain a modification permit pursuant to this rule, even though the owner or operator is not otherwise required to do so.

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

aA. 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;

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

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

dD. 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

eE. 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.

2.159. "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.

2.1620. "Potential to emit" means the maximum design capacity of a stationary source or emissions unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source or emissions unit to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable by the Chief and USEPA in any permit or consent order. ~~Secondary emissions do not count in determining the potential to emit~~ shall not be included in any determination of a stationary sources potential to emit.

2.1721. "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 45CSR7.

2.1822. "Relocation" means the physical movement of a source outside the existing plant boundaries.

2.1923. "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 19890 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.

2.204. "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.

2.215. "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. ~~Emits~~Discharges or has the potential to ~~emit~~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) or lead and/or compounds containing lead; or listed in Table 45-13B in the amounts shown in Table 45-13B or greater; or

~~d.----Discharges or may discharge any of the hazardous air pollutants listed in Table 45-13C.~~

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.

2.226. "Toxic air pollutant" means any of the following chemical 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.

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

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

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

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

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

45CSR14 or 45CSR19 depending upon the air pollutants involved and the attainment status of the area in which the source or modification would occur. A source subject to 45CSR14 or 45CSR19 is not subject to the requirements of this rule.

~~4.2. Not later than one hundred eighty (180) days for construction or modification of a stationary source; or forty five (45) days for relocation of a stationary source; prior to the time that such construction, modification, or relocation is commenced; the owner or operator of the source shall file with the Chief a permit application on a permit application form available from the Chief. 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~~him 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. EachAll 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.

4.45. 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 such 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.

4.58. 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.

4.69. 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.

4.710. 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.

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

§45-13-6. Public Review Procedures.

6.1. The Chief shall maintain for public review a permit application list of proposed new stationary sources, source modifications, or relocations 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 ~~(twenty-five (25) days for source relocation)~~ in accordance with Section 6.2 and the application has been on the permit application list for at least thirty (30) days for construction, ~~or modification, or twenty-five (25) days for relocation.~~

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

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

§45-13-10. 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 45CSR22.

§45-13-101. -~~Conflict With~~Relationship of this Rule to Other Rules and Regulations.

101.1. 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

TABLE-45-13B-

HAZARDOUS-AIR-POLLUTANTS

--CAS	-106445	--p-Cresol
--Number	--98828	--Cumene
--75070	--94757	--2,4-D,-salts-and
--60355		-----esters
--75058	3547044	--BBE
--98862	-334883	--Diazomethane
--53963	-132649	--Dibenzofurans
-107028	--96128	--1,2-Dibromo-3
--79061		-chloropropane
--79107	--84742	--Dibutylphthalate
-107131	-106467	--1,4-
-107051		Dichlorobenzene(p)
--92671	--91941	--3,3-Dichlorobenzidene
--62533	-111444	--Dichloroethyl-ether
--90040		(Bis(2-chloroethyl)
1332214		ether)
--71432	-542756	--1,3-Dichloropropene
	--62737	--Dichlorvos
-----gasoline)	-111422	--Diethanolamine
--92875	-121697	--N,N-Diethyl-aniline
--98077		(N,N-Dimethylaniline)
-100447	--64675	--Diethyl-sulfate
--92524	-119904	--3,3-
-117817		Dimethoxybenzidine
-542881	--60117	--Dimethyl
		aminoazobenzene
--75252	-119937	--3,3-Dimethyl
-106990		benzidine
-156627	--79447	--Dimethyl-carbamoyl
-105602		chloride
-133062	--68122	--Dimethyl-formamide
--63252	--57147	--1,1-Dimethyl
--75150		hydrazine
--56235	-131113	--Dimethyl-phthalate
-463581	--77781	--Dimethyl-sulfate
-120809	-534521	--4,6-Dinitro-o-cresol,
-133904		and-salts
--57749	--51285	--2,4-Dinitrophenol
7702505	-121142	--2,4-Dinitrotoluene
--79118	-123911	--1,4-Dioxane
-532274		(1,4-Diethyleneoxide)
-108907	-122667	--1,2-Diphenylhydrazine
-510156	-106898	--Epichlorohydrin-(1-
--67663		Chloro-2,3-
-107302		epoxypropene)
	-106887	--1,2-Epoxybutane
-126998	-140885	--Ethyl-acrylate
1319773	-100414	--Ethyl-benzene
--95487	--51796	--Ethyl-carbamate
-108394		(Urethane)
	--75003	--Ethyl-chloride
		(Chloroethane)

-106934---Ethylene-dibromide (Dibromoethane)	--75092---Methylene-chloride (Dichloromethane)
-107062---Ethylene-dichloride (1,2-Dichloroethane)	-101688---Methylene-diphenyl diisocyanate-(MDI)
-107211---Ethylene-glycol	-101779---4,4'- Methylenedianiline
-151564---Ethylene----imine (Aziridine)	--91203---Naphthalene
--75218---Ethylene-oxide	--98953---Nitrobenzene
--96457---Ethylene-thiourea	--92933---4-Nitrobiphenyl
--75343---Ethylidene dichloride (1,1-Dichloroethane)	-100027---4-Nitrophenol
--50000---Formaldehyde	--79469---2-Nitropropane
--76448---Heptachlor	-684935---N-Nitroso-N- methylurea
-118741---Hexachlorobenzene	--62759---N- Nitrosodimethylamine
--87683---Hexachlorobutadiene	--59892---N-Nitrosomorpholine
--77474---Hexachlorocyclo- pentadiene	--56382---Parathion
--67721---Hexachloroethane	--82688---Pentachloro- nitrobenzene (Quintobenzene)
-822060---Hexamethylene-1,6- diisocyanate	--87865---Pentachlorophenol
-680319---Hexamethyl- phosphoramidate	-108952---Phenol
-110543---Hexane	-106503---p-Phenylenediamine
-302012---Hydrazine	--75445---Phosgene
7647010---Hydrochloric-acid	7803512---Phosphine
7664393---Hydrogen-fluoride (Hydrofluoric-acid)	7723140---Phosphorus
-123319---Hydroquinone	--85449---Phthalic-anhydride
--78591---Isophorone	1336363---Polychlorinated biphenyls-(Aroclors)
--58899---Lindane (all-isomers)	1120714---1,3-Propane-sultone
-108316---Maleic-anhydride	--57578---beta-Propiolactone
--67561---Methanol	-123386---Propionaldehyde
--72435---Methoxychlor	-114261---Propoxur-(Baygon)
--74839---Methyl-bromide (Bromomethane)	--78875---Propylene-dichloride (1,2-Dichloropropane)
--74873---Methyl-chloride (Chloromethane)	--75569---Propylene-oxide
--71556---Methyl-chloroform (1,1,1-Trichloroethane)	--75558---1,2-Propylenimine (2-Methyl-aziridine)
--78933---Methyl-ethyl-ketone (2-Butanone)	--91225---Quinoline
--60344---Methyl-hydrazine	-106514---Quinone
--74884---Methyl-iodide (Iodomethane)	-100425---Styrene
-108101---Methyl-isobutyl ketone (Hexone)	--96093---Styrene-oxide
-624839---Methyl-isocyanate	1746016---2,3,7,8- Tetrachlorodibenzo-p- dioxin
--80626---Methyl-methacrylate	--79345---1,1,2,2- Tetrachloroethane
1634044---Methyl-tert-butyl ether	-127184---Tetrachloroethylene (Perchloroethylene)
-101144---4,4-Methylene-bis (2-chloroaniline)	7550450---Titanium tetrachloride
	-108883---Toluene
	--95807---2,4-Toluene-diamine
	-584849---2,4-Toluene

diisocyanate
 --95534---o-Toluidine
 8001352---Toxaphene
 (chlorinated
 camphene)
 -120821---1,2,4-
 Trichlorobenzene
 --79005---1,1,2-Trichloroethane
 --79016---Trichloroethylene
 --95954---2,4,5-Trichlorophenol
 --80062---2,4,6-Trichlorophenol
 -121448---Triethylamine
 1582098---Trifluralin
 -540841---2,2,4-
 Trimethylpentane
 -108054---Vinyl-acetate
 -593602---Vinyl-bromide
 --75014---Vinyl-chloride
 --75354---Vinylidene-chloride
 (1,1-
 Dichloroethylene)
 1330207---Xylenes-(isomers-and
 mixture)
 --95476---o-Xylenes
 -108383---m-Xylenes
 -106423---p-Xylenes
 -----0---Antimony-Compounds
 -----0---Arsenic-Compounds
 (inorganic-including
 arsine)
 -----0---Beryllium-Compounds
 -----0---Cadmium-Compounds
 -----0---Chromium-Compounds
 -----0---Cobalt-Compounds
 -----0---Coke-Oven-Emissions¹
 -----0---Cyanide-Compounds²
 -----0---Glycol-ethers²
 -----0---Lead-Compounds
 -----0---Manganese-Compounds
 -----0---Mercury-Compounds
 -----0---Fine-mineral-fibers³
 -----0---Nickel-Compounds
 -----0---Polycyclic-Organic
 Matter⁴
 -----0---Radionuclides
 (including-radon)⁵
 -----0---Selenium-Compounds

NOTE:-----For all listings above which contain the word "compounds" and for glycol ethers, the following applies:--Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemicals (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

¹X¹CN where X = H¹ or any other group where a formal dissociation may occur.--For example KCN or Ca(CN)₂

²Includes mono and di ethers of ethylene glycol, diethylene glycol, and triethylene glycol-R-(OCH₂CH₂)_n-OR¹ where

n-----1, 2, or 3

R-----alkyl or aryl groups

R¹-----R, H, or groups which, when removed, yield glycol ethers with the structure:--R-(OCH₂CH₂)_n-OH.--Polymers are excluded from the glycol category.

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

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

⁵A type of atom which spontaneously undergoes radioactive decay.

SENATE BILL NO. 149

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

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

5 [

6 Emergency

7
8
9
10 A BILL to amend and reenact section one, article three, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 air pollution control commission to promulgate legislative
14 rules relating to permits for construction, modification,
15 relocation and operation of stationary sources of air
16 pollutants, notification requirements, temporary permits,
17 general permits, and procedures for evaluation.

18 Be it enacted by the Legislature of West Virginia:

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

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

24 §64-3-1. Air pollution control commission.

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

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

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

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

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

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

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

10 Such rules shall also include a section which shall read as
11 follows:

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

21 (f) The legislative rules filed in the state register on the
22 ninth day of January, one thousand nine hundred eighty-four,
23 relating to the air pollution control commission (permits for
24 construction and modification of stationary sources of air

1 pollution for the prevention of significant deterioration)
2 (series XIV), are authorized.

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

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

20 (i) The legislative rules filed in the state register on the
21 thirtieth day of December, one thousand nine hundred
22 eighty-eight, modified by the air pollution control commission to
23 meet the objections of the legislative rule-making review
24 committee and refiled in the state register on the twenty-third
25 day of February, one thousand nine hundred eighty-nine, relating

1 to the air pollution control commission (TP-2, compliance test
2 procedures for regulation 2 -- to prevent and control particulate
3 air pollution from combustion of fuel in indirect heat
4 exchangers), are authorized.

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

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

21 (l) The legislative rules filed in the state register on the
22 sixth day of September, one thousand nine hundred eighty-nine,
23 modified by the air pollution control commission to meet the
24 objections of the legislative rule-making review committee and
25 refiled in the state register on the tenth day of January, one

1 thousand nine hundred ninety, relating to the air pollution
2 control commission (permits for construction and major
3 modification of major stationary sources of air pollution for
4 the prevention of significant deterioration), are authorized.

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

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

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

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

1 (q) The legislative rules filed in the state register on the
2 thirteenth day of August, one thousand nine hundred ninety,
3 modified by the air pollution control commission to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the fifteenth day of November,
6 one thousand nine hundred ninety, relating to the air pollution
7 control commission (air quality management fee program), are
8 authorized.

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

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

20 (t) The legislative rules filed in the state register on the
21 eighteenth day of December, one thousand nine hundred ninety-one,
22 modified by the air pollution control commission to meet the
23 objections of the legislative rule-making review committee and
24 refiled in the state register on the fifteenth day of December,
25 one thousand nine hundred ninety-two, relating to the air

1 pollution control commission (regulations to prevent and control
2 air pollution from the emission of volatile organic compounds),
3 are authorized with the amendments set forth below:

4 "On page 26, subsection §45-21-9.2, by striking all of
5 §45-21-9.2 and inserting in lieu thereof a new §45-21-9.2, to
6 read as follows:

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

18 And,

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

24 And,

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

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

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

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

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

24 (x) The legislative rules filed in the state register on the
25 twenty-eighth day of August, one thousand nine hundred

1 ninety-two, modified by the air pollution control commission to
2 meet the objections of the legislative rule-making review
3 committee and refiled in the state register on the nineteenth day
4 of February, one thousand nine hundred ninety-three, relating to
5 the air pollution control commission (regulations to prevent and
6 control air pollution from the operation of coal preparation
7 plants and coal handling operations), are authorized.

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

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

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

1 committee and refiled in the state register on the nineteenth day
2 of February, one thousand nine hundred ninety-three, relating to
3 the air pollution control commission (requiring the submission of
4 emission statements for volatile organic compound emissions and
5 oxides of nitrogen emissions), are authorized with the amendments
6 set forth below:

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

9 (aa) The legislative rules filed in the state register on the
10 thirteenth day of August, one thousand nine hundred ninety-three,
11 relating to the air pollution control commission (permits for
12 construction, modification, relocation and operation of
13 stationary sources of air pollutants, notification requirements,
14 temporary permits, general permits, and procedures for
15 evaluation) are authorized.

16
17 NOTE: The purpose of this bill is to authorize the Air
18 Pollution Control Commission to promulgate legislative rules
19 relating to permits for construction, modification, relocation
20 and operation of stationary sources of air pollutants,
21 notification requirements, temporary permits, general permits,
22 and procedures for evaluation.

23
24 Strike-throughs indicate language that would be stricken from
25 the present law, and underscoring indicates new language that
26 would be added.

757A

BI

1
2
3
4
5
6
7
8
9

H. B. 4222

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

10 A BILL to amend and reenact section one, article three, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 air pollution control commission to promulgate legislative
14 rules relating to permits for construction, modification,
15 relocation and operation of stationary sources of air
16 pollutants, notification requirements, temporary permits,
17 general permits, and procedures for evaluation.

18 Be it enacted by the Legislature of West Virginia:

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

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

24 §64-3-1. Air pollution control commission.

4222

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

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

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

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

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

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

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

10 Such rules shall also include a section which shall read as
11 follows:

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

21 (f) The legislative rules filed in the state register on the
22 ninth day of January, one thousand nine hundred eighty-four,
23 relating to the air pollution control commission (permits for
24 construction and modification of stationary sources of air

1 pollution for the prevention of significant deterioration)
2 (series XIV), are authorized.

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

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

20 (i) The legislative rules filed in the state register on the
21 thirtieth day of December, one thousand nine hundred
22 eighty-eight, modified by the air pollution control commission to
23 meet the objections of the legislative rule-making review
24 committee and refiled in the state register on the twenty-third
25 day of February, one thousand nine hundred eighty-nine, relating

1 to the air pollution control commission (TP-2, compliance test
2 procedures for regulation 2 -- to prevent and control particulate
3 air pollution from combustion of fuel in indirect heat
4 exchangers), are authorized.

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

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

21 (l) The legislative rules filed in the state register on the
22 sixth day of September, one thousand nine hundred eighty-nine,
23 modified by the air pollution control commission to meet the
24 objections of the legislative rule-making review committee and
25 refiled in the state register on the tenth day of January, one

1 thousand nine hundred ninety, relating to the air pollution
2 control commission (permits for construction and major
3 modification of major stationary sources of air pollution for
4 the prevention of significant deterioration), are authorized.

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

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

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

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

1 (q) The legislative rules filed in the state register on the
2 thirteenth day of August, one thousand nine hundred ninety,
3 modified by the air pollution control commission to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the fifteenth day of November,
6 one thousand nine hundred ninety, relating to the air pollution
7 control commission (air quality management fee program), are
8 authorized.

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

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

20 (t) The legislative rules filed in the state register on the
21 eighteenth day of December, one thousand nine hundred ninety-one,
22 modified by the air pollution control commission to meet the
23 objections of the legislative rule-making review committee and
24 refiled in the state register on the fifteenth day of December,
25 one thousand nine hundred ninety-two, relating to the air

1 pollution control commission (regulations to prevent and control
2 air pollution from the emission of volatile organic compounds),
3 are authorized with the amendments set forth below:

4 "On page 26, subsection §45-21-9.2, by striking all of
5 §45-21-9.2 and inserting in lieu thereof a new §45-21-9.2, to
6 read as follows:

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

18 And,

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

24 And,

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

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

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

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

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

24 (x) The legislative rules filed in the state register on the
25 twenty-eighth day of August, one thousand nine hundred

1 ninety-two, modified by the air pollution control commission to
2 meet the objections of the legislative rule-making review
3 committee and refiled in the state register on the nineteenth day
4 of February, one thousand nine hundred ninety-three, relating to
5 the air pollution control commission (regulations to prevent and
6 control air pollution from the operation of coal preparation
7 plants and coal handling operations), are authorized.

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

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

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

1 committee and refiled in the state register on the nineteenth day
2 of February, ~~one thousand nine hundred ninety-three~~, relating to
3 the air pollution control commission (requiring the submission of
4 emission statements for volatile organic compound emissions and
5 oxides of nitrogen emissions), are authorized with the amendments
6 set forth below:

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

9 (aa) The legislative rules filed in the state register on the
10 thirteenth day of August, one thousand nine hundred ninety-three,
11 relating to the air pollution control commission (permits for
12 construction, modification, relocation and operation of
13 stationary sources of air pollutants, notification requirements,
14 temporary permits, general permits, and procedures for
15 evaluation) are authorized.

16
17 NOTE: The purpose of this bill is to authorize the Air
18 Pollution Control Commission to promulgate legislative rules
19 relating to permits for construction, modification, relocation
20 and operation of stationary sources of air pollutants,
21 notification requirements, temporary permits, general permits,
22 and procedures for evaluation.

23
24 Strike-throughs indicate language that would be stricken from
25 the present law, and underscoring indicates new language that
26 would be added.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

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

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

March 18, 1994

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

SB 1005 authorizing, Title 45, Series 13, Permits for Construction, Modification, Relocation & Operation of Stationary Sources of Air Pollutants, etc., passed the Legislature on March 16, 1994
. It is now awaiting the Governor's signature.

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

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

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

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

Thank You
Administrative Law Division



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000

STATE OF WEST VIRGINIA

SECRETARY OF STATE

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

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

TO: Tammy Mowrer

AGENCY: APCC

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: July 1, 1994

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

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

SERIES: 13 TITLE: 45 APCC

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

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

SIGNED: Danica S. Mowrer

TITLE OF PERSON SIGNING: Administrative Secretary

DATE: July 19, 1994

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