

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In this Box

FILED
1993 SEP -6 PM 4:18
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Air Pollution Control Commission TITLE NUMBER: 45

CITE AUTHORITY Chapter 16, Article 20, Section 5

AMENDMENT TO AN EXISTING RULE: YES NO

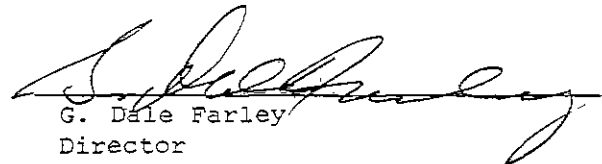
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 15

TITLE OF RULE BEING AMENDED: Emission Standards for Hazardous Air
Pollutants

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

TITLE OF RULE BEING PROPOSED: _____

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


G. Dale Farley
Director

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Chapter 16-20, Series 15 - "Emission Standards for Hazardous Air Pollutants"

Type of Rule: X Legislative Interpretive Procedural

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

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

2. Explanation of above estimates:

The APCC presently reviews West Virginia sources for conformance with the Federal NESHAPS standards. No additional cost anticipated at this time.

3. Objectives of these rules:

The existing regulation adopts by reference the Federal National Emission Standard for Hazardous Air Pollutants (NESHAPS) promulgated by EPA as of September 27, 1983. This revision to the regulation adopts with identified exceptions the NESHAPS standards promulgated by EPA as of July 1, 1988.

4. -Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Minimal additional APCC staff time for recordkeeping/enforcement of two of the additional NESHAPS.

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

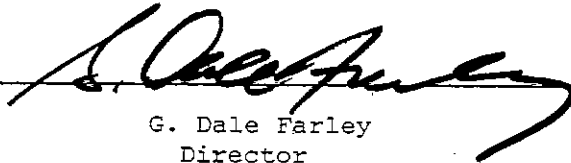
None above that resulting from current federal enforcement. Sources affected by the proposed APCC NESHAPS regulation revision are presently required by USEPA to meet the NESHAPS standards. APCC will become primary enforcement authority with federal delegation.

C. Economic Impact on Citizens/Public at Large.

None

Date: September 6, 1989

Signature of Agency Head or Authorized Representative



G. Dale Farley
Director

FILED

1989 SEP -0 11 4: 18

LEGISLATIVE RULE-MAKING

DATE: September 6, 1989

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: G. Dale Farley, Director - WAPCC

LEGISLATIVE RULE TITLE: Regulation 15 -- "Emission Standards for Hazardous Air Pollutants"

1. Authorizing statute(s) citation _____

Chapter 16, Article 20, Section 5

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

June 1, 1989

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

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

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

attached list with dates of publication.)

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

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received _____

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

September 6, 1989

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

G. Dale Farley

Director

(304) 348-2275

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

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

_____ N/A _____

b. Date of hearing: _____ N/A _____

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

_____ N/A _____

d. Attach findings and determinations and reasons:

Attached _____ N/A _____

AIR QUALITY CONTROL REGIONS
IN WEST VIRGINIA
SENT NOTICE OF HEARING

<u>Region</u>	<u>Newspaper/Library</u>	<u>Date of Publication</u>
Region I	The Wheeling News-Register and Intelligencer West Virginia Air Pollution Control Comm. - Northern Panhandle Regional Office	06/22/89 06/29/89
Region II	The Sentinel Parkersburg/Wood Co. Public Library	06/22/89 06/29/89
Region III	The Herald-Dispatch Cabell County Public Library	06/20/89 06/27/89
Region IV	Charleston Newspapers West Virginia Air Pollution Control Commission	06/21/89 06/28/89
Region V	Beckley Newspapers, Inc. Raleigh County Public Library	06/21/89 06/28/89
Region VI	Clarksburg Publishing Company West Virginia Air Pollution Control Comm. - North Central Regional Office	06/21/89 06/28/89
Region VII	Mineral Daily News-Tribune Co., Inc. Keyser-Mineral County Public Library	06/22/89 06/29/89
Region VIII	The Record-Delta Gassaway Public Library	06/21/89 06/28/89
Region IX	The Inter-Mountain Elkins-Randolph County Public Library	06/20/89 06/27/89
Region X	The Evening Journal Martinsburg-Berkeley County Public Library	06/21/89

COMMISSION MEETING
 JULY 31, 1989
 REGISTER

Date	Name	Address	Company Affiliation
07/31/89	Jack White	Milcow Island, WV	AMERICAN GRANAMID
"	Alan Bentley	Charleston	Charles Ryan Assoc.
"	J. Beverly Young	Balligolis Ferry, WV 25515	Riggs Chemicals Inc
"	Monty Fowler	Huntington, WV	Herald-Dispatch
"	Christy Morris	Charleston, WV	Court Reporter -
"	David Fewell	Institute	Rhane - Parlenc
"	H. B. Poland	Charleston, WV	Robinson + Mc Elwain
"	Larry T. Esken	Charleston, WV.	Bank Good Transfers
"	Vernon Lloyd	Charleston, WV	Occidental Chemical
"	Mildred Holt	INSTITUTE	PEOPLE CONCERNED MR

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COMMISSION MEETING
 JULY 31, 1989
 REGISTER

Date	Name	Address	Company Affiliation
07/31/89	Bob Paveau	JACKSON & KELLY 3407085	
"	John McCon	Dance man	
"	Richard Sherman	Bella	Du Pont
"	Bruce Morgan	Whaling - Pitt Steel	→
"	Greg Doss	CHARLESTON	WORSE RADIO
"	John Rist	BECKLEY	MABEN
"	Randy Hansford	"	MABEN
"	Dale Birchfield	"	Mabens
"	Claudia You	"	Mabens
"	THOM STANLEY	"	W.M.H.

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COMMISSION MEETING
 JULY 31, 1989
 REGISTER

Date	Name	Address	Company Affiliation
07/31/89	Bob Aaron / Curry Clark	1301 Admstr Rd Charleston WV 25301	WVHS-TV
"	Constance Grout Lewis	4106 Venable Ave SE Charleston WV	-
"	Paul Buckhorn	2322 S. W. MENDOTA DR S. A.	PC MIC
"	Daniel R. Berglund	P.O. Box 579 Red Jacket WV	Mole Creek Energy
"	Janet Myers	502 King St Dunbar, W. Va.	PC MIC
"	Eric Nicks	Gorelle	Mole Creek Energy
"	Ron Fullmer	P.O. Box 343 Red Jacket WV	NICS
"	Paul Hill	3300 MacCenter Ave. SE Cus. 25304	NICS
"	Howard D Payne		
"	Paul Thompson	404 MORGAN ST,	CHARLESTON, WV

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COMMISSION MEETING
JULY 31, 1989
REGISTER

Date	Name	Address	Company Affiliation
07/31/89	<i>Robert M. Orben</i>	<i>Chenotator, WA</i>	<i>WV Manufacturing Co. (M)</i>
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COMMISSION MEETING

JULY 31, 1989
REGISTER

Date	Name	Address	Company Affiliation
07/31/89	Bob Sawyer / Dave Lamb		WSA2-TV
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"			

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SPEAKERS

COMMISSION MEETING

Sign Here

JULY 31, 1989

CHRISTIE MORRIS REGISTER

Date	Name	Address	Company Affiliation
✓ 07/31/89	JACK WHITE	SPEAK ON REGISTRATION 27 WILLOW ISLAND, WV 26150	AMERICAN GRANAMID
"	"	"	"
✓ "	MILDRED HOLT	Reg 27 - INSTITUTE	PEOPLE CONCERNED
"	"	"	"
"	"	"	"
"	"	"	"
"	"	"	"
"	"	"	"
"	"	"	"

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LEGAL DEPARTMENT



Monongahela Power Company

Part of the Allegheny Power System

1310 Fairmont Avenue, Fairmont WV 26554 (304) 366-3000

July 28, 1989

West Virginia Air Pollution
Control Commission
1558 Washington Street, East
Charleston, WV 25311

Re: **Comments on Air Regulations
Public Hearing - July 31, 1989**

Dear Air Pollution Control Commission:

Monongahela Power Company hereby offers the following comments on the West Virginia Air Pollution Control Commission proposed regulations filed with the Secretary of State on June 1, 1989.

Series 8 -- Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter.

✓ Page 3 b. A. -- Primary and Secondary Standards for Total Suspended Particulate Matter (TSP) have been left in the regulations. TSP is no longer used as a measure of particulate matter but rather a PM_{10} standard has been adopted at the federal level. The Air Pollution Control Commission needs to be consistent and delete the TSP standards.

✓ Page 3. a. -- The secondary standard should be 0.5 ppm and not 0.05 ppm as written.

✓ **Series 11 -- Prevention of Air Pollution Emergency Episodes.**

Pages 4, 5, 6 and 8 -- Standards for Total Suspended Particulate Matter (TSP) have been left in the regulations. TSP is no longer used as a measure of particulate matter but rather a PM_{10} standard has been adopted at the federal level. The Air Pollution Control Commission needs to be consistent and delete the TSP standards.

Series 14 -- Permits for Construction and Major Modification of Major Stationary Sources.

West Virginia Air Pollution
Control Commission
Page 2

Page 12, Section 2.25 -- PM₁₀ standard should be 15 TPY not 1.5.

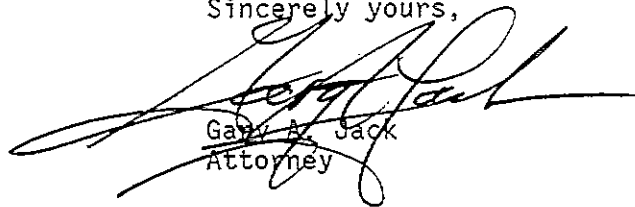
Pages 14 and 15 -- Standards for Total Suspended Particulate Matter (TSP) have been left in the regulations. TSP is no longer used as a measure of particulate matter but rather a PM₁₀ standard has been adopted at the federal level. The Air Pollution Control Commission needs to be consistent and delete the TSP standards.

Series 15, 16, 27.

No comments.

We appreciate the opportunity to comment.

Sincerely yours,



Gary A. Jack
Attorney

GAJ:cwr



WEST VIRGINIA
MANUFACTURERS ASSOCIATION

SUITE 505
405 CAPITOL STREET
CHARLESTON, WV 25301
TELEPHONE (304) 342-2123

CC JUL 01 11 04 AM '89
WEST VIRGINIA MANUFACTURERS ASSOCIATION
1558 WASHINGTON STREET, EAST
CHARLESTON, WV 25311

July 31, 1989

Mr. G. Dale Farley
Director
WV Air Pollution Control Commission
1558 Washington Street, East
Charleston, West Virginia 25311

RE: Comments to Proposed Amendments to
45 C.S.R. 8, 11, 14 and 15

Dear Mr. Farley:

Please find enclosed for filing comments to the proposed amendments of WVAAPCC Regulations 45 C.S.R. 8, 11, 14 and 15 submitted on behalf of the West Virginia Manufacturers Association.

Thank you for your consideration of our concerns as set out in the attached comments. If you have any questions, please contact me.

Very truly yours,

Robert L. Foster
Robert L. Foster

RLF:rmh
Enclosure

Comments of
West Virginia Manufacturers Association
on Proposed Amendments to WVAPCC Regulations
45 C.S.R. 8, 11, 14 and 15

Submitted July 31, 1989

COMMENTS OF THE WEST VIRGINIA MANUFACTURERS
ASSOCIATION ON PROPOSED AMENDMENTS TO WVAPCC REGULATIONS 45 C.S.R. 8, 11, 14,
AND 15 WHICH INCORPORATE THE FEDERAL PM10 STANDARDS

A. INTRODUCTION.

On June 1, 1989 public notice appeared announcing the filing of proposed amendments to the West Virginia Air Pollution Control Commission's Emission Standards for Hazardous Air Pollutants, Standards of Performance for New Stationary Sources, Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration, Prevention of Air Pollution Emergency Episodes, and Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter. Pursuant to this notice, the West Virginia Manufacturers Association ["WVMA"] files these comments on the proposed amendments. The WVMA represents a broad cross-section of the industrial sector of West Virginia. Many of our members are significantly affected by the application of the air pollution regulations. These comments on the proposed amendments to the West Virginia Air Pollution Control Commission's Regulations are in the tradition of the active and supportive role that the WVMA has played in the continuing development of the West Virginia air regulatory program.

B. GENERAL COMMENTS.

1. Incorporation by Reference of Federal Regulations. - It has been our long-standing suggestion that the WVAPCC make amendments to its regulations by incorporating, by reference, the

federal regulatory amendments. We applaud the WVAPCC for the use of this methodology.

2. State Regulations Are Not to be More Stringent Than The Federal Program. - W.Va. Code § 16-20-5(4) - states that "no rule, regulation, standard, program or plan of the Commission to control air pollution from any source hereafter promulgated, adopted or implemented may be more stringent than any federal rule, regulation, standard, program or plan applicable to the control of air pollution from that source." Therefore, the proposed amendments cannot be more stringent than the federal program governing the effected sources.

C. COMMENTS ON SPECIFIC REGULATIONS.

1. 45 C.S.R. 8 - AAOS For Sulfur Oxides and Particulate Matter.

a. Section 3.1.a - This section addresses the primary and secondary standards for sulfur dioxide. The secondary standard lists the maximum three-hour concentration as 0.05 ppm. According to the federal standards, this standard should read as 0.5 ppm. This typographical error should be corrected.

b. Sections 3.1.b.A and 4.1 - These sections reference the standards for total suspended particulate matter (TSP). It is understood by the WVMA that the TSP standard remains in these regulations because of a shortage of PM₁₀ samplers currently in operation in the state. It is our opinion that the WVAPCC may continue to operate the TSP samplers without having to list the TSP standard in the regulations. We propose, therefore, that the TSP

standards be removed from the regulations in accordance with the federal amendments which resulted in the PM₁₀ standards, and to avoid a regulation more stringent than the federal rules.

2. 45 C.S.R. 11 - Prevention of Air Pollution Emergency Episodes.

a. Section 3.1.b, c and d. - These sections address the levels at which specific pollutants create an "alert", "warning" or an "emergency". Included in the list of pollutants which are required to be monitored is TSP. The federal counterpart to this section can be found at 40 C.F.R. 51, Appendix L. The federal regulations for emergency episodes do not include TSP due to the new PM₁₀ amendments. As stated previously, it is understood that the APCC intends to continue its operation of the TSP samplers due to a shortage of the new PM₁₀ samplers. Once again, we are of the opinion that the state may continue to operate such TSP samplers without having to maintain the TSP standards in the regulations. By maintaining the TSP standards in the regulations, the WVAPCC is establishing a regulatory scheme which is more stringent than the federal.

3. 45 C.S.R. 14 - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration.

a. Section 2.25 - This section defines "significant" net emission increases. Specifically, this section lists the significant pollutant and emission level of PM₁₀ to be 1.5 TPY. The federal counterpart lists the rate for PM₁₀ to be 15 TPY. This is

a typographical error and should be corrected.

4. 45 C.S.R. 15 - Emission Standards for Hazardous Air Pollutants.

a. Section 3.1 - This section addresses the availability of public information. It incorrectly cross-references 40 C.F.R. 61.15, which is the federal regulatory section for modifications to stationary sources. The correct citation for the "availability of public information" regulation is 40 C.F.R. 61.16. This typographical error should be corrected.

D. CONCLUSION.

The WVMA appreciates the opportunity to comment on these regulations and trusts that our comments will be given appropriate consideration.0



WEST VIRGINIA
MANUFACTURERS ASSOCIATION

SUITE 505
405 CAPITOL STREET
CHARLESTON, WV 25301
TELEPHONE (304) 342-2123

03 JUL 31 AM 9:40

WEST VIRGINIA
MANUFACTURERS ASSOCIATION
405 CAPITOL STREET
CHARLESTON, WV 25301

July 31, 1989

Mr. G. Dale Farley
Director
WV Air Pollution Control Commission
1558 Washington Street, East
Charleston, West Virginia 25311

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RLF:rmh
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a. Section 2.25 - This section defines "significant" net emission increases. Specifically, this section lists the significant pollutant and emission level of PM₁₀ to be 1.5 TPY. The federal counterpart lists the rate for PM₁₀ to be 15 TPY. This is

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D. CONCLUSION.

The WVMA appreciates the opportunity to comment on these regulations and trusts that our comments will be given appropriate consideration.0

REGULATION 15

<u>Subpart</u>	<u>Effectuated Source Category</u>
B	National Emission Standards for Radon-222 Emissions from Underground Uranium Mines
* C	National Emission Standard for Beryllium
* D	National Emission Standard for Beryllium Rocket Motor Firing
* E	National Emission Standard for Mercury
* F	National Emission Standards for Vinyl Chloride
G	[Reserved]
H	National Emission Standard for Radionuclide Emissions From Department of Energy (DOE) Facilities
I	National Emission Standard for Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission (NRC) and Federal Facilities Not Covered by Subpart H
J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
K	National Emission Standard for Radionuclide Emissions From Elemental Phosphorus Plants
L	[Reserved]
* M	National Emission Standard for Asbestos
N	National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants
O	National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters
P	National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities
Q-U	[Reserved]
V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
W	National Emission Standard for Radon-222 Emissions From Licensed Uranium Mill Tailings

* Promulgated on or before September 27, 1983



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107

AUG 01 1989

G. Dale Farley, Director
West Virginia Air Pollution
Control Commission
1558 Washington Street, East
Charleston, West Virginia 25311

Dear Mr. Farley:

On June 6, 1989, EPA received the WVAPCC's Regulations 8, 11, 14, 15 and 16 with proposed revisions. After a review by the Air Management Division (AMD), a number of comments and suggestions have been formulated. The comments are stated below and are referenced to by Regulation and section.

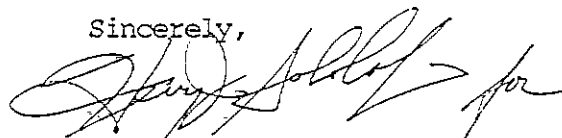
- 45-8-2. 2.xx Precise definitions should be added for "Particulate Matter emissions" and "PM₁₀ emissions" as provided in 40CFR part 51.
- 45-11-2. 2.s Since there is no longer a Secretary of Health, Education and Welfare, the EPA Administrator must designate a "Region."
- 45-11-4. 4.3 Sulfur dioxide concentrations shall be measured as sulfur dioxide and not, as stated, as carbon dioxide.
- 45-11-5. 5.xx It is recommended that emission reduction plans be addressed with respect to wood stoves used in homes. These stoves have the capability to be a significant source of PM emissions.
- 45-14-2. 2.25 The 'significant' emissions rate for PM₁₀ is listed as 1.5 TPY, when the actual rate should be listed as 15 TPY.
- 45-14-4. 4.3 The remainder of the State of West Virginia should be designated as Class III, rather than 'Class II.'
- Regulation 15 The summary of the regulation changes should refer to 40 CFR 61 (as is done with NSPS in Regulation 16).

Regulation 15 The attached Table for the Regulation summary should refer to Affected Source Categories, rather than Effected Source Categories.

Regulation 16 The attached Table for the Regulation summary should refer to Affected Source Categories, rather than Effected Source Categories.

The AMD has examined the enforceability of these proposed Regulation revisions and discovered no issues of concern. Finally, the EPA appreciates the opportunity to review and comment on these revisions prior to the July 31, 1989 public hearing on these Regulation revisions. If there are any questions, please contact Joseph Kunz at (215) 597-8486.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tom Maslany for". The signature is fluid and cursive, with a long horizontal stroke at the end.

Thomas J. Maslany, Director
Air Management Division