

Title 45  
Legislative Rule

~~WEST VIRGINIA ADMINISTRATIVE REGULATIONS~~  
Air Pollution Control Commission

~~Chapter 16-20~~  
~~Series XVIII-18~~  
~~(1979)~~

Subject: Regulation XVIII - To Prevent and Control Particulate Air Pollution From Direct Meat-Firing Devices.

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Section 0.1 / General.

0.01. Scope, Intent, and Purpose.

Series 18

The purpose of ~~Regulation XVIII~~ is to prevent and control particulate air pollution from direct meat-firing devices and shall apply only to the Counties of Brooke, Hancock, Ohio, Marshall and Kanawha; and the Magisterial Districts of Valley (Fayette County), Scott and Pocatalico (Putnam County), Tygart (Wood County), the City of Fairmont, and those portions of Union and Winfield Magisterial Districts west of I-79 (Marion County).

0.02. Authority.

W. Va. Code 16-20-5

This regulation is issued under the authority of the West Virginia Code, Chapter 16, Article 20, Section 5. This regulation relates to West Virginia Code, Chapter 16, Article 20, Sections 1 through 13 inclusive.

0.03. Filing Date.

March 9, 1980

This regulation was promulgated or last amended on the 23rd day of February, 1979, was filed with the office of the Secretary of State the 30th day of March, 1979. Further, this regulation was filed pursuant to West Virginia Code, Chapter 29A, Article 2, Section 5 on the 30th day of December, 1982 in the office of the Secretary of State.

0.04. Effective Date.

The effective date of this regulation is the 8th day of April, 1980.

0.05. Type.

This regulation is a legislative rule as defined in West Virginia Code, Chapter 29A, Article 2.

Section <sup>162</sup> Definitions.

- 1.01. "Air Pollution", 'statutory air pollution', shall have the meaning ascribed to it in Section Two of Chapter Sixteen, Article Twenty of the Code of West Virginia, as amended.
- 1.02. "Air Pollutants" shall mean solids, liquids or gases which, if discharged into the air, may result in a statutory air pollution.
- 1.03. "Commission" shall mean the West Virginia Air Pollution Control Commission.
- 1.04. "Director" shall mean the Director of the West Virginia Air Pollution Control Commission.
- 1.05. "Person" shall mean any and all persons, natural or artificial, including any municipal, public or private corporation organized or existing under the laws of this or any other state or country, and any firm, partnership or association of whatever nature.
- 1.06. "Smoke" shall mean any gasborne or airborne particulate matter other than water in an uncombined form existing as a liquid or solid or combination thereof in sufficient numbers to be visible.

- 1.07. "Particulate Matter" shall mean any material, except uncombined water, that exists in a finely divided form as a liquid or solid.
- 1.08. "Ringelmann Smoke Chart" shall be the Ringelmann's Scale for Grading the Density of Smoke published by the U. S. Bureau of Mines or any chart, recorder, indicator or device which is a standardized method for the measurement of smoke density which is approved by the Commission as the equivalent of said Ringelmann Scale.
- 1.09. "Opacity" shall mean the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
- 1.10. "Direct Meat-Firing Devices" shall mean either a charbroiler or barbeque.
- 1.11. "Charbroiler/Barbeque" shall mean a device using the process by which meat is cooked on a grill by radiant heating while exposed to a high temperature heat source.
- 1.12. "Grill" shall mean a perforated framework used to broil meat. Grill areas shall be determined by the inside dimensions bordering the retaining framework.
- 1.13. "Odor" shall mean that property of an emission that stimulates the sense of smell.
- 1.14. "Owner/Operator" shall mean any person or persons, natural or artificial, including any municipal, public or private organization responsible for the operation of a direct meat-firing device.

1.15. "Affected Area" shall apply only to the Counties of Brooke, Hancock, Ohio, Marshall and Kanawha; and the Magisterial Districts of Valley (Fayette County), Scott and Pocatalico (Putnam County), Tygart (Wood County), the City of Fairmont, and those portions of Union and Winfield Magisterial Districts west of I-79 (Marion County).

Other words and phrases used in this regulation, unless otherwise indicated, shall have the meaning ascribed to them in Chapter Sixteen; Article Twenty, Section Two of the Code of West Virginia, as amended.

Section 2.3 } Visible Emission Limitations.

2.01. No person shall cause, suffer, allow or permit emissions of smoke into the open air from any direct meat-firing device located in the affected area.

2.02. During equipment start-up, process modification or<sup>f</sup> adjustment, or cleaning of control equipment, a maximum visible emission limitation of Ringelmann No. 1 or the equivalent opacity for a period not in excess of five (5) minutes in any consecutive sixty (60) minute period shall be allowed.

Section 2.4 } Registration.

Within ninety (90) days after the effective date of this regulation, all persons owning and/or operating an existing direct meat-firing device located in the affected area shall register such source with the Commission. The information required for registration shall be determined

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

Subject: Regulation XVIII - To Prevent and Control Particulate  
Air Pollution From Direct Meat-Firing Devices.

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- 1.04. - "Director"
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- 1.06. - "Smoke"
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ABSTRACT

Regulation XVIII (1979) was adopted by the West Virginia Air Pollution Control Commission on the 23rd day of February, 1979 and became effective April 8, 1980, and was filed with the Secretary of State March 30, 1979.

by the Director, and shall be filed on forms to be made available by the Director.

Section ~~4.5~~ 4.5 Delayed Compliance Order.

4.01. The owner or operator of any direct meat-firing device in an affected area which is in existence prior to the effective date of this regulation which does not meet the emission limitations of this regulation shall develop and submit to the Commission, within such time as shall be allowed by the Commission, an acceptable control program for the attaining and maintaining of the emission limitations of this regulation. The control program shall be embodied in a consent order as provided in Section Five of Chapter 16, Article 20, Paragraph 17 of the Code of West Virginia, as amended.

4.02. In the event that an owner or operator of such a plant fails to submit an acceptable control program within the time allowed, the Commission shall, by final order, determine a reasonable control program for the attaining and maintaining of the emission limitations of this regulation for such plant.

Section ~~5.6~~ 5.6 Permits.

No person shall construct, modify or relocate any plant within the affected area without first obtaining a permit in accordance with the provisions of Section Two of Chapter 16, Article 20, Paragraph 11b of the Code of West Virginia, as amended, and ~~Regulation XIII~~  
Series 13  
of this agency.



Section 6. Exemptions.

6.01. Visible emission limitations shall not apply to direct meat-firing devices having a total grill area of less than six (6) square feet.

6.02. The emission limitations of this regulation do not apply to noncommercial and home charcoal grills and/or barbeques.

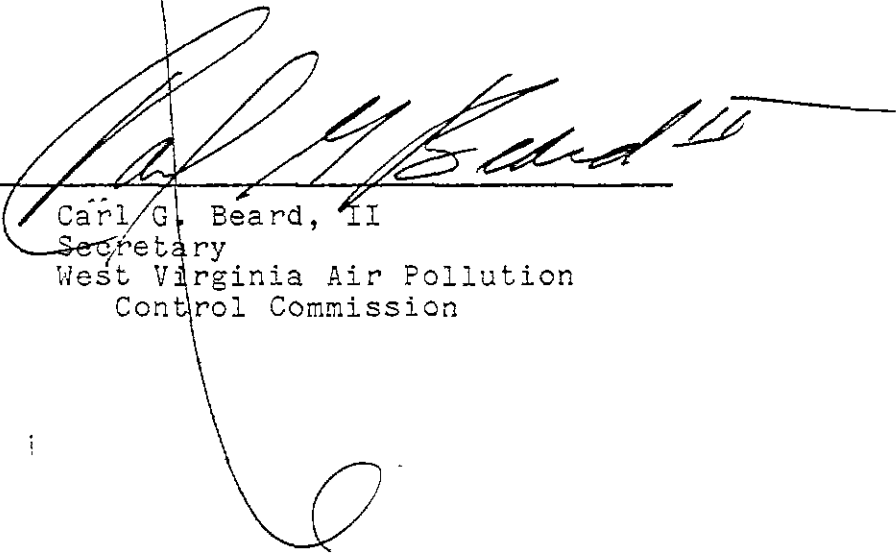
Section 7. Variance.

Due to unavoidable malfunctions of equipment, emissions exceeding those provided for in this regulation may be permitted by the Commission for periods not to exceed two (2) days upon specific application to the Director. Such application shall be made within twenty-four (24) hours of the malfunction or within such other time period as the Director may specify.

Section 8. Effective Date.

Regulation Series XVIII (1979) was adopted by the Commission on the 23rd day of February, 1979, and shall become effective the 1st day of May, 1979.

The foregoing is a true and correct copy of the West Virginia Air Pollution Control Commission Regulation Series XVIII (1979) as adopted on the 23rd day of February, 1979.



Carl G. Beard, II  
Secretary  
West Virginia Air Pollution  
Control Commission

TITLE 45  
LEGISLATIVE RULES  
AIR POLLUTION CONTROL COMMISSION

SERIES 17  
TO PREVENT AND CONTROL PARTICULATE AIR  
POLLUTION FROM MATERIALS HANDLING, PREPARATION,  
STORAGE AND SOURCES OF FUGITIVE PARTICULATE MATTER

§45-17-1. General.

1.1. Scope. -- The purpose of Series 17 is to prevent and control particulate air pollution from materials handling, preparation, storage, and sources of fugitive particulate matter and shall apply to the county of Kanawha; and the Magisterial Districts of Valley (Fayette County), Scott and Pocatalico (Putnam County), Tygart (Wood County), the City of Fairmont and those portions of Union and Winfield Magisterial Districts west of Interstate I-79 (Marion County).

To insure the attainment and maintenance of West Virginia's ambient air quality standards, it is the intent of the Commission to evaluate sources of fugitive particulate matter and to prevent such sources from jeopardizing the attainment or maintenance of these standards by requiring the application of the best control methods or technology practicable.

The Commission particularly urges the cooperation of municipalities in utilizing street sweepers equipped with dust capturing equipment, on a regular basis, to minimize particulate matter reentrainment into the air from heavily trafficked streets. In addition, municipalities should take such action as necessary to control fugitive particulate matter emissions arising from unpaved streets, access roads, private parking lots, and any other such sources of uncontrolled particulate matter.

It is the intent of the Commission that fugitive particulate matter sources be controlled in a timely and progressive manner, so that all such sources are in compliance with this regulation as soon as possible, but not later than December 31, 1982.

1.2. Authority. -- W.V.A. Code § 16-20-5

1.3. Filing Date. -- March <sup>30</sup> ~~8~~ <sup>79</sup> 1980

1.4. Effective Date. -- April 8, 1980

§45-17-2. Area Affected.

The County of Kanawha; and the Magisterial Districts of Valley (Fayette County), Scott and Pocatalico (Putnam County), Tygart (Wood County), the City of Fairmont and those portions of Union and Winfield Magisterial Districts west of Interstate I-79 (Marion County).

§45-17-3. Definitions.

3.1. "Air Pollution", 'statutory air pollution', shall have the meaning ascribed to it in ~~Section two of~~ Chapter sixteen, article twenty of the code of West Virginia, as amended. CAP  
SECTION TWO

3.2. "Commission" shall mean the West Virginia Air Pollution Control Commission.

3.3. "Director" shall mean the Director of the West Virginia Air Pollution Control Commission.

3.4. "Person" shall mean any and all persons, natural or artificial, including any municipal, public or private corporation organized or existing under the laws of this or any other state or country, and any firm, partnership, or association of whatever nature.

3.5. "Particulate Matter" shall mean any material except uncombined water that exists in a finely divided form as a liquid or solid.

3.6. "Opacity" shall mean the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

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

3.8. "Air Pollution Control Equipment" shall mean any equipment used for collecting, converting or suppressing particulate matter for the purpose of preventing or reducing discharge of such particulate matter into the open air.

3.9. "Materials Handling and Preparation Activity" shall include, but not be limited to, the crushing, grinding, breaking, conveying, loading, unloading, transferring and classifying of materials.

3.10. "Fugitive Particulate Matter", for the purpose of this regulation, shall mean that particulate matter which becomes airborne from activities associated with the transporting of materials, disposal areas, haul roads, plant grounds, public, private, and industrial parking areas or lots, public and private streets and highways, mobile drills, construction and demolition and similar activities.

3.11. "Materials" shall include, but not be limited to, limestone, dolomite, iron ore, slag, coke, coal, sandstone, magnetite, sinter, sand, coal refuse, soda ash, ash, cement, or earth.

3.12. "Disposal Area" shall mean any area where waste material is deposited for disposal. Such waste material shall include, but not be limited to, coal refuse, ash, material collected by air pollution control equipment, process overload discharges, building demolition wastes, contaminated products and materials.

Other words and phrases used in this regulation, unless otherwise indicated, shall have the meaning ascribed to them in ~~Section two~~ of Chapter sixteen, Article Twenty of the code of West Virginia, as amended.

Section Two

§45-17-4. Control and Prohibition of Particulate Emissions From Materials Handling, Preparation and Storage.

4.1. No person shall cause, suffer, allow, or permit the discharge of particulate matter from any materials handling and/or preparation activity in excess of ten (10%) percent opacity average over a six (6) minute period.

4.2. No person shall cause, suffer, allow or permit the sustained discharge of particulate matter into the open air in such a manner as to be visible from any inactive storage pile.

Control measures that should be utilized in the storage of materials include, but are not limited to, the use of wetting and surface bonding agents, partial or total enclosures or draping of material on storage piles, or storage of materials in silos or bins with air pollution control equipment installed to prevent particulate emissions that are displaced by air during loading and/or unloading operations.

4.3. Where any air pollution control equipment or fugitive particulate matter suppression system utilizes water in its operation, such equipment shall be designed for all-weather use.

#### §45-17-5. Control of Particulate Emissions From Disposal Areas.

No person shall cause, suffer, allow or permit the sustained air entrainment of particulate matter from a disposal area; except at such portions of the disposal area where depositing and/or loading out activity takes place. Good practice must be utilized to disturb only the smallest part of a disposal area possible for such activities. Section 4.1. of this regulation shall apply to materials deposition and/or loading out activities.

#### §45-17-6. Control of Fugitive Particulate Matter Emissions From Roads, Haul Ways and Parking Lots.

As determined by the Commission, a person may be required to minimize particulate matter air entrainment from vehicle activity or natural wind effects on haul ways, haul roads, parking lots and other surfaces.

#### §45-17-7. Control and Prohibition of Fugitive Particulate Matter Emissions from Vehicles.

No person shall cause, suffer, allow or permit a vehicle to be driven or moved on any public or private street, road, alley, highway or other thoroughfare unless such vehicle is so constructed or its cargo treated in such a manner as to prevent its contents from dripping, sifting, leaking or otherwise escaping therefrom, so as not to create conditions which result in particulate matter becoming airborne.

**§45-17-8. Control and Prohibition of Fugitive Dust Emissions From Construction or Demolition Activities.**

No person shall cause, suffer, allow or permit the sustained escape of particulate matter into the open air from any construction, demolition site or abrasive cleaning operation that, in the judgment of the Commission, will have an adverse effect on the ambient air quality. Such control measures as necessary shall be applied to prevent fugitive particulate matter emissions from such sources. Control measures may include adequate containment methods for abrasive cleaning operations, liquid treatment of haul roads and other surfaces, covering of material transport vehicles, the prompt removal of tracked material from roads or streets, or other control measures specified by the Commission.

**§45-17-9. Control Programs and Schedules.**

9.1. Any person operating a facility in violation of the provisions of this regulation shall present a control program upon the request of the Commission. The control program shall be embodied in a consent order as provided in Chapter sixteen, Article twenty, Section five ~~Subsection~~ seventeen of the code West Virginia, as amended.   
 *LC*

PARAGRAPH

9.2. To the extent allowed by law and as requested by the Commission, each municipality and county commission shall present such plans and programs as necessary to provide for the scheduled control and re-

duction of fugitive particulate matter by the activities regulated by this regulation that are under their jurisdiction.

Such programs shall be submitted in such reasonable time as ordered by the Commission and shall be progressive in nature so as to implement the earliest possible control of fugitive particulate matter into a schedule which meets the requirements of this regulation.

Such schedules of compliance by that municipality or county Commission shall be entered into a binding consent order between the municipality or county commission and the Commission. *LC*

**§45-17-10. Registration and Reporting.**

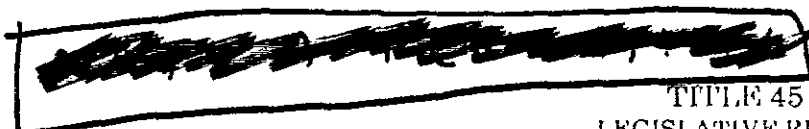
At such reasonable times as the Director may designate, persons owning or operating facilities involving materials handling, preparation and storage, disposal areas or other sources of fugitive particulate matter as covered by this regulation, may be required to register such sources with the Commission and/or furnish periodic reports concerning such activities or sources.

**§45-17-11. Variance.**

Because of temporary conditions beyond the control of any person, a variance may be granted up to ten (10) days upon presentation of sufficient evidence to the Director. Variances of over ten (10) days may be granted by the Commission, provided a corrective program has been submitted by the person requesting said variance.

**§45-17-12. Conflict With Other Regulations.**

When a provision of this regulation conflicts with similar portion(s) of any other rule or regulation previously adopted by the Commission, the most stringent provision or requirement will apply.



TITLE 45  
LEGISLATIVE RULES  
AIR POLLUTION CONTROL COMMISSION

SERIES 18  
~~REGULATIONS PERTAINING TO THE WEST VIRGINIA~~  
TO PREVENT AND CONTROL PARTICULATE AIR  
POLLUTION FROM DIRECT MEAT-FIRING DEVICES

§45-18-1. General.

1.1. Scope. -- The purpose of Series 18 is to prevent and control particulate air pollution from direct meat-firing devices and shall apply only to the Counties of Brooke, Hancock, Ohio, Marshall and Kanawha; and the Magisterial Districts of Valley (Fayette County), Scott and Pocatalico (Putnam County), Tygart (Wood County), the City of Fairmont, and those portions of Union and Winfield Magisterial Districts west of I-79 (Marion County).

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

1.3. Filing Date. -- ~~March 9, 1980~~ MARCH 30, 1979

1.4. Effective Date. -- ~~April 8, 1980~~ [Redacted]

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§45-18-2. Definition.

2.1. "Air Pollution", 'statutory air pollution', shall have the meaning ascribed to it in ~~Section Two~~ Chapter Sixteen, Article Twenty, of the Code of West Virginia, as amended.  
*Section Two*

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

2.3. "Commission" shall mean the West Virginia Air Pollution Control Commission

2.4. "Director" shall mean the Director of the West Virginia Air Pollution Control Commission.

2.5. "Person" shall mean any and all persons, natural or artificial, including any municipal, public or private corporation organized or existing under the laws of this or any other state or country, and any firm, partnership or association of whatever nature.

2.6. "Smoke" shall mean any gasborne or airborne particulate matter other than water in an uncombined form existing as a liquid or solid or combination thereof in sufficient numbers to be visible.

2.7. "Particulate Matter" shall mean any material, except uncombined water, that exists in a finely divided form as a liquid or solid.

2.8. "Ringelmann Smoke Chart" shall be the Ringelmann's Scale for Grading the Density of Smoke published by the United States Bureau of Mines or any chart, recorder, indicator or device which is a standardized method for the measurement of smoke density which is approved by the Commission as the equivalent of said Ringelmann Scale.

2.9. "Opacity" shall mean the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

2.10. "Direct Meat-Firing Devices" shall mean either a charbroiler or barbeque.

2.11. "Charbroiler/Barbeque" shall mean a device using the process by which meat is cooked on a grill by radiant heating while exposed to a high temperature heat source.

2.12. "Grill" shall mean a perforated framework used to broil meat. Grill areas shall be determined by the inside dimensions bordering the retaining framework.

2.13. "Odor" shall mean that property of an emission that stimulates the sense of smell.

2.14. "Owner/Operator" shall mean any person or persons, natural or artificial, including any municipal, public or private organization responsible for the operation of a direct meat-firing device.

2.15. "Affected Area" shall apply only to the Counties of Brooke, Hancock, Ohio, Marshall and Kanawha; and the Magisterial Districts of Valley (Fayette County), Scott and Pocatalico (Putnam County), Tygart (Wood County), the City of Fairmont, and those portions of Union and Winfield Magisterial Districts west of I-79 (Marion County).

Other words and phrases used in this regulation, unless otherwise indicated, shall have the meaning ascribed to them in Chapter Sixteen, Article Twenty, Section Two of the Code of West Virginia, as amended.

#### §45-18-3. Visible Emission Limitations.

3.1. No person shall cause, suffer, allow or permit emissions of smoke into the open air from any direct meat-firing device located in the affected area.

3.2. During equipment start-up, process modification <sup>or</sup> adjustment, or cleaning of control equipment, a maximum visible emission limitation of Ringelmann No. 1 or the equivalent opacity for a period not in excess of five (5) minutes in any consecutive sixty (60) minute period shall be allowed.

#### §45-18-4. Registration.

Within ninety (90) days after the effective date of this regulation, all persons owning and/or operating an existing direct meat-firing device located in the affected area shall register such source with the Commission. The information required for registration shall be determined by the Director, and shall be filed on forms to be made available by the Director.

#### §45-18-5. Delayed compliance order.

5.1. The owner or operator of any direct meat-firing device in an affected area which is in existence prior to the effective date of this regulation which does not meet the emission limitations of this regulation shall develop and submit to the Commission,

within such time as shall be allowed by the Commission, an acceptable control program for the attaining and maintaining of the emission limitations of this regulation. The control program shall be embodied in a consent order as provided in ~~Section Five~~ Chapter Sixteen, Article Twenty, ~~Subsection~~ <sup>Section 5(17)</sup> of the Code of West Virginia, as amended.

5.2. In the event that an owner or operator of such a plant fails to submit an acceptable control program within the time allowed, the Commission shall, by final order, determine a reasonable control program for the attaining and maintaining of the emission limitations of this regulation for such plant.

#### §45-18-6. Permits.

No person shall construct, modify or relocate any plant within the affected area without first obtaining a permit in accordance with the provisions of ~~Section Two~~ Chapter Sixteen, Article Twenty, ~~Paragraph~~ <sup>Section</sup> 11b of the Code of West Virginia, as amended, and Series ~~Thirteen~~ <sup>13</sup> of this agency.

#### §45-18-7. Exemptions.

7.1. Visible emission limitations shall not apply to direct meat-firing devices having a total grill area of less than six (6) square feet.

7.2. The emission limitations of this regulation do not apply to noncommercial and home charcoal grills and/or barbeques.

#### §45-18-8. Variance.

Due to unavoidable malfunctions of equipment, emissions exceeding those provided for in this regulation may be permitted by the Commission for periods not to exceed two (2) days upon specific application to the Director. Such application shall be made within twenty-four (24) hours of the malfunction or within such other time period as the Director may specify.



# WORKERS' COMPENSATION FUND

601 MORRIS STREET  
CHARLESTON, WEST VIRGINIA 25301

ARCH A. MOORE, JR.  
Governor

February 5, 1988

NELSON B. ROBINSON, JR.  
Commissioner

Senator Larry A. Tucker and  
Delegate Thomas A. Knight  
Co-Chairmen  
Legislative Rule-Making  
Review Committee  
Room M-348  
State Capitol  
Charleston, WV 25305

Dear Senator Tucker and Delegate Knight:

The journals of the Senate and the House of Delegates dated February 3, 1988, indicate that this agency's rules containing a Medical Fee Schedule were presented to the Legislature for inclusion in the Bill of Authorization.

As you know, H.B. 4027 was passed, and made effective from passage, exempting these rules from the Legislative rule-making process; therefore, I respectfully request that these rules be withdrawn.

If any further action is required of this office please advise and it will be accomplished promptly.

Very truly yours,

Nelson B. Robinson, Jr.  
Commissioner

NBRJr:WM:cm