

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR15 - Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61

Type of Rule: X Legislative Interpretive Procedural

Agency: Office of Air Quality

Address: 1558 Washington Street, East
Charleston, WV 25311-2599

1. Effect of Proposed Rule	Annual		Fiscal Year		
	Increase	Decrease	Current	Next	There-after
Estimated Total Cost	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Personal Services	-0-	-0-	-0-	-0-	-0-
Current Expense	-0-	-0-	-0-	-0-	-0-
Repairs and Alterations	-0-	-0-	-0-	-0-	-0-
Equipment	-0-	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-

2. Explanation of above estimates: The above estimates reflect that there will be no anticipated changes in costs to administer 45CSR15 (currently in effect) as a result of the changes to federal rules under 40CFR61 since WVDEP's last update to 45CSR15. WVDEP/OAQ anticipates that most costs associated with state implementation of the federal rules under 40CFR61 will be covered (after EPA approval of the Title V permit program) by fees collected pursuant to 45CSR30 authorized by the legislature in 1994. These fees and the associated budget analyses were incorporated into the fiscal note for 45CSR30. WVDEP/OAQ anticipates EPA approval or interim approval of its Title V program (45CSR30) in the latter part of 1994 or early 1994 (FY'95) prior to or at the time of legislative authorization of the proposed 45CSR15 amendments. With respect to those minor facilities subject to 45CSR15 which are eventually deferred or exempted from 45CSR30 requirements, OAQ oversight costs will not be funded by the fee program and would have to be paid from general revenue funds, non-Title V fees and federal grant awards. In the event that sufficient funding is not available from such sources to cover the costs of regulating non-Title V sources, WVDEP would request that EPA withdraw its delegation of authority to the state to enforce the federal standards.

Appendix B
Fiscal Note For Proposed Rules
Page Two

3. Objectives of these rules: This rule incorporates by reference emission standards for hazardous air pollutants promulgated by the USEPA in 40 CFR Part 61. Promulgation of this rule by the Legislature is necessary for the State to fulfill its responsibilities under the Clean Air Act, as amended.


4. Explanation of overall economic impact of proposed rule.
 - A. Economic impact on state government.
See Section 2.

 - B. Economic impact on political subdivisions; specific industries; specific groups of citizens.
No impact above that resulting from the currently applicable federal emission standards.

 - C. Economic impact on citizens/public at large.
No impact above that resulting from the currently applicable federal emission standards.

Date: August 12, 1994

Signature of agency head or authorized representative:



G. Dale Farley
Chief, Office of Air Quality

DATE: August 12, 1994
TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
FROM: G. DALE FARLEY
CHIEF, OFFICE OF AIR QUALITY

LEGISLATIVE RULE TITLE: 45CSR15 - "Emission Standards for Hazardous Air
Pollutants"

1. Authorizing statute(s) citation W. Va. Code §§22-5-1 et seq.

2. a. Date filed in State Register with Notice of Hearing:
June 23, 1994

- b. What other notice, including advertising, did you give of the hearing?
Class I 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 29, 1994

- 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 12, 1994

- 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 _____

45CSR15

EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS
PURSUANT TO 40 CFR PART 61

SUMMARY

This rule adopts emission standards for hazardous air pollutants promulgated by the United States Environmental Protection Agency under the federal Clean Air Act, as amended, and 40 CFR Part 61. It is the intent of the Director to adopt these standards by reference. It is also the intent of the Director to adopt associated reference methods, performance specifications and other test methods which are appended to such standards.

No person may construct, modify, or operate, or cause to be constructed, modified, or operated any National Emission Standards for Hazardous Air Pollutants (NESHAP) source which results, or will result, in a violation of this rule.

Promulgation of this rule by the Legislature is necessary for West Virginia to fulfill its responsibilities under the federal Clean Air Act, as amended.

45CSR15

EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS
PURSUANT TO 40 CFR PART 61

STATEMENT OF CIRCUMSTANCE

This rule adopts emission standards for hazardous air pollutants promulgated by the United States Environmental Protection Agency under the federal Clean Air Act, as amended.

No person may construct, reconstruct, modify, or operate, or cause to be constructed, modified, or operated any National Emissions Standards for Hazardous Air Pollutants (NESHAP) source which results, or will result in a violation of this rule.

Promulgation of this rule by the Legislature is necessary for the State to fulfill its responsibilities under the Clean Air Act, as amended.

45CSR15

TITLE 45
LEGISLATIVE RULES
~~WEST-VIRGINIA-AIR-POLLUTION-CONTROL-COMMISSION~~
BUREAU OF ENVIRONMENT
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

SERIES 15
EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS
PURSUANT TO 40 CFR PART 61

§45-15-1. General.

1.1. Scope. -- This rule adopts emission standards for hazardous air pollutants promulgated by the United States Environmental Protection Agency under the federal Clean Air Act, as amended. It is the intent of the ~~Commission~~ Director to adopt these standards by reference. It is also the intent of the ~~Commission~~ Director to adopt associated reference methods, performance specifications and other test methods which are appended to such standards.

1.2. Authority -- W. Va. Code ~~§16-20-5~~ §22-5-1 et seq.

1.3. Filing Date -- ~~August 13, 1993~~

1.4. Effective Date -- ~~April 27, 1994~~

1.5. Incorporation by Reference -- Federal Counterpart Regulation. The Director has determined that a federal counterpart regulation exists and should be incorporated by reference.

1.6. Determination of Stringency -- Federal Counterpart Regulation. This rule incorporates, with limited exceptions, the federal counterpart rule by reference and is no more or no less stringent than the federal counterpart regulation.

1.7. Constitutional Takings Determination -- The Director has determined that this rule will not result in a constitutional taking of real property.

§45-15-2. Requirements.

2.1. No person may construct, reconstruct, modify, or operate, or cause to be constructed, modified, or operated any National Emission Standards for Hazardous Air Pollutants (NESHAP) source which results, or will result, in a violation of this regulation rule.

§45-15-3. Adoption of Standards.

3.1. Standards. -- Emission standards for hazardous air pollutants including associated reference methods, performance specifications and other test methods which are appended to such standards promulgated by the United States Environmental Protection Agency pursuant to 42 U.S.C. 7412 (C.A.A. §112) of the Federal Clean Air Act, as amended, as of ~~May 1, 1993~~ July 1, 1994, and contained in 40 CFR Part 61 are hereby adopted in their entirety and incorporated herein by reference, except as follows:

45CSR15

a. Part 61.6 is amended to provide that information shall be available to the public in accordance with W. Va. Code ~~§1622-205-1~~ et seq., W. Va. Code §29B-1-1 et seq., and 45CSR31.

b. Sub-parts B, H, I, K, Q, R, T, and W; Methods 111, 114, 115 and Appendix D and E of 40 CFR Part 61 shall be excluded.

§45-15-4. Chief Director.

4.1. Any and all references in said 40 CFR Part 61 to the "Administrator" is amended to be the "Chief Director" ~~of the Office of Air Quality of the West Virginia Division of Environmental Protection~~ except in the following references which such references shall remain "Administrator of the United States Environmental Protection Agency":

a. Part 61.02.

b. Part 61.04.

c. Part 61.11.

d. Part 61.14.

§45-15-5. Permits.

5.1. Nothing contained in this adoption by reference shall be construed or inferred to mean that permit requirements in accordance with applicable rules shall in any way be limited or inapplicable.

§45-15-6. Inconsistency Between Regulations Rules.

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

§45-15-7. Severability.

7.1. The provisions of this rule are severable and if any provisions or part thereof shall be held invalid, unconstitutional, or inapplicable to any person or circumstance; such invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sections, or parts of this rule; or their application to any persons or circumstances.

REGULATION 15 ATTACHMENT

time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(d) If an owner or operator of an affected facility in a State with delegated authority is required to submit periodic reports under this part to the State, and if the State has an established timeline for the submission of periodic reports that is consistent with the reporting frequency(ies) specified for such facility under this part, the owner or operator may change the dates by which periodic reports under this part shall be submitted (without changing the frequency of reporting) to be consistent with the State's schedule by mutual agreement between the owner or operator and the State. The allowance in the previous sentence applies in each State beginning 1 year after the affected facility is required to be in compliance with the applicable subpart in this part. Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(e) If an owner or operator supervises one or more stationary sources affected by standards set under this part and standards set under part 61, part 63, or both such parts of this chapter, he/she may arrange by mutual agreement between the owner or operator and the Administrator (or the State with an approved permit program) a common schedule on which periodic reports required by each applicable standard shall be submitted throughout the year. The allowance in the previous sentence applies in each State beginning 1 year after the stationary source is required to be in compliance with the applicable subpart in this part, or 1 year after the stationary source is required to be in compliance with the applicable 40 CFR part 61 or part 63 of this chapter standard, whichever is latest.

Procedures governing the implementation of this provision are specified in paragraph (f) of this section.

(f)(1)(i) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (f)(2) and (f)(3) of this section, the owner or operator of an affected facility remains strictly subject to the requirements of this part.

(ii) An owner or operator shall request the adjustment provided for in paragraphs (f)(2) and (f)(3) of this section each time he or she wishes to change an applicable time period or postmark deadline specified in this part.

(2) Notwithstanding time periods or postmark deadlines specified in this

part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(3) If, in the Administrator's judgment, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(4) If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

6. The authority citation for part 61 continues to read as follows:

Authority: Sections 101, 112, 114, 116, and 301 of the Clean Air Act as amended (42 U.S.C. 7401, 7412, 7414, 7416, 7601).

7. Section 61.01 is amended by adding paragraph (d) to read as follows:

§ 61.01 List of pollutants and applicability of part 61.

(d) In addition to complying with the provisions of this part, the owner or operator of a stationary source subject to a standard in this part may be required to obtain an operating permit issued to stationary sources by an authorized State air pollution control agency or by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to title V of the Clean Air Act (Act) as amended November 15, 1990 (42 U.S.C. 7661). For more information about obtaining an operating permit see part 70 of this chapter.

8. Section 61.02 is amended by adding in alphabetical order the

definitions: "Approved permit program," "Issuance," "Part 70 permit," "Permit program," "Permitting authority," "State," and "Title V permit" to read as follows:

§ 61.02 Definitions.

Approved permit program means a State permit program approved by the Administrator as meeting the requirements of part 70 of this chapter or a Federal permit program established in this chapter pursuant to title V of the Act (42 U.S.C. 7661).

Issuance of a part 70 permit will occur, if the State is the permitting authority, in accordance with the requirements of part 70 of this chapter and the applicable, approved State permit program. When the EPA is the permitting authority, issuance of a title V permit occurs immediately after the EPA takes final action on the final permit.

Part 70 permit means any permit issued, renewed, or revised pursuant to part 70 of this chapter.

Permit program means a comprehensive State operating permit system established pursuant to title V of the Act (42 U.S.C. 7661) and regulations codified in part 70 of this chapter and applicable State regulations; or a comprehensive Federal operating permit system established pursuant to title V of the Act and regulations codified in this chapter.

Permitting authority means:

(1) The State air pollution control agency, local agency, other State agency, or other agency authorized by the Administrator to carry out a permit program under part 70 of this chapter; or

(2) The Administrator, in the case of EPA-implemented permit programs under title V of the Act (42 U.S.C. 7661).

State means all non-Federal authorities, including local agencies, interstate associations, and State-wide programs, that have delegated authority to implement:

(1) The provisions of this part; and/or

(2) The permit program established under part 70 of this chapter. The term State shall have its conventional meaning where clear from the context.

Title V permit means any permit issued, renewed, or revised pursuant to Federal or State regulations established to implement title V of the Act (42 U.S.C. 7661). A title V permit issued by

a State permitting authority is called a part 70 permit in this part.

9. Section 61.10 is amended by adding paragraphs (e) through (j) to read as follows:

§ 61.10 Source reporting and waiver request.

(e) For the purposes of this part, time periods specified in days shall be measured in calendar days, even if the word "calendar" is absent, unless otherwise specified in an applicable requirement.

(f) For the purposes of this part, if an explicit postmark deadline is not specified in an applicable requirement for the submittal of a notification, application, report, or other written communication to the Administrator, the owner or operator shall postmark the submittal on or before the number of days specified in the applicable requirement. For example, if a notification must be submitted 15 days before a particular event is scheduled to take place, the notification shall be postmarked on or before 15 days preceding the event; likewise, if a notification must be submitted 15 days after a particular event takes place, the notification shall be postmarked on or before 15 days following the end of the event. The use of reliable non-Government mail carriers that provide indications of verifiable delivery of information required to be submitted to the Administrator, similar to the postmark provided by the U.S. Postal Service, or alternative means of delivery agreed to by the permitting authority, is acceptable.

(g) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. Procedures governing the implementation of this provision are specified in paragraph (j) of this section.

(h) If an owner or operator of a stationary source in a State with delegated authority is required to submit reports under this part to the State, and if the State has an established timeline for the submission of reports that is consistent with the reporting frequency(ies) specified for such source under this part, the owner or operator may change the dates by which reports under this part shall be submitted (without changing the frequency of reporting) to be consistent with the

State's schedule by mutual agreement between the owner or operator and the State. The allowance in the previous sentence applies in each State beginning 1 year after the source is required to be in compliance with the applicable subpart in this part. Procedures governing the implementation of this provision are specified in paragraph (j) of this section.

(i) If an owner or operator supervises one or more stationary sources affected by standards set under this part and standards set under part 60, part 63, or both such parts of this chapter, he/she may arrange by mutual agreement between the owner or operator and the Administrator (or the State with an approved permit program) a common schedule on which reports required by each applicable standard shall be submitted throughout the year. The allowance in the previous sentence applies in each State beginning 1 year after the source is required to be in compliance with the applicable subpart in this part, or 1 year after the source is required to be in compliance with the applicable part 60 or part 63 standard, whichever is latest. Procedures governing the implementation of this provision are specified in paragraph (j) of this section.

(j)(1)(i) Until an adjustment of a time period or postmark deadline has been approved by the Administrator under paragraphs (j)(2) and (j)(3) of this section, the owner or operator of an affected source remains strictly subject to the requirements of this part.

(ii) An owner or operator shall request the adjustment provided for in paragraphs (j)(2) and (j)(3) of this section each time he or she wishes to change an applicable time period or postmark deadline specified in this part.

(2) Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to the Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place. The owner or operator shall include in the request whatever information he or she considers useful to convince the Administrator that an adjustment is warranted.

(3) If, in the Administrator's judgment, an owner or operator's

request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an adjustment within 15 calendar days of receiving sufficient information to evaluate the request.

(4) If the Administrator is unable to meet a specified deadline, he or she will notify the owner or operator of any significant delay and inform the owner or operator of the amended schedule.

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

10. The authority citation for part 63 continues to read as follows:

Authority: Sections 101, 112, 114, 116, and 301 of the Clean Air Act as amended by Pub. L. 101-549 (42 U.S.C. 7401, 7412, 7414, 7416, 7501).

11. Part 63 is amended by adding subpart A to read as follows:

Subpart A—General Provisions

Sec.

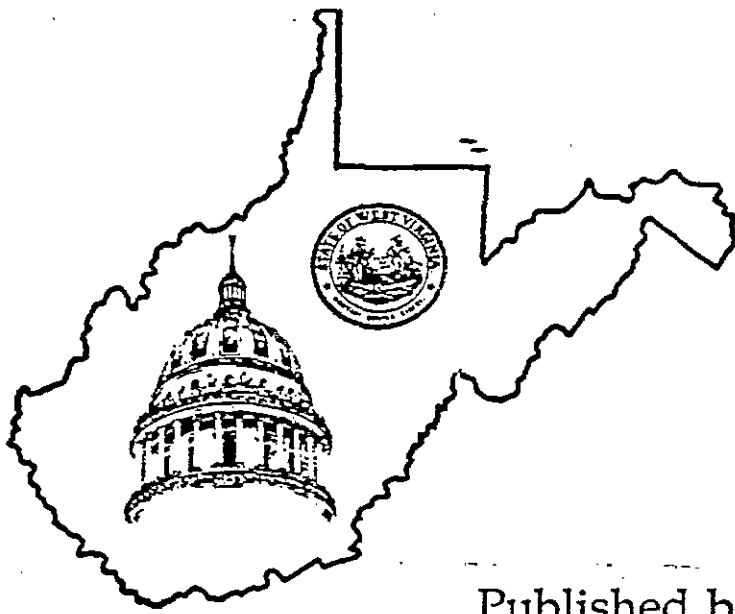
- 63.1 Applicability.
- 63.2 Definitions.
- 63.3 Units and abbreviations.
- 63.4 Prohibited activities and circumvention.
- 63.5 Construction and reconstruction.
- 63.6 Compliance with standards and maintenance requirements.
- 63.7 Performance testing requirements.
- 63.8 Monitoring requirements.
- 63.9 Notification requirements.
- 63.10 Recordkeeping and reporting requirements.
- 63.11 Control device requirements.
- 63.12 State authority and delegations.
- 63.13 Addresses of State air pollution control agencies and EPA Regional Offices.
- 63.14 Incorporations by reference.
- 63.15 Availability of information and confidentiality.

Subpart A—General Provisions

§ 63.1 Applicability.

(a) General. (1) Terms used throughout this part are defined in § 63.2 or in the Clean Air Act (Act) as amended in 1990, except that individual subparts of this part may include specific definitions in addition to or that supersede definitions in § 63.2.

(2) This part contains national emission standards for hazardous air pollutants (NESHAP) established pursuant to section 112 of the Act as amended November 15, 1990. These standards regulate specific categories of stationary sources that emit (or have the potential to emit) one or more



Reg 15

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CONTENTS

Volume XI

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A Weekly Publication

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- I. Chronological Index*
- II. Open Government Meetings Listing*
- III. Price List*
- IV. Rule Monitor*
- V. Notices*
 - a. Legislative Rules*
 - b. Interpretive Rules*
 - c. Procedural Rules*
 - d. Emergency Rules*
 - e. Legislative Rule-Making Review Committee*
- VI. Legislative Interims*
- VII. Orders*
- IX. Ethics Commission Opinions*
- 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

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OFFICE OF THE SECRETARY OF STATE

Form #1

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Division of Environmental Protection TITLE NUMBER: 43
RULE TYPE: Legislative; CITE AUTHORITY W. Va. Code §§22-5-1 et seq.
AMENDMENT TO AN EXISTING RULE: YES NO
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 13
TITLE OF RULE BEING AMENDED: Emission Standards for Hazardous Air
Pollutants Pursuant to 40 CFR Part 61

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

DATE OF PUBLIC HEARING: July 29, 1994 TIME: 9:00 am
LOCATION OF PUBLIC HEARING: WDEP - Office of Air Quality
1558 Washington Street East
Charleston WV 25311

COMMENTS LIMITED TO: ORAL _____, WRITTEN _____, BOTH
COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Office of Air Quality
1558 Washington Street
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
[Signature]
Authorized Signature

LEGISLATIVE

SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

JUN 21 4 13 PM '94

OFFICE OF THE SECRETARY OF STATE

Form #1

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Division of Environmental Protection TITLE NUMBER: 45
RULE TYPE: Legislative; CITE AUTHORITY W. Va. Code §§22-5-1 et seq.
AMENDMENT TO AN EXISTING RULE: YES NO
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 14
TITLE OF RULE BEING AMENDED: Permits for Construction and Major
Modification of Major Stationary Sources of Air Pollution for the
Prevention of Significant Deterioration

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

DATE OF PUBLIC HEARING: July 29, 1994 TIME: 9:00 am
LOCATION OF PUBLIC HEARING: WDEP - Office of Air Quality
1558 Washington Street East
Charleston WV 25311

COMMENTS LIMITED TO: ORAL _____, WRITTEN _____, BOTH
COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Office of Air Quality
1558 Washington Street
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
[Signature]
Authorized Signature

836

836

Proposed Rules Filed for Public Hearing

HEARING/COMMENT PERIOD/LOCATION

AUTHORITY

RULE/TYPE

AGENCY

Env Protection Air Quality (45-14)	Permits for Construction & Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration Legislative	§22-5-1	July 29, 1994, 9:00 a.m. WVDEP - Office of Air Quality 1558 Washington Street, E Charleston, WV 25311 Written Comments to: Office of Air Quality 1558 Washington Street E Charleston, WV 25311
Env Protection Air Quality (45-15)	Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61 Legislative	§22-5-1	July 29, 1994, 9:00 a.m. Hearing & Comments Same as Above
Env Protection Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	§22-5-1	July 29, 1994, 9:00 a.m. Hearing & Comments Same as Above
Env Protection Air Quality (45-19)	Requirements for Pre-Construction Review, Deter- mination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants & Emission Trading for Intrasource Pollutants Legislative	§22-5-1	July 29, 1994, 9:00 a.m. Hearing & Comments Same as Above
Env Protection Air Quality (45-33)	Acid Rain Provisions & Permits Legislative	§22-5-1	July 29, 1994, 9:00 a.m. Hearing & Comments Same as Above
Env Protection Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 63 Legislative	§22-5-1	July 29, 1994, 9:00 a.m. Hearing & Comments Same as Above



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CONTENTS

- I. Chronological Index*
- II. Open Government Meetings Listing*
- III. Price List*
- IV. Rule Monitor*
- V. Notices*
 - a. Legislative Rules*
 - b. Interpretive Rules*
 - c. Procedural Rules*
 - d. Emergency Rules*
 - e. Legislative Rule-Making Review Committee*
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OTHER

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

- 45CSR14 - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).
- 45CSR15 - Emission Standards for Hazardous Air Pollutants (Amendment).
- 45CSR16 - Standards of Performance for New Stationary Sources (Amendment).
- 45CSR19 - Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intraresource Pollutants (Amendment).
- 45CSR33 - Acid Rain Provisions and Permits (New Rule).
- 45CSR34 - Emission Standards for Hazardous Air Pollutants (New Rule).
- 45CSR35 - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR81 and 40CFR83 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

PUBLIC NOTICE OF HEARING

G & L Coal Company, Inc.
PERMIT NUMBER S-3035-87

A hearing has been scheduled to be held on August 18, 1994, in the West Virginia Division of Environmental Protection Conference Room located at No. 10 Mojunkin Road, Nitro, West Virginia, beginning at 10:00 AM for G & L Coal Company, Inc.

The purpose of this hearing is to show cause why G & L Coal Company, Inc., Permit Number S-3035-87 operating in the Valley District of Fayette County, should not be revoked and associated securities forfeited by David C. Callaghan, Director of the Division of Environmental Protection.

SHOW CAUSE #529

FILED

JUN 23 2 51 PM '94

NOTICE OF PUBLIC HEARING

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

- 45CSR14 - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).
- 45CSR15 - Emission Standards for Hazardous Air Pollutants (Amendment).
- 45CSR16 - Standards of Performance for New Stationary Sources (Amendment).
- 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 (Amendment).
- 45CSR33 - Acid Rain Provisions and Permits (New Rule).
- 45CSR34 - Emission Standards for Hazardous Air Pollutants (New Rule).
- 45CSR35 - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Library of the Office of Air Quality located at the address below.

Please provide any written comments or questions to the following contact and office:

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



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 22, 1994

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

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

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

Sincerely yours,


Dale Farley
Chief, Office of Air Quality

DF/tim

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 23, 1994

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

Dear Mr. Carroll:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Office of Air Quality, Northern Panhandle Regional Office, 1911 Warwood Avenue, Wheeling, WV.

Please provide any written comments or questions to the following contact and office:

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



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 22, 1994

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

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may 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, appearing to read "Dale Farley".

Dale Farley
Chief, Office of Air Quality

DF/tim

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 23, 1994

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

Dear Ms. Chittum:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Parkersburg/Wood County Public Library, 3100 Emerson Avenue, Parkersburg, West Virginia.

Please provide any written comments or questions to the following contact and office:

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



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 22, 1994

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

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may 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, appearing to read "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 23, 1994

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

Dear Mr. Onion:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Cabell County Public Library, 455 9th Street Plaza, Huntington, WV.

Please provide any written comments or questions to the following contact and office:

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



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 22, 1994

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

Dear Legal Ad Department:

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

Sincerely yours,


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 23, 1994

Ms. Jeanne Chandler
Librarian
Office of Air Quality
1558 Washington Street, East
Charleston, WV 25311

Dear Ms. Chandler:

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Dale Farley
Chief, Office of Air Quality

DF/tlm

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Please provide any written comments or questions to the following contact and office:

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



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 22, 1994

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

Dear Legal Ad Department:

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Sincerely yours,

A handwritten signature in cursive script, appearing to read "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 23, 1994

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

Dear Ms. Vidovich:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

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Dale Farley
Chief, Office of Air Quality

DF/tlm

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Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Raleigh County Public Library, P. O. Box 1876, Beckley, WV.

Please provide any written comments or questions to the following contact and office:

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



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 22, 1994

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

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may 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, appearing to read "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 23, 1994

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

Dear Ms. Riggs:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

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Chief, Office of Air Quality

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- 45CSR35 - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Office of Air Quality, North Central Regional Office, 517 1/2 East Park Avenue, Fairmont, WV.

Please provide any written comments or questions to the following contact and office:

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



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 22, 1994

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

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may 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, appearing to read "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 23, 1994

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

Dear Ms. Hiser:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

- 45CSR14 - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).
- 45CSR15 - Emission Standards for Hazardous Air Pollutants (Amendment).
- 45CSR16 - Standards of Performance for New Stationary Sources (Amendment).
- 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 (Amendment).
- 45CSR33 - Acid Rain Provisions and Permits (New Rule).
- 45CSR34 - Emission Standards for Hazardous Air Pollutants (New Rule).
- 45CSR35 - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Keyser-Mineral County Public Library, 105 North Main Street, Keyser, WV.

Please provide any written comments or questions to the following contact and office:

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



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 22, 1994

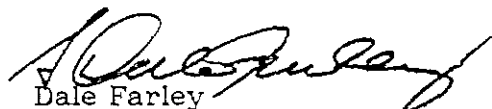
The Record Delta
Legal Ad Department
P. O. Box 550
Buckhannon, WV 26201

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

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

Sincerely yours,


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 23, 1994

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

Dear Ms. Six:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

- 45CSR14 - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).
- 45CSR15 - Emission Standards for Hazardous Air Pollutants (Amendment).
- 45CSR16 - Standards of Performance for New Stationary Sources (Amendment).
- 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 (Amendment).
- 45CSR33 - Acid Rain Provisions and Permits (New Rule).
- 45CSR34 - Emission Standards for Hazardous Air Pollutants (New Rule).
- 45CSR35 - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Gassaway Public Library, 100 Birch Street, Gassaway, WV.

Please provide any written comments or questions to the following contact and office:

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



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 22, 1994

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

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may 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, appearing to read "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 23, 1994

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

Dear Librarian:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Dale Farley".

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

- 45CSR14 - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).
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- 45CSR16 - Standards of Performance for New Stationary Sources (Amendment).
- 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 (Amendment).
- 45CSR33 - Acid Rain Provisions and Permits (New Rule).
- 45CSR34 - Emission Standards for Hazardous Air Pollutants (New Rule).
- 45CSR35 - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Elkins-Randolph County Public Library, 416 Davis Avenue, Elkins, WV.

Please provide any written comments or questions to the following contact and office:

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



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 22, 1994

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

Dear Legal Ad Department:

Please publish the enclosed "Notice of Public Hearing" as soon as possible as a Class I legal advertisement. The publication must occur no later than Thursday June 29, 1994 excepting Sunday. If you have any questions regarding this matter, please contact Tammy Mowrer at 558-2275.

You may 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, appearing to read "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 23, 1994

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

Dear Ms. Batten:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

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

June 23, 1994

Mr. Richard Poling
Office of Air Quality
Eastern Panhandle Regional Office
P. O. Box 99
Burlington, West Virginia 26710

Dear Mr. Poling:

On Friday, July 29, 1994, the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on proposed rules. For your convenience enclosed is a copy of the "Notice of Public Hearing". The hearing will be held in the Office of Air Quality's conference room located at 1558 Washington Street, East, Charleston beginning at 9:00 a.m. The hearings will be on the following proposed rules: 45CSR14, 45CSR15, 45CSR16, 45CSR19, 45CSR33, 45CSR34 and 45CSR35.

If you have any questions or comments, please contact the undersigned.

Sincerely yours,

Dale Farley
Chief, Office of Air Quality

DF/tlm

Enclosures

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

- 45CSR14 - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).
- 45CSR15 - Emission Standards for Hazardous Air Pollutants (Amendment).
- 45CSR16 - Standards of Performance for New Stationary Sources (Amendment).
- 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 (Amendment).
- 45CSR33 - Acid Rain Provisions and Permits (New Rule).
- 45CSR34 - Emission Standards for Hazardous Air Pollutants (New Rule).
- 45CSR35 - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following locations: Martinsburg-Berkeley County Public Library, 101 King Street, Martinsburg, WV and the Office of Air Quality's Burlington Office, P. O. Box 99, Burlington, WV.

Please provide any written comments or questions to the following contact and office:

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

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules: 45CSR14- Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the provision of Significant Deterioration (Amendment). 45CSR15- Emission Standards for Hazardous Air Pollutants (Amendment). 45CSR16- Standards of Performance for New Stationary Sources (Amendment). 45CSR19- Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intra-source Pollutants (Amendment). 45CSR23- Acid Rain Provisions and Permits (New Rule). 45CSR24- Emission Standards for Hazardous Air Pollutants (New Rule). 45CSR35- Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16, and 45CSR24, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Office of Air Quality, Northern Panhandle Regional Office, 1911 Wanwood Avenue, Wheeling, WV.

Please provide any written comments or questions to the following contact and office:

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

Intel., June 29
N.R., June 29

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:

June 29, 1994

commencing on the 29 day of June, 19 94

Given under my hand this 29 day of June, 19 94

Bonnie Mattern

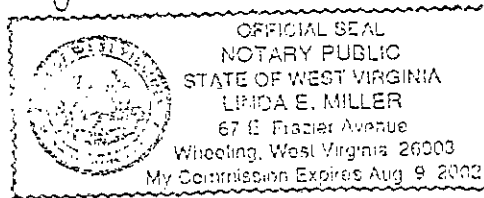
Sworn to and subscribed before me this 29th day of June, 19 94 at WHEELING, OHIO COUNTY, WEST VIRGINIA

Linda E. Miller

Notary Public

of, in and for OHIO COUNTY, WEST VIRGINIA.

My Commission expires August 9, 2002



NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

- 45CSR14 - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).
- 45CSR15 - Emission Standards for Hazardous Air Pollutants (Amendment).
- 45CSR18 - Standards of Performance for New Stationary Sources (Amendment).
- 45CSR19 - Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intra-source Pollutants (Amendment).
- 45CSR33 - Acid Rain Provisions and Permits (New Rule).
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The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Parkersburg/Wood County Public Library, 3100 Emerson Avenue, Parkersburg, West Virginia.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 24311-2599

Jun. 28 N

NOTAR
1829-
617

HEATHER BYERS
being first duly sworn, says that the

NOTICE OF PUBLIC HEARING

hereto attached was printed in the Parkersburg News
a DAILY newspaper published

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

successive weeks, the first publication and posting thereon being on
the 28th day of June, 1994, and subse-

quent publication on the day of , 19

the day of , 19 , the day of

 , and the day of , 19
inter's Fee \$ 37.02
6/8 " x 103 = 592.25 words @ .0625

Subscribed and sworn to before me this 28th day of
June, 1994

Notary Public for Wood County, West Virginia

commission expires 3-23-04

NOTICE
NOTICE OF
PUBLIC HEARING
On Friday, July 29,
1994, beginning at 9:00
a.m., the West Virginia
Division of Environmen-
tal Protection, Office of
Air Quality, will hold a
public hearing on the
following proposed legis-
lative rules:

45CSR14 - Permits for
Construction and
Major Modification of
Major Stationary
Sources of Air Pollu-
tion for the Preven-
tion of Significant
Deterioration
(Amendment).

45CSR15 - Emission
Standards for Haz-
ardous Air Pollutants
(Amendment).

45CSR16 - Standards
of Performance for
New Stationary
Sources (Amend-
ment).

45CSR19 - Require-
ments for Pre-
construction Review,
Determination of
Emission Offsets for
Proposed New or
Modified Stationary
Sources of Air Pollu-
tants and Emission
Trading for Intra-
source Pollutants
(Amendment).

45CSR33 - Acid Rain
Provisions and Per-
mits (New Rule).

45CSR34 - Emission
Standards for Haz-
ardous Air Pollutants
(New Rule).

45CSR35 - Require-
ments for Determin-
ing Conformity of
General Federal Ac-
tions to Applicable
Air Quality Imple-
mentation Plans (Gen-
eral Conformity)
(New Rule).

Upon authorization
and promulgation,
45CSR14, 45CSR19, and
45CSR35 will be submit-
ted to the U.S. Environ-
mental Protection Agen-
cy for incorporation into
the West Virginia Sta-
tionary Implementation
Plan under the federal
Clean Air Act, as
amended. Upon authori-
zation and promulgation,
45CSR15, 45CSR16,
45CSR34, the Direc-
tor of the Division of
Environmental Protec-
tion will request that
EPA delegate to the
West Virginia DEP the
authority to enforce
the Source Perform-
ance Standards promul-
gated by USEPA under
Title 40 CFR 61 and National
Emission Standards for
Hazardous Air Pollu-
tants promulgated by
EPA under 40CFR61
40CFR63 as of June
1994. The DEP Direc-
tor will also request
authority to legislative
approval and promulga-
tion that USEPA ap-
proves 45CSR33 which
incorporates the State's
emission permit pro-
gram for facilities sub-
ject to the requirements
of Title IV (Acid Rain
Program) of the Clean
Air Act.

AFFIDAVIT OF PUBLICATION

STATE OF WEST VIRGINIA,
COUNTY OF CABELL, TO-WIT:

I, Connie Rappold being first duly sworn, depose and say
that I am Legal Clerk for The Herald-Dispatch, a corporation, who publishes at Huntington,
Cabell County, West Virginia, the newspaper: The Herald-Dispatch, a independent newspa-
per, in the morning seven days each week, Monday through Sunday including New Year's
Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving and Christmas; that I have
been duly authorized by the Board of Directors of such corporation to execute this affidavit of
publication for an on behalf of such corporation and the newspaper mentioned herein; that the
legal advertisement attached in the left margin of this affidavit and made a part hereof and
bearing number LH-877 was duly published in

The Herald-Dispatch
1 time
~~one time, once a week for XXXXXX successive weeks,~~ commencing with its issue of the
27th day of June, 19 94, and ending with the issue of the 27th day
of June, 19 94, and was posted at the East door
of the Cabell County Courthouse
on the 27th day of June, 19 94; that said legal advertisement was
published on the following dates: June 27, 1994

; that the cost of publishing said annexed advertisement as aforesaid was
\$76.96; that such newspaper in which such legal advertisement was published
has been and is now published regularly, at least as frequently as once a week for at
least fifty weeks during 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 newspa-
per 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 Hunt-
ington, Cabell and Wayne Counties, West Virginia, and _____

that such newspaper is circulated to the general public at a definite price or consid-
eration; 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 cur-
rent happenings, announcements, miscellaneous reading matters, advertisements
and other notices.

Connie Rappold

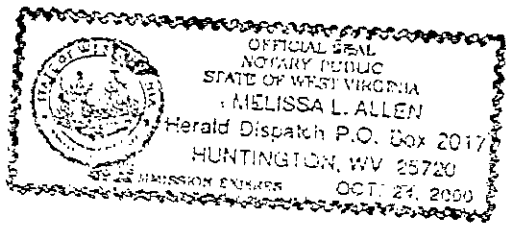
Taken, subscribed and sworn to before me in my said county this 27th day of
June, 19 94

My commission expires October 24, 2000

Melissa L. Allen

Notary Public
Cabell County,
West Virginia

10M Form A-135 (867H)



ence Room at 1200
Washington Street East,
Charleston, West Vir-
ginia. The hearing is
open to the public. Writ-
ten comments by all in-
terested parties will be
accepted from the date
of this notice until the
close of the hearing and
made part of the
record. Oral comments
will be accepted at the
public hearing and will
be limited to five min-
utes per person per
rule. The period for pub-
lic comment will end at
the close of the hearing.

Copies of the proposed
legislative rules may be
obtained from the Office
of Secretary of State or
may be reviewed during
normal business hours
at the following loca-
tion: Cabell County
Public Library, 455 9th
Street Plaza, Hunting-
ton, WV.

Please provide any
written comments or
questions to the follow-
ing contact and office:

G. Dale Farley
Office of Air Quality
Division of
Environmental
Protection
1558 Washington St. E.
Charleston, WV
25311-2599
LH-877 6-27-94



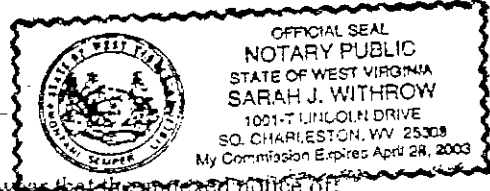
P.O. Box 2993
 Charleston, West Virginia 25330
 Billing 348-4898
 Classified 348-4848
 1-800-WVA-NEWS
 FEIN 55-0676079

ACCOUNT NBR	037143002
SALES REP ID	0016
INVOICE NBR	371430020629005

Legal pricing is based upon 67 words per column inch at a rate of \$.0725 per word.
 Each successive insertion is discounted by 25% of the first insertion rate (\$.054375 per word).

ISSUE DATE	AD TYPE	PUB	DESCRIPTION		AD NUMBER	AD SIZE	RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR	PURCHASE ORDER #		TOTAL RUN			
06/28	LEGF	DM	PUBLIC HEARING		L213020	3X0400			
			121258001			12.00	4.85	58.20	58.20
TOTAL INVOICE AMOUNT									58.20

State of West Virginia, **AFFIDAVIT OF PUBLICATION**



I, Laura Hays 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 PUBLIC HEARING was duly published in said paper(s) during the dates listed below, and was posted at the front door of the court house of said Kanawha County, West Virginia, on the 29TH day of JUNE 1994. Published during the following dates: 06/28/94-06/28/94. Subscribed and sworn to before me this 30 day of June. Printers fee \$ 58.20

Earl W. Withrow
 Notary Public of Kanawha County, West Virginia

LEGAL ADVERTISEMENT LEGAL ADVERTISEMENT LEGAL ADVERTISEMENT

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

- 45CSR14 - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).
- 45CSR15 - Emission Standards for Hazardous Air Pollutants (Amendment).
- 45CSR16 - Standards of Performance for New Stationary Sources (Amendment).
- 45CSR19 - Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrastate Pollutants (Amendment).
- 45CSR33 - Acid Rain Provisions and Permits (New Rule).
- 45CSR34 - Emission Standards for Hazardous Air Pollutants (New Rule).
- 45CSR35 - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following: Library of the Office of Air Quality located at the address below.

Please provide any written comments or questions to the following contact and office:

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

(213020)

The items listed hereon conform to specification, were received and are approved for payment.					
Date: 07-21-94		Signed: <u>N. Sittler</u>			
Appn. Yr.	Act #	Line Item:			
95	7897-17	035			
Off. Code:	Fed. Code:	PC:			
5	504	509			
Purchase Auth.	Vendor			Off. App/ Date	
SA	FEIN # 550-676-079				
No. 4	SS # _____				
TIBS FUND	FIMS FY	FIMS ORG	FIMS ACT	FIMS OBJ CODE	DOC #
8708	1995	0313	096	---	

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA 25801

June 28, 19 94

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 one
successive week (Class I), commencing with the issue of the
28th day of June, 1994 and ending with the issue
of the 28th day of June, 1994, (and was posted at the

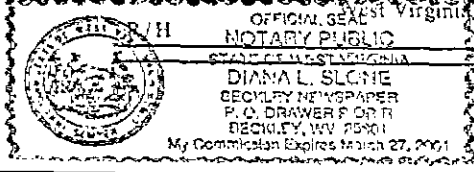
on the _____ day of _____); that said annexed
notice was published on the following dates: _____

June 28, 1994 and that the
cost of publishing said annexed notice as aforesaid was \$ 37.40

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

Taken, subscribed and sworn to before me in my said county this
28th day of June, 19 94

My commission expires March 27, 2001
Diana L. Slone
Notary Public of Raleigh County,



COPY OF PUBLICATION

7-12-Tue-4-RH

NOTICE OF PUBLIC HEARING
On Friday, July 29, 1994,
beginning at 9:00 a.m., the West
Virginia Division of
Environmental Protection, Office
of Air Quality, will hold a public
hearing on the following
proposed legislative rules:

45CSR14 - Permits for
Construction and Major
Modification of Major Stationary
Sources of Air Pollution for the
Prevention of Significant
Deterioration (Amendment).

45CSR15 - Emission Standards
for Hazardous Air Pollutants
(Amendment).

45CSR16 - Standards of
Performance for New Stationary
Sources (Amendment).

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 (Amendment).

45CSR33 - Acid Rain Provisions
and Permits (New Rule).

45CSR34 - Emission Standards
for Hazardous Air Pollutants
(New Rule).

Upon authorization and
promulgation, 45CSR14,
45CSR19, and 45CSR35 will be
submitted to the U.S.
Environmental Protection
Agency for incorporation into the
West Virginia State
Implementation Plan under the
federal Clean Air Act, as
amended. Upon authorization
and promulgation of 45CSR15,
45CSR16 and 45CSR34, the
Director of the Division of
Environmental Protection will
request that USEPA delegate to
the West Virginia DEP the
authority to enforce New Source
Performance Standards
promulgated by USEPA under
40CFR60 and National Emission
Standards for Hazardous Air
Pollutants promulgated by USEPA
under 40CFR61 and 40CFR63 as
of June 1, 1994. The DEP Director
will also request, pursuant to
legislative approval and
promulgation, that USEPA
approve 45CSR33 which
incorporates the State's
operating permit program for
facilities subject to the
requirement of Title VI (Acid Rain
Program) of the Clean Air Act.

The public hearing will be held
in the Office of Air Quality's
Conference Room at 1558
Washington Street East,
Charleston, West Virginia. The
hearing is open to the public.
Written comments by all
interested parties will be
accepted from the date of this
notice until the close of the
hearing and made part of the rec-
ord. Oral comments will be
accepted at the public hearing
and will be limited to five min-
utes per person per rule. The
period for public comment will
end at the close of the hearing.

Copies of the proposed
legislative rules may be obtained
from the Office of Secretary of
State or may be reviewed during
normal business hours at the

following location: Raleigh
County Public Library, P.O. B.
1876, Beckley, WV.
Please provide any written
comments or questions to the
following contact and office:
Dale Farley, Office of Air Quality
Division of Environmental
Protection, 1558 Washington
Street East, Charleston, W
25311-2599.
6-28-Tue-1-RH

NOTICE OF PUBLIC HEARING
 On Friday, July 29, 1994, beginning at 9:00 a. m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

45CSR14. Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).
 45CSR15. Emission Standards for Hazardous Air Pollutants (Amendment).
 45CSR16. Standards of Performance for New Stationary Sources (Amendment).
 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 (Amendment).
 45CSR33. Acid Rain Provisions and Permits (New Rule).
 45CSR34. Emission Standards for Hazardous Air Pollutants (New Rule).
 45CSR35. Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended.

Upon authorization and promulgation of 45CSR15, 45CSR16, and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Office of Air Quality, North Central Regional Office, 517 1/2 East Park Avenue, Fairmont, WV.

Please provide any written comments or questions to the following contact and office:

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

PUBLISHER'S CERTIFICATE

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 one time, on the

25 day of June 1994

The publisher's fee for said publication is \$ 20.70

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



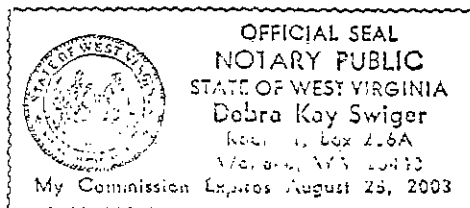
Subscribed and sworn to before me this 25 day
June 1994

of _____, 19____

Debra Kay Swiger
 Notary Public in and for Harrison County, WV

My commission expires on the 25th day of August, 2003

Form CA-14 E



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

of Environmental Protection in the case of Notice of

Public Hearing: Proposed

~~Legislative Rules~~
vs. _____

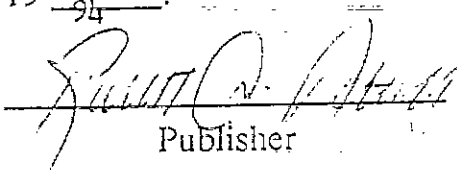
a copy whereof is hereto annexed has been published for

1 consecutive day

in said NEWS-TRIBUNE, the first publication being on the 28th day of,

June
19 94

Given under my hand at Keyser this 28th day of June,

19 94

Publisher

Publisher's Fee
\$ 31.50

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9 a.m., the West Virginia Division of Environmental Protection, Office Fair Quality, will hold a public hear on on the following proposed legislative rules:

45CSR14- Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).

45CSR15 - Emission Standards for Hazardous Air Pollutants (Amendment).

45CSR16 - Standards of Performance for New Stationary Sources (Amendment).

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 (Amendment).

45CSR33 - Acid Rain Provisions and Permits (New Rule).

45CSR34 - Emission Standards for Hazardous Air Pollutants (New Rule).

45CSR35 - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the Federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16, and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR 61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Keyser-Mineral County Public Library, 105 North Main Street, Keyser, WV.

Please provide any written comments or questions to the following contact and office:

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

State of West Virginia, County of Upshur, ss:

..... Mark Davis Advertising Manager
Record Delta, a newspaper published at Buckhannon in the said county, do hereby
certify that the annexed NOTICE OF PUBLIC HEARING

..... was published once a week for ONE (1) successive weeks in
said Record Delta newspaper published as aforesaid, commencing on the 27th day ...
..... of June days of 19..94.....

Given under my hand this 29th day of June ... day of 19..94.....

..... *Mark Davis* Advertising Manager

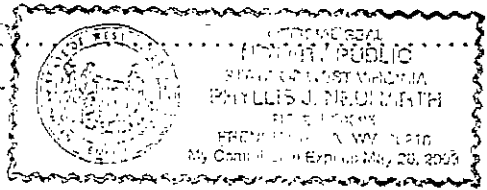
Printers fee \$. 27..60.....

WEST VIRGINIA, UPSHUR COUNTY, TO-WIT:

Subscribed and sworn to before me this 29th day of June day of 19..94.....

..... *Phyllis J. Neumann* Notary Public.

My Commission expires May 26, 2003



NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:
45CSR14 - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).
45CSR15 - Emission Standards for Hazardous Air Pollutants (Amendment).
45CSR16 - Standards of Performance for New Stationary Sources (Amendment).
45CSR19 - Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intra-source Pollutants (Amendment).
45CSR33 - Acid Rain Provisions and Permits (New Rule).
45CSR34 - Emission Standards for Hazardous Air Pollutants (New Rule).
45CSR35 - Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).
Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.
The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.
Copies of the proposed legislative rules may be obtained from the Office of the Secretary of State or may be reviewed during normal business hours at the following location: Gassaway Public Library, 100 Birch Street, Gassaway, WV.
Please provide any written comments or questions to the following contact and office:
G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2599
6-27

State of West Virginia, County of Randolph, ss.

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

45CSR14 — Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).

45CSR15 — Emission Standards for Hazardous Air Pollutants (Amendment).

45CSR16 — Standards of Performance for New Stationary Sources (Amendment).

45CSR19 — Requirements for Pre-construction Review, Determination of Emission Credits for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intrastate Sources (Amendment).

45CSR33 — Acid Rain Provisions and Permits (New Rule).

45CSR34 — Emission Standards for Hazardous Air Pollutants (New Rule).

45CSR35 — Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity) (New Rule).

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:

June 25 _____
19 94 as required by law.

Given under my hand this 25 day of June 1994
James Hoffman
4169
Publisher

Printer's Fee: \$ _____

Subscribed and sworn to before me this 25 day of June 1994
Shirley A. Menear
Notary Public

15 day of April 19 2002

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR35 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comments will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following location: Elkins-Randolph County Public Library, 416 Davis Avenue, Elkins, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Farley
Office of Air Quality
Division of Environmental Protection
1558 Washington Street, East
Charleston, WV 25311-2509

NOTICE OF PUBLIC HEARING

On Friday, July 29, 1994, beginning at 9:00 a.m., the West Virginia Division of Environmental Protection, Office of Air Quality, will hold a public hearing on the following proposed legislative rules:

45CSR14- Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration (Amendment).

45CSR15- Emission Standards for Hazardous Air Pollutants (Amendment).

45CSR16- Standards of Performance for New Stationary Sources (Amendment).

45CSR19- Requirements for Pre-construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Emission Trading for Intra-source Pollutants (Amendment).

45CSR33- Acid Rain Provisions and Permits (New Rule).

45CSR34- Emission Standards for Hazardous Air Pollutants (New Rule).

45CSR35- Requirements for Determining Conformity of General Federal Actions to Applicable Air Quality Implementation Plans (General Conformity)(New Rule).

Upon authorization and promulgation, 45CSR14, 45CSR19, and 45CSR25 will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the federal Clean Air Act, as amended. Upon authorization and promulgation of 45CSR15, 45CSR16 and 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994. The DEP Director will also request, pursuant to legislative approval and promulgation, that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The public hearing will be held in the Office of Air Quality's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written comments by all interested parties will be accepted from the date of this notice until the close of the hearing and made part of the record. Oral comments will be accepted at the public hearing and will be limited to five minutes per person per rule. The period for public comment will end at the close of the hearing.

Copies of the proposed legislative rules may be obtained from the Office of Secretary of State or may be reviewed during normal business hours at the following locations: Martinsburg-Berkeley County Public Library, 101 King Street, Martinsburg, WV and the Office of Air Quality's Burlington Office, P.O. Box 99, Burlington, WV.

Please provide any written comments or questions to the following contact and office:

G. Dale Fraley
Office of Air Quality
Division of
Environmental Protection
1558 Washington Street, East

Certificate of Publication

This is to certify the annexed advertisement

WV DEPT. COMM., LABOR, ENV. RES.
DIV. ENV. PROTECTION, MS. SITTON

NOTICE OF PUBLIC HEARING

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PUBLIC HEARING

JULY 29, 1994

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PUBLIC HEARING

JULY 29, 1994

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PUBLIC HEARING

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

* * * * *

The following is a transcript of a public hearing held at the West Virginia Division of Environmental Protection, Office of Air Quality, 1558 Washington Street, Charleston, Kanawha County, West Virginia, on July 29, 1994, at 9:00 a.m., and taken by Christy L. Morris, Certified Court Reporter and Notary Public, pursuant to notice.

* * * * *

S U P E R I O R C O U R T R E P O R T I N G

Christy L. Morris, CCR
3719 Virginia Avenue, S.E.
Charleston, West Virginia 25304
(304) 925-2244 Mobile 342-4606

ORIGINAL

PROCEEDINGS

MS. CHANDLER: Good morning. The public hearing will now come to order this 29th day of July, 1994 in the conference room of the West Virginia Division of Environmental Protection Office of Air Quality located at 1538 Washington Street, East, Charleston, West Virginia.

The purpose of the public hearing is to hear discussions on the seven rules filed in the Secretary of State's office on April 27, 1994, and noticed in the State register on April 29, 1994. In addition, the rules were noticed in Class 1 legal newspaper announcements throughout the State and to various individuals and organizations.

This public hearing is being held pursuant to the provisions of 29A of the West Virginia Code and Section 110 of the Clean Air Act.

By the way of introduction, my name is Jeanne Chandler of the Public Information Office of the West Virginia Division of Environmental Protection. I will be the moderator for these proceedings today.

The format of today's hearing may appear different than in the past for those of you

familiar with the prior APCC rulemaking hearings. The 1994 legislature enacted legislation which became effective on June 10, 1994, which reorganized the Division of Environmental Protection.

One of the effects of the legislation was to make the Air Program one of the offices of DEP, and as a result, the Air Pollution Control Commission no longer conducts rulemaking.

Because of time restraints this year, the Office of Air Quality decided to make the close of the comment period coincide with the close of today's hearing and noticed that fact in the public announcement.

One change in the Administrative Procedures Act which became effective in 1994 was the prohibition of ex parte communication with the rulemaking agency once the comment period closed.

Therefore, written comments will be accepted at the close of today's hearing but no later. The next opportunity to enter comments will be when the legislative rule-making committee begins its hearings on the proposed rules.

The hearing procedure today will be to introduce each rule individually, allow time for oral

comments, and close the hearing for that particular rule. Written comments for any rule may be submitted at the end of this public hearing.

Oral comments will be limited to five minutes per person, and for those of you wishing to make formal comments, a sign-up sheet was available, so if you haven't already signed up, please do so, now.

Also, if you're just a participant here today, we'd also like you to fill out the top page just for our record. I remind you that the comment period will close at the end of the public hearing today.

The court reporter is Ms. Christy Morris of Superior Court Reporting. If anyone desires a transcript of this proceeding, then please contact Ms. Morris at 925-2244, and her address is 3719 Virginia Avenue, S.E., Charleston, 25304.

45CSR14

The purpose of the public hearing is to hear discussions on proposed Rule 45CSR14.

Permits For Construction And
Modification Of Major Stationary Sources Of Air
Pollution For The Prevention Of Significant

Deterioration. That's an amendment.

45CSR14 is being revised to reflect USEPA's changes to 40 CFR Section 51.166. Changes include: maximum allowable emissions increases for particulate matter; changes which clarify PSD preconstruction review requirements of Title 1 of the 1990 Clean Air Act Amendments to air pollution abatement projects undertaken at electric utility steam generating units; and changes to response to a petition by the West Virginia Manufacturer's Association to remove the hazardous air pollutants from PSD-review in accordance with section 112(b) (6) of the 1990 Clean Air Act Amendment. Definitions in Section 2 have been alphabetized.

Changes also reflect enactment of DEP Code. Changes are indicated by underline and strikeout.

Upon authorization and promulgation, 45CSR14 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia State Implementation Plan under the Federal Clean Air Act, as amended.

The floor is now open for any public comment. Oral comments, I will remind you, will be

limited to five minutes, and if you are called upon for comments, please go to the podium, identify yourself and affiliation, if any, prior to making any of your comments.

Yvonne Clarkson, would you like to make a comment?

MS. CLARKSON: I will be submitting written comments.

MS. CHANDLER: Kim Brown Poland.

MS. POLAND: I'll be submitting written comments on behalf of the Manufacturer's Association.

MS. CHANDLER: Well, for time's sake, does anyone want to make any oral comments regarding 45CSR14?

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, this public hearing for 45CSR14 is now concluded.

45CSR15

MS. CHANDLER: The purpose of the public hearing is to hear discussions on proposed rule 45CSR15.

Emission Standards For Hazardous Air Pollutants Pursuant To 40 CFR Part 61. This is an amendment.

This rule adopts emission standards for hazardous air pollutants promulgated by the United States Environmental Protection Agency under the federal Clean Air Act, as amended, and 40 CFR Part 61.

It is the intent of the Director to adopt these standards by reference. It is also the intent of the Director to adopt associated reference methods, performance specifications and other test methods which are appended to such standards.

Upon authorization and promulgation of 45CSR15, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 4-CFR63 as of June 1, 1994.

The floor is now open for public comment.

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, this public hearing for 45CSR15 is concluded.

45CSR16

MS. CHANDLER: The purpose of the public hearing is to hear discussions on proposed rule 45CSR16.

Standards Of Performance For New Stationary Sources. This is an amendment.

45CSR16, "Standards of Performance for New Stationary Sources", adopted by reference New Source Performance Standards (NSPS) promulgated by USEPA through May 1, 1993. This revision to the rule updates NSPS requirements through June 1, 1994.

Upon authorization and promulgation of 45CSR16, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards For Hazardous Air Pollutants promulgated by USEPA under 40CFR61 and 40CFR63 as of June 1, 1994.

The floor is now open for public comment.

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, this public hearing for 45 CSR16 is concluded.

45CSR19

MS. CHANDLER: The purpose of the public

hearing is to hear discussions on proposed rule 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 Pollutant. This is an amendment, also.

45CSR19 is currently being revised to reflect USEPA's changes to 40CFR Section 51.165. Changes include clarifying nonattainment area preconstruction review requirements of Title 1 of the 1990 Clean Air Act Amendments to projects undertaken at electric utility steam generating units in areas not attaining an ambient air quality standard; changes resulting from changes to the authorizing statute; and changes in Clean Air Act provisions.

Definitions in Section 2 have been alphabetized. Changes are indicated by underline and strikeout.

Upon authorization and promulgation, 45CSR19 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia state implementation plan under the federal Clean Air Act, as amended.

The floor is now open for any public

comment.

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, the public hearing for 45CSR19 is concluded.

45CSR33

MS. CHANDLER: The purpose of this hearing is to hear discussions on proposed rule 45CSR33.

Acid Rain Provisions And Permits.

This is a new rule. This rule adopts by reference the Title IV requirement of the Clean Air Act.

The Title IV requirements must be implemented by the State through adoption of the National Operating Permit System conforming to Title IV and V of the Clean Air Act.

Phase I permit applications were submitted to USEPA by February 15, 1993, and processed by EPA.

Phase II permit applications must be submitted by January 1, 1996, and will be processed by the State assuming the State has an approved Title V Operating Permit Program (via 45CSR30) and this approved Title IV rule.

Pursuant to legislative approval and

promulgation, the DEP Director will request that USEPA approve 45CSR33 which incorporates the State's operating permit program for facilities subject to the requirements of Title IV (Acid Rain Program) of the Clean Air Act.

The floor is now open for public comment.

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, this public hearing for 45CSR33 is concluded.

45CSR34

MS. CHANDLER: The purpose of this public hearing is to hear discussions on proposed rule 45CSR34.

Emission Standards For Hazardous Air Pollutants Pursuant To 40CFR Part 63. This is a new rule.

Title 45, Series 34 provides authority for the Director to determine and enforce case-by-case MACT standards for major hazardous air pollutant sources in the absence of a federal standard under certain circumstances as required for permit program approval under Title V of the Clean Air Act.

The proposed rule also establishes general provisions for emission standards for hazardous

pollutants (NESHAPS) and other regulatory requirements pursuant to section 112 of the federal Clean Air Act.

The rule codifies general procedures and criteria to implement emission standards for stationary sources that emit (or have the potential to emit) one or more of the hazardous air pollutants in or pursuant to section 112 (b) of the Clean Air Act.

This rule incorporates by reference provisions relating to perchloroethylene dry cleaners, coke ovens, and synthetic organic chemical manufacturing (HON).

Upon authorization and promulgation of 45CSR34, the Director of the Division of Environmental Protection will request that USEPA delegate to the West Virginia DEP the authority to enforce New Source Performance Standards promulgated by USEPA under 40CFR60 and National Emission Standards for Hazardous Air Pollutants promulgated by the EPA under 40CFR61 and 40CFR63 as of June 1, 1994.

This floor is now open for public comment.

MS. CRITES: Good morning. My name is Karen Crites. I'm president of the West Virginia Manufacturer's Association.

The WVMA recognizes that EPA has put the office of Air Quality in a difficult position by its failure to develop timely our rule implementing Section 112 (g) of the Clean Air Act.

The State cannot adopt a complete a rule establishing its own method of implementing Section 112 (g) because, eventually, the State rule will have to be changed to reflect a federal rule when EPA completes it.

On the other hand, the Clean Air Act requires the State to make case-by-case MACT determination as soon as the State permit program is approved.

In light of the OAQ's inability, through no fault of its own, to promulgate a complete rule addressing section 112 (g), the WVMA suggests this rule be withdrawn and that the OAQ asks EPA, Region 3, to delay approval of the State's permit program until the federal 112 (g) is finalized.

Without an approved permit program, there is no requirement for the State to act under section 112 (g). If that is not acceptable, the WVMA suggests that the rule be withdrawn because there is already authority in existing rules; notably thirteen

and series 30 that would allow the OAQ to MACT determination on a temporary basis until a complete Rule 34 could be finalized.

Delaying Rule 34 until a federal rule is ready would efficiently conserve the Office of Air Quality's resources while still allowing the chief to comply with the requirements of the Clean Air Act through use of currently effective State rules.

Thank you for this opportunity to comment.

MS. CHANDLER: Is there any oral comments on 45CSR34?

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, the public hearing for 45CSR34 is concluded.

45CSR35

MS. CHANDLER: The purpose of the public hearing is to hear discussions on proposed rule 45CSR35.

Requirements For Determining Conformity Of General Federal Actions To Applicable Air Quality Implementation Plans. (General Conformity) This is a new rule.

The purpose of this rule is to adopt

the requirements of 40CFR Part 93, Subpart B, "Determining Conformity of General Federal Actions to State or Federal Implementation Plans".

The federal rule was promulgated by the U. S. Environmental Protection Agency to implement Section 176 (c) of the Clean Air Act, as amended, which requires that all federal actions conform to applicable air quality implementation plans.

This rule sets forth policy, criteria and procedures for demonstrating and assuring conformity of such activities to all applicable implementation plans developed pursuant to Section 110 and Part D of the Clean Air Act.

The rule generally applies to federal actions except: (1) Those required under the transportation of conformity rule (40CFR Part 93, Subpart A); (2) Actions with associated emissions below specified de minimis levels; and (3) Certain other actions which are exempt or presumed to conform to applicable air quality implementation plans.

Upon authorization and promulgation, 45CSR35 will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia state implementation plan under the federal

Clean Air Act, as amended.

The floor is now open for public comment.

MR. DURHAM: Good morning, my name is Fred Durham. I work for the West Virginia Division of Environmental Protection Office of Air Quality as a air pollution specialist.

Our office submitted this general proposed conformity rule to the United States Environmental Agency, Region 3, for review and comments.

Yesterday, I spoke with a representative from USEPA, Region 3, who informed me that no formal comments would be complete by today's hearing.

However, the representative did conduct a preliminary evaluation of this proposed rule, and in her opinion no major flaws were evident. Thank you.

MS. CHANDLER: Are there any more public comments on 45CSR?

(NO COMMENTS.)

MS. CHANDLER: There being nothing further, this public hearing for 45CSR35 is concluded.

Would anyone else like to make any

comments concerning any of the rules?

(NO COMMENTS.)

MS. CHANDLER: If not, this hearing is
concluded.)

(WHEREUPON, said hearing was
concluded at 9:25 a.m.)

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, to wit:

I, Christy L. Morris, Certified Court Reporter and Notary Public duly certified and commissioned, do hereby certify that the foregoing is a true and accurate transcript of the proceedings had in the public hearing on the 29th day of July, 1994.

Given under my hand and notarial seal this 29th day of JULY, 1994.

C. L. Morris - CLR
Certified Court Reporter
Notary Public

MY COMMISSION EXPIRES: 12/11/95

COMMENTS OF THE
WEST VIRGINIA MANUFACTURERS ASSOCIATION
REGARDING PROPOSED AMENDMENTS TO THE
RULES CONCERNING
EMISSION STANDARDS FOR
HAZARDOUS AIR POLLUTANTS
45 CSR 15

I. INTRODUCTION.

On June 21, 1994, the West Virginia Division of Environmental Protection ("DEP" or "Division") filed with the Secretary of State a proposed rule which would amend existing 45 CSR Series 15, which pertains to emission standards for hazardous air pollutants. Accompanying the proposed rule was a notice requesting both written and oral comment. Pursuant to this notice, the West Virginia Manufacturers Association ("WVMA") has undertaken a review of the proposed rule, and files these comments.

The WVMA represents a broad cross-section of large and small industrial concerns throughout the State of West Virginia. In keeping with the WVMA's supportive position regarding the development of West Virginia's air pollution control program, the WVMA offers these comments as a means to facilitate progress toward a reasonable and protective program, consistent with the requirements of the Clean Air Act and regulations promulgated thereunder pertaining to emission standards for hazardous air pollutants.

The WVMA applauds the DEP's action to annually update this rule to keep pace with federal changes in this program. We also believe it is appropriate to adopt all of the federal standards without the exclusion noted in section 3.1.b.

II. COMMENTS.

1. Proposed use of Funds Derived from Operating Permit Program.

In the Fiscal Note attached to the proposed rule, the Chief of the Office of Air Quality ("Chief") states that costs incurred to implement this rule will come from the funds authorized under 45 CSR 30. This proposed financing is directly contrary to W. Va. Code § 22-5-4(a)(17)(E), which provides that fees, penalties and interest collected for operating permits (i.e., under 45 CSR 30) "shall be expended solely to cover . . . costs required to administer the operating permit program." Accordingly, The WVMA objects to the proposed use of funds collected under 45 CSR 30 to implement this rule. Funding to implement this rule should come from the State's general revenue or other Regulation 22 fees, and WVMA recommends that the Chief make appropriate revision to the Fiscal Note in the agency final rule filed with the Secretary of State.

2. Proposed 45 CSR 15-1.6 -- Determination of Stringency.

The WVMA asserts that it is inappropriate to incorporate this section into the actual proposed rule. Pursuant to W. Va. Code § 22-1-3a, where rules promulgated by the Director will be more stringent or less stringent than their federal counterpart, the Director is required to provide a written statement, setting out specific reasons which demonstrate that each particular, substantive provision that varies from the federal counterpart regulation is (in the case of a more stringent rule) or is not (in

the case of a less stringent rule) "reasonably necessary to protect, preserve or enhance the quality of West Virginia's environment or human health or safety."¹ The statement required of the Director must take into consideration the scientific evidence, specific environmental characteristics of West Virginia or an area thereof, or stated legislative findings, policies or purposes relied upon by the Director in making the preceding determination. Accordingly, to comply with the legislative mandate, the Director's statement would need to be detailed and address specific provisions.

The WVMA submits that the statement required from the Director should not actually be included as a section in the rule, but, instead, should be attached to each proposed rule as an addendum with the documents filed with the Secretary of State to support the rule. The legislature did not contemplate that the Director's statement regarding stringency of specific provisions in a proposed rule would be incorporated into the rule and thereby be adopted as law. This proposed section should, therefore, be deleted from the final rule, and, after examining the proposed rule, the Director should publish an appropriate statement with the rule when filed with the Secretary of State.

¹ This requirement is subject to certain limited exceptions - none of which are applicable to the immediate circumstances.

3. Proposed 45 CSR 15-1.7 -- Constitutional Takings Determination.

The WVMA asserts that it is also inappropriate to incorporate this section into the proposed rule. A "constitutional takings determination" or assessment is only required in limited circumstances, and amendment of this rule does not appear to be one of them. Under W. Va. Code § 22-1A-3(a), such an assessment is not required, unless the action being contemplated by the Division is:

*reasonably likely to deprive a private real property owner of his or her property in fee simple or to deprive an owner of all productive use of his or her property * * * .*

Promulgation of a new rule or amendment of an existing rule does not automatically meet the above test for when an assessment is required. W. Va. Code § 22-1A-3(c) expressly exempts rulemaking which simply limits uses pursuant to federal statute from the assessment requirement. In pertinent part, that Code section provides that the following actions do not require an assessment:

(1) Licensing or permitting conditions, requirements or limitations to the use of private real property pursuant to any applicable state or federal statutes, rules or regulations;

*(2) Rules and emergency rules of the division that are reasonably likely to limit the use of private real property pursuant to any applicable state or federal statutes, rules or regulations; * * * .*

See W. Va. Code § 22-1A-3(c)(1) and (2). The Legislature did not intend for such "takings" determinations to be an actual part of the rule and thereby become a matter of law upon adoption. Accordingly, the WVMA recommends that this proposed section be deleted from the final rule, and that an explanation of the

analysis be included in the documents filed with the Secretary of State with the agency final rule.

4. Proposed 45 CSR 15-3.1 -- Incorporation By Reference.

The WVMA recommends that section 3.1 be amended to incorporate federal rules in 40 CFR as of July 1, 1994. This is because that portion of the federal rules is republished annually on that date. This will help to easily determine which standards apply by ready reference. Since all such federal rules will have undergone notice and comment, advancing the proposed date by one month is not problematic. It will, however, greatly aid the regulated community and the agency in locating all applicable standards.

III. CONCLUSION.

The WVMA appreciates having the opportunity to present the these comments. We acknowledge the difficulties faced by the Division in addressing the many changes brought about by recent legislation, and offer the foregoing suggestions in a cooperative spirit directed at the implementation of an efficient and fair regulatory program for the comprehensive management of air quality in West Virginia.

Respectfully submitted, this the 29th day of July, 1994.

Karen S. Price, President
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Prepared by:

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WVDEP/OAQ RESPONSE TO PUBLIC COMMENT ON
PROPOSED 45CSR15
EMISSION STANDARDS FOR
HAZARDOUS AIR POLLUTANTS

Only two written submissions each containing several comments were received. The first was submitted by a staff member of the Office of Air Quality and noted a typographical error in Section 3.1.b. Correcting the typographical error reorders the subsection to state "[s]ub-parts B, H, I, K, Q, R, T, and W,; Methods 111, 114, 115, and Appendix D and E of 40 CFR Part 61 shall be excluded." The second written submission noted that the aforementioned sections should also be incorporated by reference instead of excluding them. OAQ responds that the sections relate to the regulation of radioactive type sources and to OAQ's knowledge, EPA has not encouraged state air agencies themselves to regulate these types of facilities. In addition, OAQ has no expertise in the regulation of these type of facilities. Therefore, OAQ will not revise this section of the rule, but will leave it as originally proposed.

The second written submission commented that the proposed use of funds derived from the Operating Permit Program authorized under 45CSR30 is contrary to W. Va. Code §22-5-4(a)(17)(E). 45CSR30, which became effective on April 27, 1994, implements the operating permit program mandated by Title V of the 1990 Clean Air Act Amendments and W. Va. Code §22-5-12. This rule was developed in accordance with USEPA rules in Part 70 of Chapter 40 of the Code of Federal Regulations. Title V of the CAAA and the Part 70 regulations require that the operating permit program be funded solely by fees sufficient to cover all direct and indirect program costs.

Consistent with activities to be covered by Title V fees outlined in the CAAA and Part 70 rules, USEPA issued guidance to states in a memo of August 4, 1993 (see the attached John S. Seitz memorandum) concerning criteria for approval of state fee systems. The EPA guidance emphasizes that EPA approval of state fee programs for adequacy and conformance to CAAA requirements will be largely based upon the particular "design and attributes of each state's air quality management program". On pages 2-9 of the Attachment to the John Seitz memorandum, EPA lists activities and costs expected to be covered by Title V permit fees. In Item K on page 6 of the aforementioned Attachment, EPA lists implementation of CAAA Section 111 and 112 standards through Part 70 (45CSR30) operating permits as an activity to be supported by permit program fees. 45CSR15, 45CSR16 and 45CSR34 implement or will implement as state-enforceable requirements CAAA Section 111 and 112 standards. Fee collections and the associated budget analyses for implementation of 45CSR30 were previously incorporated into the fiscal note for 45CSR30 which was authorized by the Legislature in its 1994 session. OAQ anticipates EPA approval or interim approval of its Title V program (45CSR30) in the latter part of 1994 or early 1995 (FY'95) prior to or at the time of legislative authorization of the proposed 45CSR15 amendments.

OAQ anticipated that most sources covered by CAAA Section 111 or 112 standards (except asbestos demolition and renovation projects and perhaps minor perchloroethylene dry cleaners) will initially or eventually require permits under 45CSR30 and should be subject to Title V fees and fee support. By eventual EPA and state exemption or deferral, however, some minor sources regulated under

CAAA Section 111 or 112 may be removed from or exempted from 45CSR30 (40 CFR Part 70) and 45CSR30 fee requirements. With respect to these sources, the use of Title V fees would not be appropriate and therefore, general revenue, 45CSR22 fees or federal grant funds, would be required to support OAQ oversight. The fiscal notes for 45CSR15, 45CSR16 and 45CSR34 will accordingly be amended to reflect this valid WVMA comment and to further clarify the basis of the fiscal impact statement. In the event that sufficient funding is not available to cover the costs for non-Title V sources regulated under CAAA §111 or 112, WVDEP would request that EPA withdraw its delegation of authority to the State to enforce the federal standards relating to such sources.

The second written submission provided a favorable comment regarding OAQ's action to annually update the rule to keep pace with federal changes in the program. In order to help provide an easily accessible reference OAQ will revise the date of incorporation from June 1, 1994 to July 1, 1994 to correspond to the publication date of the Code of Federal Regulations. No changes to 40CFR61 have occurred in the interim between June 1, 1994 and July 1, 1994.

Another comment in the written submission was that incorporating the section containing the determination of stringency in relation to federal counterpart regulations in the rule [Section 1.6] is inappropriate. The comment notes that W. Va. Code §22-1-3 requires the Director of the Division of Environmental Protection to provide a written statement in circumstances in which the Director determines that the rule should not be the same in substance as the counterpart federal regulation. In 45CSR15, the OAQ is proposing to incorporate the federal counterpart regulation with only limited changes that do not affect the stringency determination. The rule, as proposed, will be the same in substance as the federal counterpart and should not, therefore, require a written determination of the stringency of the rule in relation to the federal counterpart. However, DEP responds that no reason exists to exclude the determination from the rule and that as a matter of Division of Environmental Protection policy, that the specific "Determination of Stringency" section be included in each rule proposed by the individual Offices within the Division. DEP responds that the section as stated is satisfactory. However, OAQ will revise this rule to add a section pertaining to "severability" in the event that this section or other sections of the rule are invalidated.

Another comment in the written submission was that incorporating the "Constitutional Takings Determination" section in the rule [Section 1.7] is inappropriate. The comment notes that W. Va. Code §22-1A-3(c)(2) expressly exempts the assessment in situations in which the state rule-making is required pursuant to an applicable federal rule. The commenter does not believe the Legislature intended for the determination to be part of the rule itself, thus becoming a law if the rule is authorized. The comment notes that an explanation of the takings determination simply be included as part of the rule filing. DEP does not disagree with the comment, but notes that no specific reason exists to exclude the determination, and that as a matter of Division of Environmental Protection policy, that the specific "Constitutional Takings Determination" section be included in each rule proposed by the individual Offices within the Division. OAQ responds that the section as stated is satisfactory.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

TELECOPIER COVER SHEET

DATE: ~~7/27/94~~ 8/2/94

TO: John Johnston

FAX #: ~~215~~ 304-558-3287

OFFICE: OAQ

RE: TITLE V Fee GUIDANCE

MESSAGE:

John,
Please let me know if you need more information. I think this guidance covers the NSR/TITLE V issue. ^{If not sufficient} ~~It is not sufficient~~
I may be able to dig up some more info., if necessary. Good Luck!

FROM: J. Abramson

FAX: 215/597-¹¹³⁶~~1136~~

TOTAL NUMBER OF PAGES INCLUDING COVER PAGE: 15



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

*Joe / Jen M,
Maki M
Lisa D
JUDYK*

RECEIVED
Air & Radiation Program
Branch (2A710)

AUG 4 1993

AUG 9 1993

EPA, REGION III

MEMORANDUM

SUBJECT: Reissuance of Guidance on Agency Review of State Fee Schedules for Operating Permits Programs Under Title V

FROM: *for* John S. Seitz, Director *[Signature]*
Office of Air Quality Planning and Standards (MD-10)

TO: Air Division Director, Regions I-X

On December 18, 1992, I issued a memorandum designed to provide initial guidance on the Environmental Protection Agency's (EPA's) approach to reviewing State fee schedules for operating permits programs under title V of the Clean Air Act (Act). Today's memorandum updates, clarifies, revises, and replaces the earlier memorandum.

Section 502(b)(3) of the Act requires that each State collect fees sufficient to cover all reasonable direct and indirect costs required to develop and administer its title V permits program. [As used herein, the term "State" includes local agencies.] The final part 70 regulation contains a list of activities discussed in the July 21, 1992 preamble to the final rule (57 FR 32250) which must be funded by permit fees. This memorandum and its attachment provide further guidance on how EPA interprets that list of activities, as well as the procedure for demonstrating that fee revenues are adequate to support the program.

The memorandum and attachment set forth the principles which will generally guide our review of fee submittals. The EPA believes that these positions are consistent with the preamble and final rule and are useful in explaining the broad language in the promulgation, but in no way supplant the promulgation itself. In evaluating State program submittals, EPA will make judgments based on the particular design and attributes of the State program, as well as the requirements of section 70.9 of part 70.

RECEIVED
Programs Development &
Assessment Section
2A710

AUG 11 1993

EPA, REGION III

The policies set out in this memorandum and attachment are intended solely as guidance, do not represent final Agency action, and cannot be relied upon to create any rights enforceable by any party.

Several substantive revisions to the earlier guidance that are reflected in this document deserve special mention. First, with respect to activities which relate to provisions of the Act in addition to title V, the revisions clarify that the cost of those activities would be permit program costs only to the extent the activities are necessary for part 70 purposes. For example, this qualification would apply to activities undertaken pursuant to sections 110, 111, and 112 of the Act. In determining which of the activities normally associated with State Implementation Plan (SIP) development are to be funded by permit fees, for instance, States should include those activities to the extent they are necessary for the issuance and implementation of part 70 permits. Accordingly, if a SIP provision requires that a State perform or review a modeling demonstration of a source's impact on ambient air quality as part of the permit application process, the State's costs which arise from the modeling demonstration (which are ordinarily not permit program costs) must be covered by permit fees.

Second, the revisions provide that case-by-case maximum achievable control technology determinations for modified/constructed and reconstructed major toxic sources under section 112(g) of the Act are considered permit program costs, even if the determination preceded the issuance of the part 70 permit. This position is consistent with the Agency's guidance on Title V Program Approval Criteria for Section 112 Activities (issued April 13, 1993). In that guidance, EPA explained that in order to obtain approval of their title V permit programs, States must take responsibility for implementing all applicable requirements of section 112, including section 112(g), to fulfill their broader obligation to issue title V permits which incorporate all applicable requirements of the Act. For this reason, these section 112 activities are appropriately viewed as permit program costs and thus funded with permit fees.

Third, the revisions clarify in section II.L that enforcement costs incurred prior to the filing of an administrative or judicial complaint are considered permit program costs, including the issuance of notices, findings, and letters of violation, as well as development and referral to prosecutorial agencies of enforcement cases. This approach is based on legislative history which indicates that Congress viewed the filing of complaints as the beginning of enforcement actions for purposes of the statutory provision that excludes "court costs or other costs associated with any enforcement action" from the costs to be recovered through permit fees.

Fourth, the revisions take a different approach to "State-only" requirements which are part of the title V permit by concluding that part 70 does not require that permit fees cover the costs of implementing and enforcing such conditions, since the rule requires that States designate these requirements as not federally enforceable.

Fifth, the attachment modifies the discussion of the extent to which title V fees must fund the costs of permit programs under provisions of the Act other than title V. After carefully considering section 110(a)(2)(L) (which requires that every major source covered by a permit program required under the Act pay a fee to fund the permit program), as it relates to section 502(b)(3) in general, and section 502(b)(3)(A)(ii) in particular, EPA has concluded that title V fees must cover the costs of implementing and enforcing not only title V permits but of any other permits required under the Act, regardless of when issued. This result makes sense, since the title V permit will incorporate the terms of other permits required under the Act so that enforcing title V permits will have the effect of implementing and enforcing those permit requirements as well. However, the costs of reviewing and acting on applications for permits required under Act provisions other than title V need not be recouped by title V fees. In conclusion, the costs of implementing and enforcing all permits required under the Act must be considered in determining whether a State's fee revenue is adequate to support its title V program. However, States may opt to retain separate mechanisms and procedures for collecting permit fees for other permitting programs under the Act, provided the fees covering the costs of implementing and enforcing permits are included in the determination of fee adequacy for purposes of title V.

Although most of the changes outlined today are not expected to affect significantly whether EPA will find fee programs based on the earlier guidance adequate, we will assist States in resolving any difficulties which may have resulted from reliance on the December 18 guidance.

As a means of providing support for the Regional Offices and States on fee approval issues, we invite early submittal of fee analyses (separate from the entire program submittal) from States, particularly those which propose to charge less than the presumptive fee minimum. We will assist Regional Offices in reviewing these submittals with respect to the requirements of title V. Case-by-case reviews of fee programs which you believe are ripe for review offer a timely opportunity to provide additional guidance on this issue.

4

If you would like us to assist with review of a State's fee program, please contact Kirt Cox. For further information, you may call Kirt at (919) 541-5399 or Candace Carraway at (919) 541-3189.

Attachment

cc: Air Branch Chief, Regions I-X
Regional Counsel, Regions I-X
M. Shapiro
J. Kurtzweg
A. Eckert
B. Jordan
R. Kellan
J. Rasnic

ATTACHMENT

GUIDANCE FOR STATE FEE PROGRAM DEVELOPMENT

I. GENERAL PRINCIPLES

- States must collect, from part 70 sources, fees adequate to fund the reasonable direct and indirect costs of the permits program.
- Only funds collected from part 70 sources may be used to fund a State's title V permits program. Legislative appropriations, other funding mechanisms such as vehicle license fees, and section 105 funds cannot be used to fund these permits program activities.
- The 1990 Amendments to the Clean Air Act (Act) generally require a broader range of permitting activities than are currently addressed by most State and local permits programs. Title V and part 70 contain a nonexclusive list of types of activities which must be funded by permit fees.
- Title V fees present a new opportunity to improve permits program implementation where funding has been inadequate in the past.
- The fee revenue needed to cover the reasonable direct and indirect costs of the permits program may not be used for any purpose except to fund the permits program. However, title V does not limit State discretion to collect fees pursuant to independent State authority beyond the minimum amount required by title V. The evaluation of State fee program adequacy for part 70 approval purposes will be based solely on whether the fees will be sufficient to fund all permit program costs.
- Any fee program which collects aggregate revenues less than the \$25 per ton per year (tpy) presumptive minimum will be subject to close Environmental Protection Agency (EPA) scrutiny.
- If credible evidence is presented to EPA which raises serious questions regarding whether the presumptive minimum amount of fee revenue is sufficient to fund the permits program adequately, the State must provide a detailed demonstration as to the adequacy of its fee schedule to fund the direct and indirect costs of the permits program.

- The EPA encourages State legislatures to include flexible fee authority in State statutes so as to allow flexibility to manage fee adjustments if needed in light of program experience, audits, and accounting reports. States should be able to adapt their fee schedules in a timely way in response to new information and new program requirements.

II. ACTIVITIES EXPECTED TO BE FUNDED BY PERMIT FEES

A. Overview.

- Permits program fees must cover all reasonable direct and indirect costs of the title V permits program incurred by State and/or local agencies. For example, fees must cover the cost of permitting affected units under section 404 of the Act, even though such sources may be subject to special treatment with respect to payment of permit fees.
- In making the determination as to whether an activity is a title V permits program activity, EPA will consider the design of the individual State's title V program and its relationship to its comprehensive air quality program. State design of its air program, including its State Implementation Plan (SIP), will in some cases determine whether a particular activity is properly considered a permits program activity. For example, if a SIP provision requires that a State perform or review a modeling demonstration of a source's impact on ambient air quality as part of the permit application process, the State's costs which arise from the modeling demonstration (which are ordinarily not permit program costs) would be part of the State's title V program costs. Because the nature of permitting-related activities can vary from State to State, the EPA intends to evaluate each program individually using the definition of "permit program costs" in the final regulation.
- In general, EPA expects that title V permit fees will fund the activities listed below. However, in evaluating State program submittals, EPA will consider the particular design and attributes of the State program. It is important to note that the activities listed below may not represent the full range of activities to be covered by permit fees. Implementation experience may demonstrate that additional activities are appropriately added to this list. Additionally, some States may have further

program needs based on the particularities of their own air quality issues and program structure.

- States may use permit fees to hire contractors to support permitting activities.

B. Initial program submittal, including:

- Development of documentation required for program submittal, including program description, documentation of adequate resources to implement program, letter from Governor, Attorney General's opinion.
- Development of implementation agreement between State and Regional Office.

C. Part 70 program development, including:

- Staff training.
- Permits program infrastructure development, including:
 - * Legislative authority.
 - * Regulations.
 - * Guidance.
 - * Policy, procedures, and forms.
 - * Integration of operating permits program with other programs [e.g., SIP, new source review (NSR), section 112].
 - * Data systems (including AIRS-compatible systems for submitting permitting information to EPA, permit tracking system) for title V purposes.
 - * Local program development, State oversight of local programs, modifications of grants of authority to local agencies, as needed.
 - * Justification for program elements which are different from but equivalent to required program elements.
- Permits program modifications which may be triggered by new Federal requirements/policies, new standards [e.g., maximum achievable control technology (MACT), SIP, Federal implementation plan], or audit results.

D. Permits program coverage/applicability determinations, including:

- Creating an inventory of part 70 sources.
- Development of program criteria for deferral of nonmajor sources consistent with the discretion provided to States in part 70.
- Application of deferral criteria to individual sources.
- Development of significance levels (for exempting certain information from inclusion on permits application).
- Development and implementation of federally-enforceable restrictions on a source's potential to emit in order to avoid it being considered a major source.

E. Permits application review, including:

- Completeness review of applications.
- Technical analysis of application content.
- Review of compliance plans, schedules, and compliance certifications.

F. General and model permits, including:

- Development.
- Implementation.

G. Development of permit terms and conditions, including:

- Operational flexibility provisions.
- Netting/trading conditions.
- Filling gaps within applicable requirements (e.g., periodic monitoring and testing).
- Appropriate compliance conditions (e.g., inspection and entry, monitoring and reporting).
- Screen/separate "State-only" requirements from the federally-enforceable requirements.

- Development of source-specific permit limitations [e.g., section 112(g) determinations, equivalent SIP emissions limits pursuant to 70.6(a)(1)(iii)].
- Optional shield provisions.

H. Public/EPA participation, including:

- Notices to public, affected States and EPA for issuance, renewal, significant modifications and (if required by State law) for minor modifications (including staff time and publication costs).
- Response to comments received.
- Hearings (as appropriate) for issuance, renewal, significant modifications, and (if required by State law) for minor modifications (including preparation, administration, response, and documentation).
- Transmittal to EPA of necessary documentation for review and response to EPA objection.
- 90-day challenges to permits terms in State court, petitions for EPA objection.

I. Permit revisions, including:

- Development of criteria and procedures for the following different types of permit revisions:
 - * Administrative amendments.
 - * Minor modifications (fast-track and group processing).
 - * Significant modifications.
- Analysis and processing of proposed revisions.

J. Reopenings:

- For cause.
- Resulting from new emissions standards.

K. Activities relating to other sections of the Act which are also needed in order to issue and implement part 70 permits, including:

- Certain section 110 activities, such as:
 - * Emissions inventory compilation requirements.
 - * Equivalency determinations and case-by-case reasonably available control technology determinations if done as part of the part 70 permitting process.
- Implementation and enforcement of preconstruction permits issued to part 70 sources pursuant to title I of the Act, including:
 - * State minor NSR permits issued pursuant to a program approved into the SIP.
 - * Prevention of significant deterioration/NSR permits issued pursuant to Parts C and D of title I of the Act.
- Implementation of Section 111 standards through part 70 permits.
- Implementation of the following section 112 requirements through part 70 permits:
 - * National Emission Standards for Hazardous Air Pollutants (NESHAP) promulgated under section 112(d) according to the timetable specified in section 112(e).
 - * The NESHAP promulgated under section 112(f) subsequent to EPA's study of the residual risks to the public health.
 - * Section 112(h) design, equipment, work practice, or operational standards.
- Development and implementation of certain section 112 requirements through part 70 permits, including:
 - * Section 112(g) program requirements for constructed, reconstructed, and modified major sources.

- * Section 112(i) early reductions.
- * Section 112(j) equivalent MACT determinations.
- * Section 112(l) State air toxics program activities that take place as part of the part 70 permitting process.
- * Section 112(r)(7) risk management plans if the plan is developed as part of the permits process.

L. Compliance and enforcement-related activities to the extent that these activities occur prior to the filing of an administrative or judicial complaint or order. These activities include the following to the extent they are related to the enforcement of a permit, the obligation to obtain a permit, or the permitting regulations:

- Development and administration of enforcement legislation, regulations, and policy and guidance.
- Development of compliance plans and schedules of compliance.
- Compliance and monitoring activities.
 - * Review of monitoring reports and compliance certifications.
 - * Inspections.
 - * Audits.
 - * Stack tests conducted/reviewed by the permitting authority.
 - * Requests for information either before or after a violation is identified (e.g., requests similar to EPA's section 114 letters).
- Enforcement-related activities.
 - * Preparation and issuance of notices, findings, and letters of violation [NOV's, FOV's, LOV's].
 - * Development of cases and referrals up until the filing of the complaint or order.

- Excluded are all enforcement/compliance monitoring costs which are incurred after the filing of an administrative or judicial complaint.
- M. The portion of the Small Business Assistance Program which provides:
- Counseling to help sources determine and meet their obligations under part 70, including:
 - * Applicability.
 - * Options for sources to which part 70 applies.
 - Outreach/publications on part 70 requirements.
 - Direct part 70 permitting assistance.
- N. Permit fee program administration, including:
- Fee structure development.
 - Fee demonstration.
 - * Projection of fee revenues.
 - * Projection of program costs if detailed demonstration is required.
 - Fee collection and administration.
 - Periodic cost accounting.
- O. General air program activities to the extent they are also necessary for the issuance and implementation of part 70 permits.
- Emissions and ambient monitoring.
 - Modeling and analysis.
 - Demonstrations.
 - Emissions inventories.
 - Administration and technical support (e.g., managerial costs, secretarial/clerical costs, labor indirect costs, copying costs, contracted services, accounting and billing).

- Overhead (e.g., heat, electricity, phone, rent, and janitorial services).
- States will need to develop a rational method based on sound accounting principles for segregating the above costs of the permits program from other costs of the air program. The cost figures and methodology will be reviewed by EPA on a case-by-case basis.

III. FLEXIBILITY IN FEE STRUCTURE DESIGN

- A. A State may design its fee structure as it deems appropriate, provided the fee structure raises sufficient revenue to cover all reasonable direct and indirect permits program costs.
- B. Provided adequate aggregate revenue is raised, States may:
 - Base fees on actual emissions or allowable emissions.
 - Differentiate fees based on source categories or type of pollutant.
 - Exempt some sources from fee requirements.
 - Determine fees on some basis other than emissions.
 - Charge annual fees or fees covering some other period of time.

IV. INITIAL PROGRAM APPROVABILITY CRITERIA

- A. Elements of State program submittals which relate to permit fees.
 - Demonstration that fee revenues in the aggregate will adequately fund the permits program.
 - Initial accounting to demonstrate that permit fee revenues required to support the reasonable direct and indirect permits program costs are in fact used to fund permits program costs.
 - Statement that the program is adequately funded by permit fees (which is supported by cost estimates for the first 4 years of the permits program).

B. Methods by which a State may demonstrate that its fee schedule is sufficient to fund its title V permits program:

- Demonstration that its fee revenue in the aggregate will meet or exceed the \$25/tpy (with CPI adjustment) presumptive minimum amount.
- Detailed fee demonstration.
 - * Required if fees in the aggregate are less than the presumptive minimum or if credible evidence is presented raising serious questions during public comment on whether fee schedule is sufficient or information casting doubt on fee adequacy otherwise comes to EPA's attention.

C. Computation of \$25/tpy presumptive minimum.

- The emissions inventory against which the \$25/tpy is applied is calculated as follows:
 - * Calculate emissions inventory using actual emissions (and estimates of actual emissions).
 - * From the total emissions of part 70 sources, exclude emissions of carbon monoxide (CO) and other pollutants consistent with the definition of "regulated pollutant (for presumptive fee purposes)."
 - * States may:
 - Exclude emissions which exceed 4,000 tpy per pollutant per source.
 - Exclude emissions which are already included in the calculation (i.e., double-counting is not required).
 - Exclude insignificant quantities of emissions not required in a permit application.
 - * States have two options with respect to emissions from affected units under section 404 of the Act during 1995 through 1999.
 - If a State excludes emissions from affected units under section 404 from its inventory, fees from those units may not be used to show that the State's fee revenue meets or exceeds the \$25/tpy presumptive minimum amount (see paragraph IV.E below).

- If a State includes emissions from affected units under section 404 in its inventory, it may include non-emissions-based fees from those units in showing that its fee revenue meets or exceeds the \$25/tpy presumptive minimum amount (see paragraph IV.E below.)
 - Computation of the presumptive minimum amount is a surrogate for predicting aggregate actual program costs. Once this aggregate cost has been determined, the method used for computing it does not restrict a State's discretion in designing its particular fee structure. States may impose fees in a manner different from the criteria for calculating the presumptive amount (e.g., charging fees for CO emissions and for emissions which exceed 4,000 tpy per pollutant per source).
- D. Establishing that fee revenue meets or exceeds the presumptive minimum.
- Fee revenue in the aggregate must be equivalent to \$25/tpy (as adjusted by CPI) as applied to the qualifying emissions inventory.
 - States have flexibility in fee schedule design as outlined in paragraph III above and are not required to adopt any particular fee schedule.
- E. Fees collected from affected units under section 404.
- States may not use emissions-based fees from "Phase I" affected units under section 404 for any purpose related to the approval of their operating permits programs for the period from 1995 through 1999. The EPA interprets the prohibition contained in section 408(c)(4) of the Act as preventing EPA from recognizing the collection of such fees in determining whether a State has met its obligation for adequate program funding. Furthermore, such fees cannot be used to support the direct or indirect costs of the permits program. However, States may, on their own initiative, impose title V emissions-based fees on affected units under section 404 and use such revenues to fund activities beyond those required pursuant to title V.
- * All units initially classified as "Phase I" units are listed in Table I of 40 CFR part 73. In addition, units designated as active substitution units under section 404(b) are considered "Phase I" affected units under section 404.

- States may collect fees which are not emissions based (e.g., application or processing fees) from such units.
- Role of nonemissions-based fees in determining adequacy of aggregate fee revenue.
 - * Such fees may be used as part of a detailed fee demonstration (which does not rely on the \$25/tpy presumption).
 - * Such fees may not be used to establish that aggregate fees meet or exceed the presumptive minimum amount unless the State exercises its discretion to include emissions from affected units under section 404 in the emissions inventory against which the \$25/tpy is applied.

F. Fee program accountability.

- Initial accounting (required as part of program submittal) comprised of a description of the mechanisms and procedures for ensuring that fees needed to support the reasonable direct and indirect costs of the program are utilized solely for permits program costs.
- Periodic accounting every 2-3 years to demonstrate that the reasonable direct and indirect costs of the program were covered by fee revenues.
- Earlier accounting or more frequent accountings if EPA determines through its oversight activities that a program's inadequate implementation may be the result of inadequate funding.

G. Governor's statement assuring adequate personnel and funding for permits program.

- Submitted as part of program submittal.
- A statement supported by annual estimates of permits program costs for the first 4 years after program approval and a description of how the State plans to cover those costs.
 - * Detailed description of estimated annual costs is not required if the State has relied on the presumptive minimum amount in demonstrating the adequacy of its fee program.

- * Detailed description of estimated costs for a 4-year period showing how program activities and resource needs will change during the transition period is required if State proposes to collect fee revenue which is less than the presumptive minimum amount.

- Projection of annual fee revenue for a 4-year period with explanation of how State will handle any temporary shortfall (if projected revenue for any of the 4 years is less than estimated costs).

V. FUTURE ADJUSTMENTS TO FEE SCHEDULE

A. Continuing requirement of fee revenue adequacy.

- Obligates the States to update and adjust their fee schedules periodically if they are not sufficient to fund the reasonable direct and indirect costs of the permits program.

B. Changes in fee structure over time are inevitable and may be required by the following events:

- Results of periodic audits/accountings.
- Revised number of part 70 sources (discovery of new sources, new EPA standards, expiration of the deferral of nonmajor sources).
- Changes in the number of permit revisions.
- Changes in the number of affected units under section 404 (e.g., substitution units).
- CPI-type adjustments.
- Different activities during post-transition period.

NOTICE

The policies set out in this guidance document are intended solely as guidance and do not represent final Agency action and are not ripe for judicial review. They are not intended, nor can they be relied upon, to create any rights enforceable by any party in litigation with the United States. The EPA officials may decide to follow the guidance provided in this guidance document, or to act at variance with the guidance, based on an analysis of specific circumstances. The EPA also may change this guidance at any time without public notice.

*** ACTIVITY REPORT ***

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DIVISION OF ENVIRONMENTAL PROTECTION

10 McJunkin Road
Nitro, WV 25143-2506

GASTON CAPERTON
GOVERNOR

DAVID C. CALLAGHAN
DIRECTOR

July 28, 1994

Ms. Judy Cooper
Director, Administrative Law Division
Secretary of State's Office
Building 1, Suite 157K
Charleston, West Virginia 25305

RE: CSR-45-15 - Emission Standards for Hazardous
Air Pollutants Pursuant to 40 CFR Part 61

Dear Ms. Cooper:

This is to advise you that I am giving approval for the filing of the above-captioned rule with your Office and the Legislative Rule-Making Review Committee as an agency-approved rule.

Your cooperation in this regard is very much appreciated. If you have any questions or require additional information, please feel free to contact Roger T. Hall at 759-0515.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "David C. Callaghan".

David C. Callaghan
Commissioner
Bureau of Environment

DCC;RTH:cc

Attachment