

DATE: MARCH 19, 1993

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: BRITT A. BERNHEIM
SECRETARY, AIR POLLUTION CONTROL COMMISSION

LEGISLATIVE RULE TITLE: 45CSR22 - Air Quality Management Fee Program

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

2.
 - a. Date filed in State Register with Notice of Hearing:
December 2, 1992
 - b. What other notice, including advertising, did you give of the hearing?
Class 2 Legal Advertisement: Wheeling, Clarksburg, Keyser,
Buckhannon, Martinsburg, Elkins, Charleston, Huntington, and
Parkersburg, West Virginia
 - c. Date of hearing(s): January 7, 1993
 - d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached X No comments received _____
 - e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)
March 19, 1993
 - f. Name and phone number of agency person to contact for additional information:
G. Dale Farley, Chief
WV Division of Environmental Protection - Office of Air Quality
(304) 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

[PROPOSED]

45CSR22
"AIR QUALITY MANAGEMENT FEE PROGRAM"

SUMMARY

Title V of the Clean Air Act Amendments of 1990 requires that states submit an approvable operating permit program to the U. S. EPA on or before November 15, 1993. The Title V operating permit program is a comprehensive air permitting and fee program which is the centerpiece of the Clean Air Act Amendments of 1990. As part of the Title V operating permit program, states are required to demonstrate that adequate resources are in place for program implementation. The required demonstration of adequate resources must occur prior to the implementation of the Title V air permitting and fee program. As such, additional revenues are needed for the interim period, prior to state enactment and submission to EPA of the Title V program, to allow adequate staff resources to be in place to begin processing permits upon program approval by U. S. EPA. It is anticipated that most of the categories affected by the fee increase contained in 45CSR22 will fall under the comprehensive Title V operating permit and final fee program which must be in place by mid to late 1994. It is further anticipated that Title V sources will drop out of this fee rule (45CSR22) upon implementation of the Title V program which will supersede this proposed amended rule.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR22 - "Air Quality Management Fee Program"

Type of Rule: X Legislative Interpretive Procedural

Agency: Office of Air Quality, Division of Environmental Protection

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

1. Effect of Proposed Rule	Annual		Fiscal Year		
	Increase	Decrease	Current	Next 1993-94	1994-95
Estimated Total Cost	\$ ---	\$ ---	\$22,500	\$28,500	\$22,500
Personal Services	---	---	15,000	15,000	15,000
Current Expense	---	---	7,500	7,500	7,500
Repairs and Alterations	---	---	---	---	---
Equipment	---	---	---	---	---
Other	---	---	---	---	---

2. Explanation of above estimates:

Management of the fee collection and accounting system is accomplished within the existing permits and accounting functions. The estimates shown reflect costs associated with staff time involved in maintaining the facility database accounting, deposit of checks, etc. No increase in fee program management costs should result from the proposed revision to 45CSR22.

3. Objectives of these rules:

The primary purpose of the proposed revisions to 45CSR22 is to provide enough funding above the current and projected FY93-94 monies from general revenue, federal grants, and existing special revenues to enable the Division of Environmental Protection (Office of Air Quality) to add and develop additional staff to implement the operating permit program required by Title V of the federal Clean Air Act and new program requirements under other titles of that Act.

4. Explanation of overall economic impact of proposed rule.

A. Economic impact on state government.

The revised Air Quality Management Fee Program is expected to generate approximately \$1,250,000 per year for partial operation of the state's air quality management program. Costs to manage the program are approximately \$22,500.

B. Economic impact on political subdivisions; specific industries; specific groups of citizens.

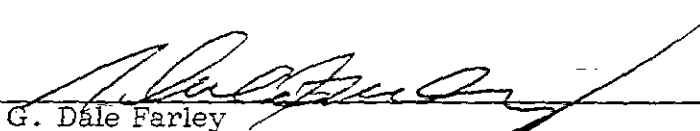
Industrial and commercial facilities subject to air quality regulations and permits will be required to pay annual fees totaling approximately \$1,150,000. In addition, application fees for permits for new facilities would range from \$1,000 to \$20,000 depending upon facility size and complexity. Most permits would cost \$1,000.

C. Economic impact on citizens/public at large.

Minimal economic impacts are projected for the public at large.

Date: November 25, 1992

Signature of agency head or authorized representative:



G. Dale Farley
Secretary
West Virginia Air Pollution Control Commission

FILED

MAR 19 3 39 PM '93

45CSR22

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TITLE 45
LEGISLATIVE RULES
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

SERIES 22
AIR QUALITY MANAGEMENT FEE PROGRAM

§45-22-1. Intent and Purpose.

1.1. This regulation establishes a program to collect fees for certificates to operate and for permits to construct, modify or relocate sources of air pollution. Funds collected from these fees will be used to supplement the ~~Air Pollution Control Commission's~~ Office of Air Quality's budget for the purpose of maintaining an effective air quality management program.

1.2. Authority. -- WV Code §16-20-5.

1.3. Filing Date. --

1.4. Effective Date. --

§45-22-2. Definitions.

2.1. "Air Pollution" has the meaning ascribed to it in Article Twenty, Chapter Sixteen of the WV Code, as amended.

2.2. "Chemical Processing Unit" has the meaning described in 45CSR27.

2.3. "Chief of Air Quality" or "Chief" means the Chief of the Office of Air Quality or his or her designated representative appointed by the Director of the Division of Environmental Protection pursuant to the provisions of §22-1-1, et seq., of the West Virginia Code.

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

2.45. "Completed Application" means an application submitted with the appropriate fee ~~paid~~ payable to the ~~Commission~~ "Air Pollution Control Commission Fund" and which contains all of the information required by the ~~Director~~ Chief to determine whether a permit or certificate should be issued or denied by the ~~Director~~ Chief.

2.56. "Director" means the Director of the West Virginia Air Pollution Control Commission Division of Environmental Protection or his or her designated representative.

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

2.68. "Emissions Unit" has the meaning described in 45CSR14.

2.79. "Major Modification"; "Major Modification for Ozone" have the meanings described in 45CSR14 and 45CSR19.

2.810. "Major Stationary Source"; "Major Stationary Source for Ozone" have the meanings described in 45CSR14 and 45CSR19.

2.911. "Modification" has the meanings described in 45CSR13 and 45CSR27.

2.1012. "NESHAPs" means National Emission Standards for Hazardous Air Pollutants as described in 45CSR15.

2.1113. "Nonattainment Review/~~Bubble Concept~~ Emissions Trading" has the meanings as described in 45CSR19.

2.1214. "NSPS" means New Source Performance Standards as described in 45CSR16.

2.1215. "Person" means any and all persons, natural or artificial, including the State of West Virginia or any other state and all agencies or divisions thereof, any state political subdivision, the United States of America, any municipal, public, statutory, or private corporation or association organized or existing under the laws of this or any other state or country, and any firm, partnership, or association of whatever nature.

2.1416. "Process Unit" means components assembled to produce any chemical as a final or intermediate product. A process unit can operate independently if supplied with sufficient utilities, feed or raw materials and sufficient storage facilities for the product.

2.1517. "PSD" means Prevention of Significant Deterioration, as described in 45CSR14.

2.1618. "Source", "Stationary Source", and "Plant" means all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "major group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended.

2.1719. "Toxic Air Pollutant" has the meaning described in 45CSR27.

§45-22-3. Requirements for Permit to Construct, Modify or Relocate.

3.1. For the sources or emission units subject to the permitting requirements of 45CSR13 ("Permits for Construction, Modification or Relocation of Stationary Sources of Air Pollution and Procedures for Registration and Evaluation"), 45CSR14 ("Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration"), 45CSR19 (~~"Requirements for Pre-Construction Review, Determination of Emissions Offsets for Proposed, New or Modified Stationary Sources of Air Pollutants and Bubble Concept for Intrasource Pollutants"~~ regarding pre-construction review in nonattainment areas and emissions trading), and 45CSR15 ("Emission Standards for Hazardous Air Pollutants"), no person may commence construction, modification or relocation without first filing a completed application and obtaining a permit.

3.2. Applications for permits for construction, modification or relocation shall be submitted in accordance with 45CSR13, 45CSR14, 45CSR19, and 45CSR15, whichever may be applicable.

3.3. Fee payment.

a. A person applying for a permit to construct, modify or relocate shall pay a fee when submitting the application. The fee shall be paid by a negotiable instrument (check, draft, warrant, money order, etc.) made payable to the ~~"West Virginia Air Pollution Control Commission Fund"~~. Any application for a permit to construct, modify or relocate shall not be deemed to have been received nor complete unless payment or the application fee is included.

b. An application fee paid hereunder is not refundable.

3.4. Fee Schedule.

a. All persons required to submit an application for a permit to construct, modify or relocate pursuant to 45CSR13 shall pay an application fee of \$1000.

b. In addition to the fee required in Section 3.4.a. of this regulation, all persons subject to PSD requirements (45CSR14), Nonattainment Review ~~Bubble Concept~~ requirements (45CSR19), NSPS requirements (45CSR16), NESHAPs requirements (45CSR15), ~~or~~ Toxic Air Pollutant requirements (45CSR27), or certain Emissions Trading requirements shall pay additional fees as described below:

	<u>Category</u>	<u>Fee</u>
<u>A.</u>	NSPS Requirements	\$ 1,000.00
<u>B.</u>	NESHAPs or Toxic Air Pollutant Requirements	\$ 2,500.00

<u>C.</u>	PSD or Nonattainment Review/ -Bubble Concept for --(1)-New Major Sources and ---Bubble Plans, or	\$-10,000.00
	--(2)-Major Modifications	\$-5,000.00
	<u>PSD Permit Review for New Sources Under Regulation 14 (45CSR14):</u>	<u>\$ 20,000.00</u>
<u>D.</u>	<u>Nonattainment Area Permit Review for New Sources Under Regulation 19 (45CSR19):</u>	<u>\$ 20,000.00</u>
<u>E.</u>	<u>Emission Trading Plan Review Requiring SIP Revision on Approval by USEPA:</u>	<u>\$ 20,000.00</u>
<u>F.</u>	<u>PSD or Nonattainment Area Major Modification Review under 45CSR14 or 45CSR19:</u>	<u>\$ 10,000.00</u>

In the event that a review is requested or required under Subsection 3.4.b.D. and 3.4.b.E. a maximum fee of \$20,000 shall apply. Further, in the event that a review is requested or required under Subsection 3.4.b.E. and 3.4.b.F., a maximum fee of \$20,000 shall apply.

c. Fees for each category requirement in Section 3.4.b. of this regulation are cumulative.

\$45-22-4. Certificate to Operate.

4.1. Requirements.

a. No person may operate nor cause to operate a plant or stationary source of air pollution without first obtaining and having in effect a valid certificate to operate.

b. Any person in possession of a certificate to operate shall maintain the certificate on the premises for which the certificate has been issued and shall make the certificate immediately available for inspection by the ~~Director~~Chief or his duly authorized representative.

~~4.2. Transfer of Operating Certificate.~~

~~Any person holding a valid certificate to operate may request that the Director transfer the certificate to another person providing the following conditions are met:~~

~~a. -- The certificate holder describes, in writing, the reasons for or circumstances of the transfer and certifies that the plant for which the certificate pertains is in compliance with all permits issued by the Director or Commission and the Commission's emission regulation.~~

~~b. -- The transferee identifies and acknowledges, in writing, that it accepts and will comply with all permits issued by the Director or Commission and will comply with all applicable regulations of the Commission.~~

~~c. -- The certificate holder or transferee pays, at the time of the request for transfer, a transfer fee of \$400 payable to the "West Virginia Air Pollution Control Commission Fund".~~

4.2. Changes in ownership.

a. A person who is a new owner or new operator of a plant or stationary source subject to this rule shall not be in violation of this rule for operating the plant or stationary source under a previous owner's or previous operator's certificate to operate provided that all fees and penalties due have been paid and that such certificate to operate is otherwise valid and current. In the event that required fees and any penalties have not been paid, a new owner or operator of a plant or stationary source shall be required to pay all such outstanding fees and penalties.

b. A person who is a new owner or new operator of a plant or stationary source subject to this rule shall, within thirty (30) days of the first day of ownership or operation, notify the Chief of the Office of Air Quality that such person has acquired ownership of the plant or is operating the plant. The notice shall provide the following:

- A. The name of the prior operating certificate holder;
- B. The name of the new owner or operator;
- C. The plant's Office of Air Quality identification number; and
- D. The effective date of the change of ownership or operation.

4.3. Fee Payment.

A person applying for a certificate to operate shall pay a fee to the Commission in accordance with the fee schedule of Sections 4.4. and 4.5. of this regulation. The fee shall be paid by negotiable instrument made payable to the "West Virginia Air Pollution Control Commission Fund".

4.4. Fee Schedule.

a.

	<u>Fee</u>
Group 1	\$10,000
Integrated Steel Plant	<u>20,000</u>
Electric Utility Plant (rated 300 MW or greater)	
Group 2	\$ 8,000
Primary Aluminum Plant	<u>16,000</u>
Furnace and Foundry Coke Production Plant	
Portland Cement Plant	
Kraft Pulp Mill	
Group 3	\$ 5,000
Chemical Production Plant with Steam Plant(s) having total design heat input greater than 350 mmBtu/hr	<u>10,000</u>
Hazardous Waste Incinerator	
Electric Utility Plant (rate less than 300 MW)	
Group 4	\$ 4,000
Petroleum Refinery	<u>8,000</u>
Ferroalloy Production Plant	
Any source containing chemical processing units emitting one or more toxic air pollutants and subject to regulation under	

45CSR22

45CSR27 for which a higher
operating certificate fee is ...
not applicable

Group 5 \$ ~~3,000~~
6,000

Chemical Production Plant
(three process units or greater)

Primary Metals Plant
(not otherwise listed)

Group 6 \$ ~~2,000~~
4,000

Rocket Fuel Plant

Chemical Production Plant
(less than three process units)

Carbon Products Plant
(not otherwise listed)

Petroleum Storage and Distribution Facility
(greater than 20 million gal/yr gasoline
throughput)

Glass Production Plant
(total pull rate greater than 6,000 lb/hr)

Commercial/Industrial or Commercial
Infectious Waste Disposal Facility

Group 7 \$ ~~1,000~~
2,000

Nonmetallic Mineral Products Processing Plant
(500 ton/hr or greater primary crushing capacity)

Coil, Can or Sheet Coating Facility

Coal or other Solid Fuel-Fired Boilers or Process
Equipment (total design heat input greater than
100 mmBtu/hr, excluding all boilers less than
10 mmBtu/hr design heat input)

Lead, Aluminum or Copper Recovery Plant

Asphalt Building Product Plant

Secondary Metals Plant
(not otherwise listed)

Charcoal Plant

Lime Manufacturing Plant

Group 8

\$ 500
1,000

Hot Mix Asphalt Paving Plant

Wool Fiberglass Insulation Production Plant

Sewage Sludge Incinerator

Natural Gas Compressor Station
(total reciprocating engine capacity
greater than 1,000 h.p.)

Natural Gas Compressor Station
(total turbine capacity greater
than 8,000 h.p.)

Nonmetallic Minerals Processing Plant
(primary crushing capacity greater than
100 tons/hr but less than 500 tons/hr)

Sulfuric Acid Manufacturing Plant

Coal or other Solid Fuel-Fired Boilers or
(Process Fuel Burning Equipment with
total design heat input greater than
50 mmBtu/hr but less than 100 mmBtu/hr,
excluding all boilers less than 10 mmBtu/hr)

Refractory Manufacturing Plant

Metal Reclamation Furnace
(wire, electrical equipment, batteries)

Miscellaneous Surface Coating (not otherwise listed and greater than 100 tons/yr maximum emissions of volatile organic compounds)

Coal Preparation Plant
(wet washing or pneumatic cleaning not otherwise listed)

Clay Processing/Brick Manufacturing

Group 9

\$ 200

On-site Pathological/Infectious Waste Incinerator

Crematory Incinerator

Other Glass Manufacturing Including Specialty Manufacturing

Plastic Products Recovery Facility

Miscellaneous Surface Coating
(not otherwise listed and greater than 25 tons/yr maximum emissions of volatile organic compounds)

Tank Truck and Railroad Tank Car Cleaning/Repair Facility

Metal or Ore Briquet Manufacturing/ Recovery Facilities

Gray Iron Foundry

Coal Processing and Handling
(not otherwise listed)

Nonmetallic Minerals Processing Plant
(primary crusher capacity less than 100 tons/hr)

Natural Gas Sweetening Plant

Printing Facility
(emitting greater than 150 lbs/day volatile organic compounds)

All other sources (excluding indirect affected sources) subject to emission regulations, permit, and/or registration requirements promulgated by the Commission

b. If a plant or source is described by more than one of the groups in Section 4.4.a. or contains individual emitting facilities listed under more than one of the groups in Section 4.4.a., only the single highest fee shall apply. For each stationary source, no person shall be required to pay more than one fee listed in Section 4.4.a. ~~source, no person shall be required to pay more than one fee listed in Section 4.4.a.~~

c. A fee paid hereunder is not refundable.

d. Persons operating on-farm poultry incinerators used to incinerate only remains of poultry produced on-site shall not be subject to the fee schedule of subsection 4.4.a. but shall pay an annual operating certificate fee of \$50.00.

4.5. Operating Year.

a. A certificate to operate shall be issued for the fiscal period July 1 through June 30 of each year or for any portion of such year remaining upon initial new source start-up.

b. For those persons making application after July 1 of the current operating year for a certificate to operate in the current operating year, such person shall pay a fee or prorated fee in accordance with the following schedule:

<u>Month</u>	<u>% of Fee</u>	<u>Month</u>	<u>% of Fee</u>
July	100	January	90
August	100	February	80
September	100	March	70
October	100	April	60
November	100	May	50
December	100	June	50

4.6. Penalty.

Any person who operates a plant in violation of the requirements of Section 4 of this regulation shall be subject to a penalty equal to five percent (5%) of the certificate to operate fee for each month of violation and payable to the "Air Pollution Control Commission Fund" in addition to the annual certificate fee. This

penalty for delinquent payment is separate from and unrelated to any penalties assessed by a court or collected by the Commission or Office of Air Quality pursuant to §16-20-8 for violations of the Code efor the Commission's regulations promulgated by the Commission.

\$45-22-5. Collection.

Any fee or penalty due under this regulation is a debt due the State of West Virginia and may be collected pursuant to law.



DEPARTMENT OF COMMERCE, LABOR & ENVIRONMENTAL RESOURCES
OFFICE OF THE SECRETARY
State Capitol, Room R-151
Charleston, West Virginia 25305-0310
Telephone: (304) 558-3255
Fax No.: (304) 558-4983

GASTON CAPERTON
Governor

JOHN M. RANSON
Cabinet Secretary

December 2, 1992

G. Dale Farley, Chief
Office of Air Quality
1558 Washington Street, East
Charleston, West Virginia 25311

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

DEC 2 4 03 PM 1992

FILED

RE: Proposed Rules - Title 45, Series 22 (Proposed Revisions
to Fee Regulation)

Dear Dale:

Pursuant to West Virginia Code §5F-2-2(a)(12), I hereby
consent to the proposal of the rules specified above.

You may attach a copy of this letter to your filing with the
Secretary of State as evidence of my consent.

Sincerely yours,

John M. Ranson
John M. Ranson
Cabinet Secretary

JMR:cjb
B:RUL-OAQ.APC



Ken Hechler
Secretary of State

WEST VIRGINIA REGISTER

Volume IX

Issue 49

December 4, 1992

Pages 2243-2304

A Weekly Publication

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Director

Missy Phalen
Administrative Assistant

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Secretary of State
Administrative Law Division
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Charleston, WV 25305-0770

(304)558-6000

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- XI. Other Documents or Information Filed
- XII. Publication Deadlines and Publication Dates

CHRONOLOGICAL INDEX VOLUME IX ISSUE 49

Proposed Rules Filed for Public Hearing

<u>AGENCY</u>	<u>RULE/TYPE</u>	<u>AUTHORITY</u>	<u>HEARING/COMMENT PERIOD/LOCATION</u>
Air Pollution Control Commission (45-22)	Air Quality Management Fee Program Legislative	\$16-20-5	January 7, 1993, 2:00 p.m. Conference Room 1558 Washington Street, E Charleston, WV 25311 Written Comments to: Office of Air Quality Conference Room 1558 Washington Street, E Charleston, WV 25311
Registered Prof. Nurses (19-5)	Contested Case Hearing Procedure Procedural	\$30-7-1	December 28, 1992, 4:00 p.m. Written Comments to: WV Board of Examiners for Registered Professional Nurses 101 Dee Drive Charleston, WV 25311

EMERGENCY RULES FILED

<u>AGENCY</u>	<u>RULE</u>	<u>AUTHORITY</u>	<u>EFFECTIVE DATE</u>	<u>NOTICE FOR HEARING BY</u>

NO NEW EMERGENCY RULES FILED THIS WEEK

2272

SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Dec 2 4 03 PM '92
OFFICE OF THE SECRETARY OF STATE

LEGISLATIVE
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION
Form 13

Dec 1 4 29 PM '92
OFFICE OF THE SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Air Pollution Control Commission TITLE NUMBER: 45CSR22
RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code §16-20-5
AMENDMENT TO AN EXISTING RULE: YES NO
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR22
TITLE OF RULE BEING AMENDED: "Air Quality Management Fee Program"
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____
TITLE OF RULE BEING PROPOSED: _____

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

AGENCY: Cable Television Advisory Board TITLE NUMBER: 187
CITE AUTHORITY: W. Va. Code § 5-18-26(b)
AMENDMENT TO AN EXISTING RULE: YES NO
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2
TITLE OF RULE BEING AMENDED: Implementing Regulations
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____
TITLE OF RULE BEING PROPOSED: 2-1 A1

DATE OF PUBLIC HEARING: January 7, 1993 TIME: 2:00 p.m.
LOCATION OF PUBLIC HEARING: Office of Air Quality

Conference Room
1538 Washington Street, East
Charleston, WV 25311

COMMENTS LIMITED TO: ORAL _____, WRITTEN _____, BOTH
COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Same as above.

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.

[Signature]

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.



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor

John M. Ranson
Cabinet Secretary

David C. Callaghan
Director

Ann A. Spaner
Deputy Director

AGENDA

WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

Conference Room
1558 Washington Street, East
Charleston, West Virginia 25311

January 7, 1993
2:00 p.m.

I. HEARING ON PROPOSED RULES

1. Hearing on Proposed Regulation 28 - "Regulation to Prevent and Control Air Pollution from the Emission of Volatile Organic Compounds from Vehicle Refueling Emissions at Gasoline Dispensing Facilities".
2. Hearing on Proposed Revisions to Regulation 22- "Air Quality Management Fee Program".

II. COMMISSION MEETING

1. Discussion of Possible Air Pollutant Emissions Banking Regulation (If time permits).
2. Such Other Business as the Commission Deems Timely and Appropriate.



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

1558 Washington Street, East
Charleston, WV 25311-2599

Gaston Caperton
Governor
John M. Ranson
Cabinet Secretary

David C. Callaghan
Director
Ann A. Spaner
Deputy Director

AGENDA

WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

Conference Room
1558 Washington Street, East
Charleston, West Virginia 25311

February 8, 1993
2:00 p.m.

COMMISSION MEETING

1. Further Consideration of Amendments to 45CSR22 - "Air Quality Management Fee Program".
2. Such other business as the Commission deems timely and appropriate.

The Wheeling News-Register and Intelligencer

MAKE CHECK PAYABLE TO:
 THE OGDEN NEWSPAPERS, INC.
 1500 MAIN ST., WHEELING, W. VA. 26003

LEGAL ADVERTISING

NUMBER **B** 26090

public hearing

Intelligencer November 30, December 7, 1992 2½" @ 11.60 = 29.00

News-Register November 30, December 7, 1992 2½" @ 11.60 = 29.00

The items listed hereon conform to specification, were received and are approved for payment.

Date: 12/21/92 Signed: N. Sitton

Account Number	Div. Code	Line Item
<u>7906-16</u>	<u>05</u>	<u>035</u>
Rate	Appr. #	
<u>02</u>	<u>93</u>	
Purchase Auth. <u>SA</u>	Division Approval	
No. <u>Press</u>	Invoice Number <u>550-244-410</u>	

PAY THIS AMOUNT



DATE	WORDS	LINE	INCHES	RATE	TIMES	AMOUNT	CHARGE	CLERK	CONTR	VOL	MATL	AGT.	CLASSIFICATION No.
2-9-92						58.00							

INSTRUCTIONS TO PRINTERS AND REMARKS

WV Air Pollution Control Commission
 1558 Washington St. East
 Charleston, WV 25311
 Nadine Sitton

Legal Adv

NOTICE OF PUBLIC HEARING

On Thursday, January 7, 1993, beginning at 2:00 p.m., the West Virginia Air Pollution Control Commission will hold a public hearing on proposed amendments to legislative rule 45CSR22. "Air Quality Management Fee Program". The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be solicited and made part of the record.

The proposed amendments primarily would increase fees for certificates to operate regulated sources of air pollution to enable the Office of Air Quality to increase its staff to meet new requirements mandated by the 1990 Amendments to the Federal Clean Air Act.

Copies of the proposed legislative rule are available for public review in the office of the WV Air Pollution Control Commission, Northern Panhandle Regional Office, 1911 Warwood Avenue, Wheeling, WV.

If you have any questions or comments please contact:

G. Dale Farley
Chief, Office of Air Quality
1558 Washington Street, East
Charleston, West Virginia 25311
Intel., Nov. 30, Dec. 7
N.R., Nov. 30, Dec. 7

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:

November 30, December 7, 1992

commencing on the 30 day of November, 1992

Given under my hand this 9 day of December, 1992

Bonnie Mattern

Sworn to and subscribed before me this 9th day of December, 1992 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

CLARKSBURG PUBLISHING COMPANY
 14-326 HEWES AVENUE • CLARKSBURG, WEST VIRGINIA 26301
 PHONE (304) 624-6411

TO INSURE PROPER CREDIT PLEASE
 RETURN THIS STUB WITH YOUR REMITTANCE

E.I.N. 55-0145320

CLARKSBURG PUBLISHING COMPANY
 LEGAL ADVERTISING

LEGAL ADVERTISING STATEMENT

WV AIR POLLUTION CONTROL COMM
 INVOICE # 3587-1292
 12/08/92 ACCOUNT NO. 849
 INVOICE AMOUNT 15.66

INVOICE DATE - DECEMBER 8, 1992

INVOICE # 3587-1292

ACCOUNT NUMBER 849
 WV AIR POLLUTION CONTROL COMM
 ATTENTION: MS. NADINE SITTON
 1558 WASHINGTON ST E
 CHARLESTON WV 25311-2510

DESCRIPTION OF PUBLICATION

NOTICE OF PUBLIC HEARING
 AIR QUALITY MANAGEMENT FEE PROGRAM
 INCREASE FEES FOR CERTIFICATES TO OPERATE

	WORDS	RATE	AMOUNT
12/01/92 12/08/92	179	.087500	15.66
EXPONENT			

The items listed hereon conform to specification, were received and are approved for payment.

Date: 12/10/92
 Acc. No.: 4760-16
 File: 02 501
 Purch. Auth. 3A
 No. (Class) 550-145-320

By: N. Sitton
 Date: 12/10/92
 Amt: 05
 Cont: 035
 Proj. #
 Appn. Yr.: 93
 Division Approval

TOTAL -- PLEASE PAY THIS AMOUNT 15.66

TERMS: 30 DAYS NET. FINANCE CHARGE WILL BE IMPOSED THEREAFTER, COMPUTED BY A "PERIODIC RATE" OF 1 1/2% PER MONTH (OR A MINIMUM CHARGE OF 50 CENTS FOR BALANCES UNDER \$33.00) WHICH IS AN ANNUAL PERCENTAGE RATE OF 18% APPLIED TO THE "ADJUSTED BALANCE", WHICH IS THE PREVIOUS BALANCE LESS CURRENT PAYMENTS AND/OR CREDITS APPEARING ON THIS STATEMENT. PAYMENTS, CREDITS OR CHARGES, RECEIVED AFTER THE DATE HEREOF, WHICH IS THE CLOSING DATE OF THIS CYCLE, WILL APPEAR ON YOUR NEXT STATEMENT.

PUBLISHER'S CERTIFICATE

VS.

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON

I, Deborah S. Veltri

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

Notice of Public Hearing

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

commencing on the 1 day of December 19 92 and ending on the 8 day of December 19 92

The publisher's fee for said publication is \$ 15.66

Given under my hand this 8 day of December 19 92

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



Subscribed and sworn to before me this 8 day

of December, 19 92

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

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

NOTICE OF PUBLIC HEARING
On Thursday, January 7, 1993 beginning at 2:00 p.m., the West Virginia Air Pollution Control Commission will hold a public hearing on proposed amendments to legislative rule 45CSR22 - "Air Quality Management Fee Program". The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record.
The proposed amendments primarily would increase fees for certificates to operate regulated sources of air pollution to enable the Office of Air Quality to increase its staff to meet new requirements mandated by the 1990 Amendments to the Federal Clean Air Act.
Copies of the proposed legislative rule are available for public review in the office of the West Virginia Air Pollution Control Commission, North Central Regional Office, 517 1/2 East Park Avenue, Fairmont, WV.
If you have any questions or comments please contact:
G. Dale Farley
Chief, Office of Air Quality
1558 Washington Street, East
Charleston, West Virginia 25311

NEWS-TRIBUNE
KEYSER, WEST VIRGINIA

STATEMENT

THE MOUNTAIN ECHO
Established 1885
KEYSER, WEST VIRGINIA

MINERAL DAILY NEWS-TRIBUNE CO. INC.

P. O. BOX 879
KEYSER, WEST VIRGINIA 26726
788-3333

12-7-92

19

Division of Environmental Protection

ADVERTISING IS A DEDUCTIBLE BUSINESS EXPENSE

THIS STATEMENT PAYABLE UPON RECEIPT

Notice of Public Hearing: Air Quality
Management Fee Program

Published: 12:1,7

$5.50 \times 42 = 231 \times .05 = 11.55 \times .75 = 8.66$
 $+ 11.55 = 20.21$

Fee: \$20.21

The items listed hereon conform to specification,
requirements and are approved for payment.

12/10/92		Signed: <i>N. Dutton</i>	
4760-16		05	Line 035
02	P C 501	Rec. Proj. #	93
Purchase Order No. <i>Class 4</i>		The. Use Number <i>550-463-343</i>	
Auth: <i>EA</i>		Division Approval	

Federal I.D. No. 550-463-343-8
Mineral Daily News-Tribune, Inc.

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

in the case of Air Quality Management Fee Program
Division of Environmental Protection
VS. _____

a copy whereof is hereto annexed has been published for 2 consecutive weeks in said NEWS-TRIBUNE, the first publication being on the 1st day of Dec.

19 92
Given under my hand at Keyser this 7th day of Dec., 19 92.

A. Judith Raymond
Publisher

Publisher's Fee
\$ 20.21

NOTICE OF PUBLIC HEARING

On Thursday, January 7, 1993 beginning at 2 p.m., the West Virginia Air Pollution Control Commission will hold a public hearing on proposed amendments to legislative rule 45CSR22- "Air Quality Management Fee Program". The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record.

The proposed amendments primarily would increase fees for certifi-
cates to operate regulated sources of air pollution to enable the office of Air Quality to increase its staff to meet new requirements mandated by the 1990 Amendments to the Federal Clean Air Act.

Copies of the proposed legislative rule are available for public review in the Keyser-Mineral County Public Library, 105 North Main Street, Keyser, WV.

If you have any questions or comments please contact:

G. Dale Farley
Chief, Office of Air Quality
1558 Washington Street, East
Charleston, West Virginia 25311
12: 17



PRINTED IN U.S.A.

Invoice



THE RECORD-DELTA

P.O. Box 550

Buckhannon, West Virginia 26201

Telephones 472-2800 / 472-2801

Ms. Nadine Sitton
1558 Washington Street East,
Charleston, W.V. 25311

Please return this stub with your remittance

Amount Paid

Date	Code	Inches	Job Number	Description	Debits	Credits	Balance																																																																								
12-10-92				Balance Forward																																																																											
				Notice Of Public Hearing																																																																											
11-30-92		207		word spaces @.05 each	10.35																																																																										
12-7-92		75		each time after	7.77																																																																										
				Total	18.12																																																																										
				"Air Quality Management Fee Program"																																																																											
<table border="1"> <tr> <td colspan="8">The items listed hereon conform to specification, were received and are approved for payment.</td> </tr> <tr> <td colspan="8">Date: 12/2/92</td> </tr> <tr> <td colspan="8">Account Number: 7906-16</td> </tr> <tr> <td colspan="8">Div. Code: 05</td> </tr> <tr> <td colspan="8">Item: 035</td> </tr> <tr> <td colspan="8">Fed. Code: 02</td> </tr> <tr> <td colspan="8">Appr. Yr.: 501</td> </tr> <tr> <td colspan="8">Purchase Order No.: 363-672-215</td> </tr> <tr> <td colspan="8">Division Approval: 193</td> </tr> </table>								The items listed hereon conform to specification, were received and are approved for payment.								Date: 12/2/92								Account Number: 7906-16								Div. Code: 05								Item: 035								Fed. Code: 02								Appr. Yr.: 501								Purchase Order No.: 363-672-215								Division Approval: 193							
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Division Approval: 193																																																																															

CODE EXPLANATION

- A Display
- B Classified
- C Legal
- D Job Work
- E Other Charges

THE RECORD-DELTA

P.O. Box 550

Buckhannon, West Virginia 26201

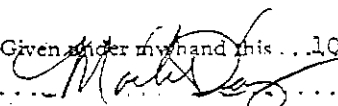
State of West Virginia, County of Upshur, ss:

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 (2) two successive weeks in
said Record Delta newspaper published as aforesaid, commencing on the .. 30th day of
November and the 7th day of December days of 19..92.....

Given under my hand this .. 10th day of December of 19 .. 92.....

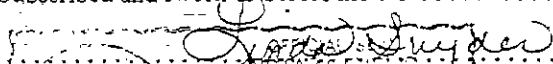


..... Advertising Manager

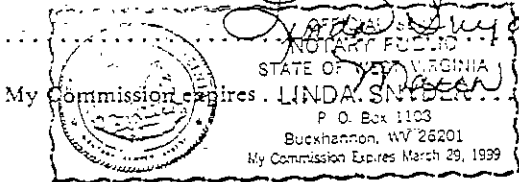
Printers fee \$.. 18.12

WEST VIRGINIA, UPSHUR COUNTY, TO-WIT:

Subscribed and sworn to before me this 11th day of Dec of 1992.....



..... Notary Public.



NOTICE OF PUBLIC HEARING
On Thursday, January 7, 1999 beginning at 2:00 p.m., the West Virginia Air Pollution Control Commission will hold a public hearing on proposed amendments to legislative rule 45CSR22, Air Quality Management Fee Program. The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record.
The proposed amendments primarily would increase fees for certificates to operate regulated sources of air pollution to enable the Office of Air Quality to increase its staff to meet new requirements mandated by the 1990 Amendments to the Federal Clean Air Act.
Copies of the proposed legislative rule are available for public review in the Gassaway Public Library, 100 Birch Street, Gassaway, WV.
If you have any questions or comments please contact:
G. Dale Farley
Chief, Office of Air Quality
1558 Washington Street, East
Charleston, West Virginia 25311
(11-30/12-7)

The Journal

P.O. Box 807, 207 W. King Street
Martinsburg, West Virginia 25401
(304) 263-8931

LEGAL ADVERTISING INVOICE

The items listed hereon conform to specification, were received and are approved for payment.

Date: 12/10/97	Account: 4760-16	Invoice: 143720	N. Sitton	
Fed. C.:	02	501	CHARGE 05	CASH PAID 035
Purchase Auth. SA	550-318-773		93	
No. Class 4			Approval	
Dates Published: 11/30, 12/7			24.92	

To WV DEPT. COMM, LABOR & ENV. RES., DIV. ENV. PROTECTION
MRS NADINE SITTON
1558 WASHINGTON STREET EAST

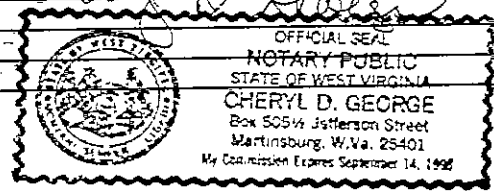
CHARLESTON, WV 25311

Size of Ad:

4 inches x 1 column = 4 inches x $\frac{3.56}{2.67}$ = 1st Ad 14.24 - 11/30
2nd Ad 10.68 - 12/7
3rd Ad

Ad Description HEARING AMENDMENTS TO LEGISLATIVE RULE 45CSR22

White, Customer Copy; Yellow, Second Notice; Pink, Accounting



81:11:18

NOTICE OF PUBLIC HEARING

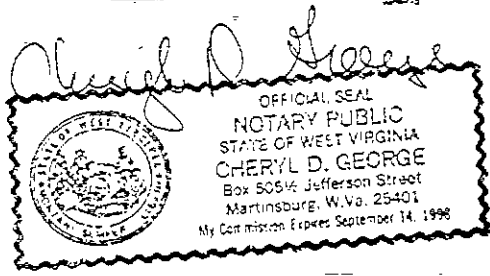
On Thursday, January 7, 1993 beginning at 2:00-p.m., the West Virginia Air Pollution Control Commission will hold a public hearing on proposed amendments to legislative rule 45CSR22 - "Air Quality Management Fee Program". The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record.

The proposed amendments primarily would increase fees for certificates to operate regulated sources of air pollution to enable the Office of Air Quality to increase its staff to meet new requirements mandated by the 1990 Amendments to the Federal Clean Air Act.

Copies of the proposed legislative rule are available for public review in the Martinsburg-Berkeley County Public Library, 101 King Street, Martinsburg, WV.

If you have any questions or comments please contact:

G. Dale Farley
Chief, Office of Air Quality
1558 Washington Street, East
Charleston, West Virginia 25313
(11:30:12:7)21



Certificate of Publication

This is to certify the annexed advertisement

WV DEPT. COMM., LABOR, ENV. RES.
DIV. RES. PRO., NADINE SITTON

HEARING AMENDMENTS TO
LEGISLATIVE RULE 45CSR22

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

11/30

and ending

12/7

The Journal

Patricia K. McCune

Fee \$ 24.92

State of West Virginia, County of Randolph, ss.

NOTICE OF PUBLIC HEARING

On Thursday, January 7, 1993 beginning at 2:00 p.m., the West Virginia Air Pollution Control Commission will hold a public hearing on proposed amendments to legislative rule 45CSR22 - "Air Quality Management Fee Program." The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record.

The proposed amendments primarily would increase fees for certificates to operate regulated sources of air pollution to enable the Office of Air Quality to increase its staff to meet new requirements mandated by the 1990 Amendments to the Federal Clean Air Act.

Copies of the proposed legislative rule are available for public review in the Elkins-Randolph County Public Library, 416 Davis Avenue, Elkins, WV.

If you have any questions or comments please contact:

G. Dale Farley
Chief, Office of Air Quality
1558 Washington Street, East
Charleston, West Virginia 25311

12-1,7

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:

Dec 01 Dec 07

19 92 as required by law.

Given under my hand this 07 day of December 19 92

James Hoffman
Publisher

Printer's Fee: \$ 25 18

Subscribed and sworn to before me this 07 day of December 19 92

Shirley A. Menear
Notary Public

My Commission Expires the 15 day of April 19 2002



ORIGINAL INVOICE - TO ASSURE CREDIT RETURN REFUNDANCE COPY WITH PAYMENT
 CHARLESTON NEWSPAPERS
 P.O. BOX 2993
 Charleston West Virginia 25330
 Phone (304) 348-4898
 1-800-888-5740
 1-800-WVA-NEWS

MAKE CHECKS PAYABLE TO
 CHARLESTON NEWSPAPERS

FEIN# 55-0676079-002

PAGE	INVOICE NUMBER
1	4129207912
INVOICE DATE	INVOICE DUE DATE
12/09/92	12/09/92
ACCOUNT NUMBER	10010034

THIS BILL IS
 DUE
 WHEN RENDERED

MV DEPT. COMMERCE, LABOR & ENV.
 1558 WASH. ST., EAST
 ATTN: NADINE SITTON
 CHARLESTON WV 25311

NEWSPAPER REFERENCE NUMBER	DATE	PUB	DESCRIPTION	WORDS	RATE CODE	CHARGE/CREDIT AMOUNT	NET AMOUNT
L119212	12/01/92	DM	45 CSR 22 AMENDMENTS	260	01	18.85	32.99
L119212	12/08/92	DM	45 CSR 22 AMENDMENTS TOTAL CHARGE	260	02	14.14	

Please See that the attached Affidavit is given to the appropriate individual. THIS WILL BE THE ONLY ONE ISSUED!

*SEE BACK FOR CODES

TOTAL NET AMOUNT DUE 32.99

The items listed hereon conform to specification, were received and approved for purchase by _____

Date: 12/16/92 Estimated by: J. Dillan

Account No: 4760-16

Pod. Cat: 02

Inv. No: 501

Appn. No: 05 035

Year: 1992

Purchase Auth: SA

Division Approval: [Signature]

No. 550-676-079

AFFIDAVIT OF PUBLICATION

STATE OF WEST VIRGINIA,

KANAWHA COUNTY, TO-WIT:

I, Sandra Lugg 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: 45 CSR 22 AMENDMENTS

WAS DULY PUBLISHED IN SAID PAPER(S) ON THE DATES
LISTED BELOW, AND WAS POSTED AT THE FRONT DOOR OF THE
COURT HOUSE OF SAID KANAWHA COUNTY, WEST VIRGINIA,
ON THE

2ND DAY OF DECEMBER, 1992.

DATES PUBLISHED:

12/01/92 DAILY MAIL 12/08/92 DAILY MAIL

SUBSCRIBED AND SWORN TO BEFORE ME THIS

10TH DAY OF DECEMBER, 1992.

Francis A. Hartman

NOTARY PUBLIC OF KANAWHA COUNTY, WEST VIRGINIA

PRINTERS FEE \$ 32.99

NOTICE OF PUBLIC HEARING

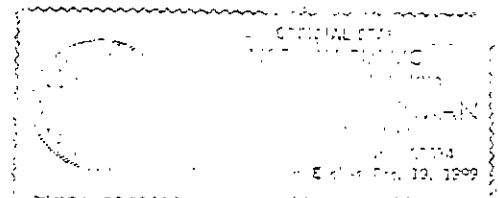
On Thursday, January 7, 1993 beginning at 2:00 p.m., the West Virginia Air Pollution Control Commission will hold a public hearing on proposed amendments to legislative rule 45CSR22 - "Air Quality Management Fee Program". The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record.

The proposed amendments primarily would increase fees for certificates to operate regulated sources of air pollution to enable the Office of Air Quality to increase its staff to meet new requirements mandated by the 1990 Amendments to the Federal Clean Air Act.

Copies of the proposed legislative rule are available for public review in the Library of the West Virginia Air Pollution Control Commission located at the address below.

If you have any questions or comments please contact:

G. Dale Farley
Chief, Office of Air Quality
1558 Washington Street, East
Charleston, West Virginia
25311 (119212)



The Herald-Dispatch

MORNING • SUNDAY
P.O. BOX 2017
HUNTINGTON, WEST VIRGINIA 25720

PLEASE DETACH AND
RETURN THIS STUB
WITH YOUR PAYMENT

CLASSIFIED ADVERTISING INVOICE	
START DATE	BILL DATE
12/05/92	12/05/92
CUSTOMER NAME	
DIV. OF ENVIRONMENTA	
PUBLICATION	SALESPERSON
DLY HERALD-D	41
TELEPHONE NUMBER	AD-INVOICE NO.
304-558-2275	112139
AMOUNT DUE →	46.69

The Herald-Dispatch

MORNING • SUNDAY
P.O. BOX 2017
HUNTINGTON, WEST VIRGINIA 25720

THIS INVOICE IS DUE AND
PAYABLE WHEN RENDERED

INVOICE FOR CLASSIFIED ADVERTISING

AD-INVOICE NO.	START DATE	STOP DATE	BILL DATE
112139	12/05/92	12/05/92	12/05/92
PUBLICATION		AD TEXT	
DLY HERALD-D		PUBLIC HEARING NOT	
TELEPHONE NUMBER	SALESPERSON	P. O. NUMBER/PLACED BY	
304-558-2275	41		
TIMES	LINES	CLASSIFICATION	AD COST
1	70.00		
ADD. CHG./CRD.	BOX CHARGE	SALES TAX	AMOUNT DUE
			46.69

TO:

DIV. OF ENVIRONMENTAL PROTECT
ATTN: MS. NADINE SITTON
1558 WASHINGTON STREET EAST
CHARLESTON WV 25311

(Coding on other side)

NOTICE
NOTICE OF
PUBLIC HEARING
 On Thursday, January 7, 1993 beginning at 2:00 p.m., the West Virginia Air Pollution Control Commission will hold a public hearing on proposed amendments to legislative rule 45CSR22- "Air Quality Management Fee Program". The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record.

The proposed amendments primarily would increase fees for certificates to operate regulated sources of air pollution to enable the Office of Air Quality to increase its staff to meet new requirements mandated by the 1990 Amendments to the Federal Clean Air Act.

Copies of the proposed legislative rule are available for public review in the Cabell County Public Library, 455 9th Street Plaza, Huntington, WV.

If you have any questions or comments please contact:
 G. Dale Farley
 Chief, Office of Air Quality
 1558 Washington Street, East Charleston, West Virginia 25311
 LH-1567 11-28, 12-5-92

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 newspaper, 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-1567 was duly published in

The Herald-Dispatch

one time, once a week for 2 successive weeks, commencing with its issue of the 28th day of Nov., 1992, and ending with the issue of the 5th day of December, 1992, and was posted at the East door of the Cabell County Courthouse

on the 28th day of Nov., 1992; that said legal advertisement was published on the following dates: November 28, 1992
December 5, 1992

; that the cost of publishing said annexed advertisement as aforesaid was \$46.69; 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 newspaper is a newspaper of "general circulation" as defined in Article 3, Chapter 59, of the West Virginia Code, within the publication area or areas of the municipality of Huntington, Cabell and Wayne Counties, West Virginia, and _____

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

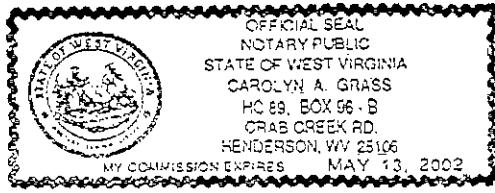
Connie Rappold

Taken, subscribed and sworn to before me in my said county this 5th day of December, 1992

My commission expires May 13, 2002

Garth A. Grass

Notary Public
 Cabell County,
 West Virginia



The News The Sentinel

The items listed hereon conform to specification,
MARIE [unclear] and are approved for payment.

Date: 12/11/92		Signed: N. Sitton	
Account Number		Div. Code	Invoice Num
7906-16		05	035
Fed. Cont.	P. C.	Req. No. #	Appr. No.
02	501		93
Purchase Order #		Division Approval	
Auth: [Signature] 550-244-476			

WV DIVISION OF ENVIRONMENTAL PROTECTION
ATTN: MS. NADINE SITTON
1558 WASHINGTON STREET, EAST
CHARLESTON, WVA 25311

FEIN# 55-02-44410-1

DECEMBER 7, 1992

INVOICE FOR LEGAL ADVERTISING

NOVEMBER 30-----NEWS
DECEMBER 7-----NEWS

notice of public hearing -- JANUARY 7th

2 1/8 "X 103= 218.875 words @ 10.9375

TOTAL AMOUNT DUE: \$ 23.94

Please return a copy of this invoice with your payment.
Send to: P.O. Box 1787, Parkersburg, WV 26102 Attn: Legal Adv.
Thank You!!

NOTICE OF PUBLIC HEARING

On Thursday, January 7, 1993 beginning at 2:00 p.m., the West Virginia Air Pollution Control Commission will hold a public hearing on proposed amendments to legislative rule 45CSR22 - "Air Quality Management Fee Program". The hearing will be held in the Commission's Conference Room at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record.

The proposed amendments primarily would increase fees for certifiers to operate regulated sources of air pollution to enable the Office of Air Quality to increase its staff to meet new requirements mandated by the 1990 Amendments to the Federal Clean Air Act. Copies of the proposed legislative rule are available for public review in the Parkersburg/Wood County Public Library, 3100 Emerson Avenue, Parkersburg, West Virginia.

If you have questions or comments please contact: G. Dale Farley, Chief, Office of Air Quality, 1558 Washington Street, East Charleston, West Virginia 25311

Nov. 30, Dec. 7

MARCIA MOORE

being first duly sworn, says that the

notice of public hearing-- JANUARY 7th

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 two successive weeks, the first publication ~~and~~ appearing thereon being on the 30th day of NOVEMBER 19 92, and subsequent publication on the 7th day of DECEMBER 19 92, the day of 19, the day of 19, and the day of 19.

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Subscribed and sworn to before me this 7th day of

DECEMBER 19 92

Robin C. Covey, Notary Public for Wood County, West Virginia

My commission expires July 23, 1994

OFFICIAL SEAL NOTARY PUBLIC, STATE OF WEST VIRGINIA ROBIN C. COVEY P. O. BOX 1787 PARKERSBURG, WV 26102 MY COMMISSION EXPIRES JULY 23, 1994

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

IN RE: Public Hearing on Proposed Regulation 28 -
Regulations to Prevent and Control Air
Pollution From the Emission of Volatile
Organic Compounds from Vehicle Refueling
Emissions at Gasoline Dispensing Facilities &
Hearing on Proposed Revisions to Regulation
28 - Air Quality Management Fee Program

TRANSCRIPT OF PROCEEDINGS had and/or

testimony adduced in the hearing held before the West
Virginia Air Pollution Control Commission in the
Conference Room at 1558 Washington Street, East,
Charleston, Kanawha County, West Virginia, on the 7th day
of January, 1993, commencing at 2:00 p.m.

BEFORE: COMMISSIONER I. NEWTON THOMAS, JR., Chairman
COMMISSIONER ALLEN HAMNER
COMMISSIONER CLEVE BENEDICT
COMMISSIONER JEAN C. NEELY
COMMISSIONER JOSEPH P. SCHOCK
COMMISSIONER SAMUEL KUSIC
G. DALE FARLEY, Director
LARRY KOPELMAN, Special Assistant A.G.

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COMMISSIONER NEELY: Okay. That is a very good point. All right, I quit.

CHAIRMAN THOMAS: Persons in favor of the motion signify by saying aye. Opposed? Motion carries.

Before going to the next item, I will announce a five-minute break, no more than five minutes.

(WHEREUPON, a recess was taken, after which the following proceedings were had.)

CHAIRMAN THOMAS: We are continuing the hearing of the West Virginia Air Pollution Control Commission.

The next item on the agenda is the consideration of the proposed revisions to Regulation 22 - Air Quality Management Fee Program.

The Commissioners have received a copy in advance of the regulation that respectfully advises us to practically double the various letters of fees that were a part of the original Reg 22, but beyond that Dale, do you want to give any introductory comments?

MR. FARLEY: To give you a little background and history here, this is something that we

have recognized for quite some time that because of the Title V operating permit program and some other new requirements in terms of what we have to implement that over a couple of year period here we are going to have to have more money than is coming into this program now to ramp up and hire additional technical and support staff to support the program beyond our current means, beyond our current fee, grant, and general revenue levels.

There has been discussions about this for some time, both due to some of our problems as well as EPA's very late issuance of its operating permit regulations.

We sort of abandoned several months ago our attempts to get our operating permit reg with fee structure in the mail this year. We just had to. There was just too much involved to do it.

Unfortunately, when we did that, we didn't come back and create and structure and support document for just fee ramp up by itself.

The thrust of this is to try to get -- and we don't know whether this will go or not -- something in the mail here for a ramp-up in the fees that we are

collecting now to supplement what we are getting to at least start the process of bringing in a new technical staff and getting them trained and up to speed and in the operating mode to take over this operating permit program.

One of the things -- and I will talk about that in a minute -- I just distributed today -- and this is something we have worked up several times before. It has been in the mail and been revised with the limited budget cut and so forth that just came about.

It is the basis for how we calculated and projected what our needs would be for a 21-month period in terms of funding. Now we did that because of a lot of things going on in terms of major purchases and so forth up to the end of September period and just looked at sort of where would be in relation to a partial acquisition of additional staff beyond the current level of funding.

This, as you noted, builds on Reg 22 as it already exists, which is a regulation that probably within the next year will either totally go away by supersession of new fees attached to the operating permit program rules we developed, or at least will be superceded in great part in terms of what will be subject to Title

V-B, and that is something we have to do in the next few months to get this in the mail as part of the fee operating permit program.

The thought is here to get -- even though this is very late, and as I say, we don't know that we can get this in process or not as far as first taking this to the Commission and ultimately to the Legislature to see what we can get done with this, but as I noted, it builds on the current fee structure, which is simply facility based, facility type bases.

It does entail about three or four changes. One is the doubling of the annual operating certificate fees for the top eight categories in the nine categories of sources.

We dropped out the lower category simply because those seem to be very small sources, very few of which we could envision would ever be in the Title V program, for example, and would be subject to these new requirements.

Second, it drops -- it doubles the fees for major source permitting and emissions trading, as I think was commented on today, as a matter of fact, by the

submissions of the West Virginia Manufacturers.

We think that is justified at least with respect to new source permitting simply because of the unbelievable amount of hours that goes into reviewing PSD permits.

Another change -- and that is probably to the benefit of everyone simply because it was confusing and more trouble than it was really worth -- is essentially deletion of the transfer criteria, operating certificate, annual operating certificate, and transfer criteria we had in the current reg and the deletion of the requirement for a \$200 transfer fee.

I noticed there was a comment about that in the Manufacturers submission, which I guess they will make a statement on.

I think there are a couple of other minor changes. One was that we carried the -- you remember some months ago there was a suggestion when we had the issue about on-farm poultry incinerators. That regulation never went further than the Commission. However, that was left in here from the last draft.

I think that pretty much covers the

changes that were drafted at one time or another with this. As I noted, there is a breakout here from projections -- and this is a very lean budget situation too -- projections of costs that we think we are going to see in the next 18 months, and with the target of bringing in something like 32 additional personnel, 8 or 9 of which are already scheduled, and 22 or so beyond that.

COMMISSIONER NEELY: Well, this shows 56. Am I not reading this right?

MR. FARLEY: Fifty-six is what we have on board right now.

COMMISSIONER NEELY: Right.

MR. FARLEY: I think it is actually 57 now.

COMMISSIONER NEELY: So your staff additions of 16 by mid-'93 and then 16 more by 1994; is that right?

MR. FARLEY: It would be 32 more by the mid, say the spring or something like that of 1994 with hiring target towards nominally -- it really wouldn't occur that way, but that is the easiest way to make an estimation -- 16 people in the mid to latter part of this

year and 16 additional in the six-month period after January 1994.

COMMISSIONER NEELY: So you have got a million 38 now and you would be adding another million on top of that?

MR. FARLEY: Well, see, to go to that, let me see if I can clarify that.

COMMISSIONER NEELY: I was just looking at this odd numbered page.

MR. FARLEY: Just the way this is done. This is the simplest way for us to think through it in terms of that 21 month period, not 18 month period -- 21 month period because of the way we had our accounting data, which is getting a little more difficult to get now under the reorganization situation.

We had at the time we did this work-up 56 employees on staff and we reflected there right in Item 1 in the second page of the write-up what the salary -- at current salary levels what the salary and fringe benefits would be for a 21-month period for those employees for that coverage period.

The reason and the philosophy behind

giving us to July 21, 1994 is that would be the target date of when a whole new fee structure would kick in under rules still to be developed to fully implement the Title V program. That would be a fiscal year fee assessment as we are doing now.

There is some funding projected in there for making some way overdue salary adjustments, salary benefit adjustments, for some staff members, and then there is a work-up here just to simplify matters of a phase-in for something like 32 additional people over a period of about 12 months.

We estimate that the way we would stage those in, that would cost us in salary and benefits about a million and 38,000 dollars.

COMMISSIONER NEELY: Okay.

MR. FARLEY: As you go to the next item-- there again, I can assure that is very lean for what we think we are going to see other than the uncertainty we have for major expenditures for contract support.

Anyway, going to the next line item, we have projected operating costs for that 21-month period based on what we currently budgeted and a review of that

budget now.

Then in the next line -- and this is things that we have spent a lot of time with of late and there is a lot of uncertainty in those cost values. We anticipate we are going to need something like \$425,000 in the next twelve month period, let's say, for contractor support for major program development.

Now you have had heard all of the discussions that went on today about the redesignation requests and what may occur with that. So one of the things that we know that we are going to get into trouble on right away is in the proposed committal SIP you have heard about, the kickoff on that as far as when we would have to actually start doing things to meet our proposed commitment would be about March.

If we don't have some kind of an indication of where we are going by then to meet the commitment proposed as it is today, we would have to start spending major amounts of money for contract support to get this ball rolling on I/M.

There is other support, outside support, that is going to be needed due to the complexities in the

work that we have to do, some of which is going to be ongoing now, and that is additional funding for urban air modeling, which looks like it is at least going to have to be carried out in the Huntington area.

Completion of the emission inventories, which is really vital and we are stalled on that right at the moment as far as contractor assistant and sulphur dioxide demonstration.

So when you add up all these costs, what we did was we just tried to make an estimate with a fairly lean budget with the exception of the contract uncertainties of what we would need for a 21-month period and then we also calculated over on the next page, I believe, what our projected -- and this assumes we are going to maintain ---this is our projected program income.

It assumes that we will maintain our general revenue appropriation with a carried five percent cut. We have already taken part of that and assumed for now that that would carry over to the next -- the upcoming fiscal year.

It also assumes that we would maintain or get -- that is about the best read we can get at this

point -- about the same federal grant level and allocation in the next federal fiscal year, starting October 1 this year.

It assumes that we are going to get about the same level of pass through -- that is a very small amount anyway -- hazardous waste money and that all adds up to a certain dollar amount.

When you look at that and make it as lean as possible, the differential that is noted there at the bottom of the page in the shortfall is about \$510,000.

The ramp up that we are proposing in this fee change will generate about \$540,000 projected.

CHAIRMAN THOMAS: In that period?

MR. FARLEY: Excuse me?

CHAIRMAN THOMAS: In that period, that one-year period?

MR. FARLEY: Yes, and what that would entail assuming that this could get enacted by virtue of the acts of the Commission and maybe the acts of the Legislature, that we would do -- this rule would have a one collection lifetime as it is. We would collect the annual operating fees under this schedule one time.

CHAIRMAN THOMAS: But that is not in the reg. though?

MR. FARLEY: It is not in the reg, and of course, if nothing else happened and the reg was passed and stayed in place --

CHAIRMAN THOMAS: It would continue on.

MR. FARLEY: -- we would do it from thereon, but the anticipation and the balance in the accounting --

CHAIRMAN THOMAS: The words would be superceded ostensibly by your new fee schedule?

MR. FARLEY: Right, right. To put these fees in perspective, I think -- of course, we don't have a real good inventory right now, but you have heard kicked around the number \$25 a ton as what the showing is going to have to be based on of funding for the new Title V program for federal improvability, or we have to do a very good showing that we could get by with less money than that.

Based on a somewhat dated inventory -- I think you might have gotten copies of this sometime ago, but the summary we had of the perspective Title V sources,

even after perspective controls are applied based on that inventory; I would say it is going to be a little lower than this now, but it would be that we would be collecting something like five and a half to six and a half million dollars, depending on what you are doing with the Title IV sources.

COMMISSIONER NEELY: What is Title IV?

MR. FARLEY: That is the acid rain sources, but the base group outside of the major utilities, we projected that at \$25 a ton we would collect about four million dollars after controls are in place.

With the 4,000 cap cuts and so forth -- we might have talked about it. I don't know whether you remember those or not -- we would collect something like 2.7 million dollars from utilities at \$25 a ton in West Virginia.

So if you look at the mass value there after controls, that is about 6.7 million dollars at the \$25 a ton level. So we are probably talking about a fee level with this proposed regulation at something like \$4 a ton or something like that, all fees collected. So it is a fairly modest amount.

CHAIRMAN THOMAS: It is suggesting that we should go to \$25 a ton or show cause why we don't need it?

MR. FARLEY: We don't really have to -- right now the thought behind this regulation is to plug a hole just for that 21-month period. Title V -- when we submit a Title V operating permit program to EPA, it will have to have all the operating permit rules and requirements, et cetera.

It will have to have a fee schedule, fee program attached to it for their approval, and the tests that that will have to meet based on the Clean Air Act is \$25 a ton, if that is what you are proposing under program. That is the presumptive level of needed funding.

If you are going to go below that or you think you can run a program effectively below that, you have to make a very detailed showing to EPA to that effect.

COMMISSIONER NEELY: Well, you might wind up getting less out of the EPA too?

MR. FARLEY: I don't think there is any question that -- let me reword that. I think it is highly

likely that when these Title V programs are in place, the federal I and V funds will drastically go down.

COMMISSIONER NEELY: That is right.

MR. FARLEY: For one thing, most of the early Clean Air Act implementation extra funding will be moot at that point. You will either have done what you are going to do or defaulted...

That right now represents probably close to 50 percent of our total grant now. It is high priority funding in our implementation. So if that dropped down to base level, that would drop about \$800,000 or so of the budget right there.

I would anticipate that that is going to happen. There again, we don't know what is going to happen to general revenue, but I would assume that if we ever got this program through at \$25 a ton or thereabouts, general revenue would probably dry up too, because that would be a fairly high funding.

COMMISSIONER BENEDICT: I was going to ask you, how many dollars does that generate, \$25 a ton, ton of what?

MR. FARLEY: Ton of regulated pollutants.

under the Act.

CHAIRMAN THOMAS: What order of magnitude will that produce?

MR. FARLEY: Dollars?

CHAIRMAN THOMAS: Yes.

MR. FARLEY: That is what I was saying, that the --

CHAIRMAN THOMAS: Is that the six million?

MR. FARLEY: The projection we had in there--

CHAIRMAN THOMAS: Is that all?

MR. FARLEY: This is dated -- emission inventory is dated. Until we get this all updated, we are not going to know --

CHAIRMAN THOMAS: Well, you are saying that \$4 a ton would produce about a million, three or two, isn't it?

MR. FARLEY: Right.

CHAIRMAN THOMAS: And \$25 only produces 6?

MR. FARLEY: It is about --

MR. KOPELMAN: Isn't there a cap on the \$25? Isn't it only up to a thousand tons?

COMMISSIONER NEELY: Four thousand.

MR. KOPELMAN: Four thousand tons.

MR. FARLEY: Right.

MR. KOPELMAN: So you have to take into account the cap.

MR. FARLEY: I had these numbers worked out, but I know when I started --

CHAIRMAN THOMAS: Simple multiplication--

COMMISSIONER NEELY: The purpose of this is to encourage people to put in scrubbers when they don't have anything going up the chimney.

COMMISSIONER HAMNER: The purpose of this is to get funding.

MR. FARLEY: Yes. So you get about one million, one hundred -- let's call it one million, two hundred thousand projected to be collected under this proposal.

COMMISSIONER NEELY: Which is just doubling--

MR. FARLEY: As opposed to nearly seven

million --

COMMISSIONER NEELY: That is just doubling the fees?

MR. FARLEY: Right, and that is about a sixth or something like that of the maximum we would see here at \$25 a ton. So that is close to \$4 a ton.

COMMISSIONER NEELY: Well, Kentucky has already gone to the \$25 a ton on their own according to that stuff that I gave you.

MR. FARLEY: Well, I have heard different stories. It has been awhile since I have talked to them. I know that they were doing a ramp up with something less than \$25 a ton, and most states that I have talked to, I think were doing that, if they were well along in the process, that they were doing some kind of ramp up early on with something less than \$25 a ton, anywhere from --

Texas was talking about it early. That might have been last year -- a few dollars a ton, three, four, five dollars a ton, and then slowly ramping up over a several year period.

I can't remember what I heard last from Kentucky as far as what their dollars per ton early

collections would be. I didn't know that they were--

COMMISSIONER NEELY: They were just about broke according to that stuff and they just had to have the money to run the program.

CHAIRMAN THOMAS: Any questions from any of the Commissioners of Dale relative to the explanations or the rationale for these revisions or the other language changes?

Dale, this Air Pollution Control Commission Fund, I had a question on that. Is that --

COMMISSIONER NEELY: Yes.

MR. KOPELMAN: Yes, I was just going to ask Dale that too.

CHAIRMAN THOMAS: Is that an established fund?

COMMISSIONER NEELY: What is that?

MR. KOPELMAN: Do we want to change that name, the Air Pollution Control Commission Fund?

COMMISSIONER NEELY: What is that?

MR. FARLEY: Well, I think the --

CHAIRMAN THOMAS: Does that mean we have control of it?

MR. FARLEY: We might need to change it. I think the reason it hasn't been changed is that I think that is still what it says in the Code.

MR. KOPELMAN: Is that still what it says?

MR. FARLEY: I think that is still what it says in the Code. That is the only fund that I find.

MR. KOPELMAN: And if that is what it is line item with, the treasure and the auditor, and all of that, we just live with it, I suppose.

CHAIRMAN THOMAS: Who controls that fund?

MR. FARLEY: That presumably went to the Director of the Division of Environmental Protection.

MR. KOPELMAN: It has got your name on it, but you don't own it.

CHAIRMAN THOMAS: Presumably.

MR. FARLEY: Right, we have assumed that.

CHAIRMAN THOMAS: Should we presume otherwise?

MR. KOPELMAN: We can't presume otherwise.

COMMISSIONER NEELY: Well, who spends it

for what? Isn't this the one that is supposed to be for educational purposes?

MR. KOPELMAN: No, no, no. This is the operating account.

COMMISSIONER NEELY: This is the operating account?

MR. KOPELMAN: This is the money that comes in and right now there is a surplus.

CHAIRMAN THOMAS: This is just earmarked for Air Quality Control only.

COMMISSIONER NEELY: And is it? Have you talked to Calahan about this at all?

CHAIRMAN THOMAS: I haven't talked to anyone.

MR. KOPELMAN: It is subject to fingers in the pie.

COMMISSIONER BENEDICT: Through legislative appropriation?

MR. KOPELMAN: Yes, it is, yes, absolutely, and it is also subject under that omnibus clause where the Legislature can come in and move surplus funds.

COMMISSIONER BENEDICT: We had an argument about that, don't you remember? I thought that the Supreme Court overruled the Legislature.

COMMISSIONER NEELY: I thought this was a fixed fund.

COMMISSIONER BENEDICT: I won that argument.

CHAIRMAN THOMAS: You did.

MR. KOPELMAN: But you didn't win it on general operating accounts, did you?

COMMISSIONER BENEDICT: Yes.

MR. KOPELMAN: Yes?

COMMISSIONER BENEDICT: There were only two accounts, one was federal and the other was general operating accounts and I won that issue. The folks that didn't cough it up didn't have to repay it but don't do that anymore.

MR. KOPELMAN: All right. All I am suggesting is that last year the Legislature added this omnibus clause to our legislation that allowed the Legislature to come in and pick it.

Now your case didn't have the omnibus

clause.

COMMISSIONER BENEDICT: No. They have not gone back and changed that legislation.

MR. KOPELMAN: Yes, and that is in all of our statutes.

COMMISSIONER BENEDICT: So now the Legislation has --

MR. KOPELMAN: All of the funds, both the educational funds and the operating funds --

COMMISSIONER BENEDICT: All have that language in there?

MR. KOPELMAN: -- have the language in there. So it is a nice full paragraph written by some scholar.

COMMISSIONER NEELY: The Legislatures just hate these dedicated monies. They can't touch DNRs and all of that stuff.

COMMISSIONER BENEDICT: I want a Code of DNR.

MR. FARLEY: I don't know whether you have had a chance to glance at the written comments, I assume that have been distributed by the Manufacturers,

and I guess they will state this.

That is one of the major rubs they have of this whole thing in terms of the fees, that they are not fenced and they are not protected.

COMMISSIONER NEELY: Well, they should be.

MR. FARLEY: That needs to be fixed.

COMMISSIONER NEELY: I don't know how you can fix it with some of these folks that are just dead set against it.

CHAIRMAN THOMAS: Well, we can put it in the regulation.

MR. KOPELMAN: They said last year that the finance committee level in both the Senate and the House -- we were told in no uncertain terms that the bill would not come out of the committee unless it had that language period.

COMMISSIONER HAMNER: I think it is entirely proper for my part that the Legislature have control of all monies of the State and not individual agencies.

COMMISSIONER NEELY: I don't agree with

that.

COMMISSIONER HAMNER: I know that.

COMMISSIONER BENEDICT: But it still says appropriation. You can't spend it without their approval or -- I mean, I can't spend my feed account money or Joe can't on a program for which the fees were collected until the Legislature has appropriated the money for the fiscal year. They just in the old days couldn't simply take money from a health account to fund an education program.

COMMISSIONER NEELY: But if these manufacturers -- if these folks who are the regulated are going to have any confidence in the program, I think they want to feel that the money that they are kicking in is going to be used to perfect the system so that they don't go down the tubes.

MR. KOPELMAN: It could be that the Clean Air Act helps you out there, because under the Title V program of the Clean Air Act it does give some protection. There is some language there that says that these funds shall only be used -- they are collected under Title V and they will only be used for Title V.

COMMISSIONER HAMNER: Are there any

restrictions on what sorts of things can be billed off to Title V?

MR. KOPELMAN: I think it is a little bit; there are some.

MR. FARLEY: It is a big gray area. To answer your question, the language of the Clean Air Act reads something to the effect that it is to cover all the direct and indirect costs of running the permit program, and there are a lot of gray areas.

COMMISSIONER HAMNER: I daresay that will include the carpet in your office before it is all done.

MR. KOPELMAN: That is an indirect cost.

COMMISSIONER HAMNER: Yes, I thought so. It is going to take a lot of increases.

CHAIRMAN THOMAS: Okay, any other substantive comments?

COMMISSIONER NEELY: I have got a question mark over here. I can't even read my own writing after it is cold here. Include a \$1500 handling charge, what is that for?

MR. FARLEY: Oh, you are talking on the--

COMMISSIONER NEELY: I am on Page 5. Is

this a fee or something? Fifteen hundred handling charge, what is that? I read this so long ago I don't even remember what my comment is.

MR. FARLEY: You are on Page 5 of the --

COMMISSIONER NEELY: I am on Page 5 of your 22 under (b) and then a, b, c, d, I have got include a \$1500 handling charge. Handling charge for what, for issuing a --

CHAIRMAN THOMAS: I don't know. I don't have that language.

MR. KOPELMAN: Was that an idea that you were proposing?

COMMISSIONER NEELY: I am writing it in the column in the margin here.

MR. KOPELMAN: Are you suggesting that there should be a fee?

COMMISSIONER BENEDICT: No, I think you found it there and wondered why.

COMMISSIONER NEELY: No, I didn't find it.

CHAIRMAN THOMAS: I don't see it.

COMMISSIONER SHOCK: I don't see it

either.

COMMISSIONER NEELY: Oh, I know what it is. If you are going to have somebody else come in and take this over, how much work is involved in this process here at the Office of Air Quality, and do you want any kind of a fee attached to this to pay for the expense of having to go through this process, or is it just a pretty straight forward, no brainer type of --

MR. FARLEY: Well, one thing we do in a couple of our permit regulations is we require or we have provisions that are set up that you have to go through certain papers as far as signing off on things to get permits reassigned. Now that is in the permit reg themselves.

The more I have heard from people here internally about trying to keep this operating certificate program clean and everything nice and neat and tidy with it, that we were charging a \$200 transfer fee and we said you had to go through -- jump through the same hoops, in essence, that you did to transfer a permit.

COMMISSIONER NEELY: Okay.

MR. FARLEY: This is an operating

certificate, and let's face it, we need to admit that an operating certificate is a revenue generating thing. It doesn't set limits on anyone.

It is not a permit, per se. So, therefore, we found that just to keep track of this program; keep everything tidy, which this is one of the places we want to try to keep things tidy, that was more trouble to us than it would ever be worth.

COMMISSIONER NEELY: That is my question.

MR. FARLEY: Yes. So that is the reason we took the \$200 transfer thing out and so forth.

COMMISSIONER NEELY: Okay, fine.

MR. FARLEY: The one thing that I will say since you brought up this section -- and maybe we need to clarify a little bit -- I had a chance to read through the Manufacturer's written comments here and they raise a question about what is intended there.

I think what is intended is that if someone owns a facility and they pay this operating certificate fee on a July 1, June 30, July 1 basis, if they paid their operating certificate fee and then they sell their plants, that new owner would not have to pay

anything.

It doesn't have to pay a transfer fee.

It doesn't have to pay the fee again.

CHAIRMAN THOMAS: For the duration of that--

MR. FARLEY: Right, for that year.

CHAIRMAN THOMAS: -- that year?

COMMISSIONER NEELY: For the year.

MR. FARLEY: For the rest of that year, unless -- and what was intended here -- unless that old owner was in bad standing; he had not paid his fee.

If he had not paid his fee and he sold the plant, I guess you could go after him for a penalty.

CHAIRMAN THOMAS: But you have to agree to the transfer anyway. So you could deny that transfer unless somebody agreed to pay that money.

COMMISSIONER NEELY: It is almost like a lien on the --

CHAIRMAN THOMAS: You hold the hammer.

MR. FARLEY: Well, I don't -- let's see.

CHAIRMAN THOMAS: Yes, you do if I recall the language, don't you?

MR. FARLEY: I think the way we did this -- maybe I need to read it again -- is that we don't have to approve it. They have to notify us, but we don't have to approve anything. They have to notify us of the change.

CHAIRMAN THOMAS: I thought you had to approve it.

COMMISSIONER NEELY: Well, isn't that risky?

MR. FARLEY: In what sense?

COMMISSIONER NEELY: Well, for exactly what you were talking about, if this guy is in arrears.

COMMISSIONER SHOCK: If he is in arrears, he doesn't have a permit. He shouldn't have a permit. So he is illegal in some other part of your regulation.

MR. FARLEY: Right, and I would assume that we would have the option -- Larry can jump in and correct me -- that the old owner, if he didn't pay his fee; he sold his plant; he operated for some period of time without an operating certificate, we could go after him on a penalties action, just that owner, but the new owner -- what we intended here -- you can tell me whether

we failed here. The new owner is still going to be liable for the fee.

COMMISSIONER NEELY: But aren't you making this unnecessarily difficult?

MR. FARLEY: I hope and maybe we need to re-think it, but I hope we made it a lot simpler because we now don't have to go through any unnecessary -- any file search.

We don't have to go through a lot of checks as to whether someone is telling us the truth about their compliance status or anything else to just have a reassignment of their operating certificate.

CHAIRMAN THOMAS: Why don't you just include that in 4 (2) (a) where you give them the rights and not be in violation to this rule for operating the plant or stationary source under a previous owner's valid and current certificate to operate provided that all the fees are current, all operating fees are current?

That would make it a violation if they weren't.

MR. FARLEY: Well, let me think about that. That may help.

COMMISSIONER NEELY: Well, it has got valid and current certificate.

MR. FARLEY: It wouldn't be valid if he hadn't paid.

COMMISSIONER NEELY: It wouldn't be a valid certificate.

MR. FARLEY: If he hadn't paid, it wouldn't be valid. He would not have a valid certificate.

CHAIRMAN THOMAS: Well, then it is a violation.

MR. KOPELMAN: Correct.

MR. FARLEY: Right. If the old owner violated, then you can go after him, but I think -- you can tell me if this is wrong.

COMMISSIONER NEELY: That is why I think it is unnecessarily complex.

CHAIRMAN THOMAS: Find who in violation?

COMMISSIONER NEELY: Why would you want to have to go after the old owner --

MR. FARLEY: I don't necessarily.

CHAIRMAN THOMAS: You don't have to.

COMMISSIONER NEELY: -- when you could

stop the sale before this happened and you could --

MR. KOPELMAN: Well, you can. For one thing, the way it is arranged now, as I read it -- I am reading it for the first time -- is that if there is not a valid and current certificate to operate, the new person coming in is going to have to buy one.

They are going to have to buy one. So they get current and you can go after the old person, but as Newton is suggesting --

COMMISSIONER NEELY: You are going to have to do it in the courts, aren't you?

MR. KOPELMAN: Well, that is one way. I want to make two points. One is an operating permit is not necessarily the only thing required because there are construction permits.

COMMISSIONER NEELY: Yes.

MR. KOPELMAN: And in order to be valid for any major -- any facility of any size, we have to acknowledge the assignment of the construction permit. We can hold that up. So that kills the sale right there.

COMMISSIONER NEELY: But there isn't any construction permit necessary on a plant that is up and

running, is there?

MR. KOPELMAN: Oh, yes.

COMMISSIONER NEELY: Is that right?

MR. KOPELMAN: Any plant that has been built, relocated, or modified since 1968 -- '72 has a permit. So we are talking about everything in our generation. Anything prior to '72 is grandfathered anyway and you wouldn't have to -- there is not that much significance to it.

Number two, the failure rate to comply with this operating permit is insignificant?

COMMISSIONER NEELY: Yes.

MR. KOPELMAN: There is no percentage. There are a half a dozen people who pay late, maybe 10 or 12 the first year. So it really is not a problem --

COMMISSIONER NEELY: Okay.

MR. KOPELMAN: -- complying with this reg. We have never had to go to court. A couple of nasty letters from the Special Assistant Attorney General, people pay.

CHAIRMAN THOMAS: Let me ask a question on Page 9 under that paragraph letter small b. The last

sentence here, "For each stationary source," can you read that and tell me what that means? It isn't worded --

COMMISSIONER NEELY: Where is that?

CHAIRMAN THOMAS: The little paragraph
little b.

MR. FARLEY: In the middle of the page?

CHAIRMAN THOMAS: The middle of the page.

MR. KOPELMAN: Oh, that is no good language. It should read, "more than one fee listed in Section 4.4.a period. It has accidentally been carried over. So that should be deleted after the first --

CHAIRMAN THOMAS: After that comma?

MR. KOPELMAN: Yes.

CHAIRMAN THOMAS: That is what I thought.

COMMISSIONER NEELY: What should be deleted?

MR. KOPELMAN: That is a typo.

COMMISSIONER NEELY: All of that after source?

MR. KOPELMAN: That is the Achilles heel with computers right there. Sometimes you get that, a duplication.

COMMISSIONER NEELY: No person shall be required to pay more than one fee listed in --

MR. KOPELMAN: Section 4.4.a.

COMMISSIONER NEELY: Period?

MR. KOPELMAN: Period.

COMMISSIONER NEELY: And then everything else is --

MR. KOPELMAN: It was in the old one. It is just a computer glitch.

CHAIRMAN THOMAS: Thank you; that helped.

MR. KOPELMAN: You are welcome.

CHAIRMAN THOMAS: On the penalty provision over on Page 10, can you help me with that? You have a five percent penalty provision per month for each month they are in violation.

Is that in addition to the fee?

MR. KOPELMAN: Yes.

CHAIRMAN THOMAS: Okay, so --

MR. KOPELMAN: It is a pretty stiff penalty.

CHAIRMAN THOMAS: I understand.

COMMISSIONER NEELY: Five percent of the

fee.

CHAIRMAN THOMAS: But I don't know that it is -- okay, you do say in addition.

COMMISSIONER NEELY: I have got a question on your Appendix B on your fiscal note for the proposed rule way back here on your signature page, Dale.

The cost to manage this program is \$22,500?

MR. FARLEY: Right, that is the estimate we have of the amount of staff time it takes just to process the paper.

COMMISSIONER NEELY: Just to run the processing and all of that other stuff?

MR. FARLEY: Right, do all the accounting and stuff.

COMMISSIONER NEELY: All right, and they are going to pay annual fees of approximately 1.1 mill for as long as this thing lives, right?

MR. FARLEY: Right.

COMMISSIONER NEELY: And then it has got economic impact on citizens and public at large, minimal. Isn't there going to be an increased cost of electricity,

for instance?

MR. FARLEY: Well, you are talking about 1.1 million --

COMMISSIONER NEELY: Are they going to go to the PSC and say we have just had our fees doubled?

MR. KOPELMAN: Could I take that one?

MR. FARLEY: Go ahead.

MR. KOPELMAN: The Amos plant is just one plant of Appalachian Power. If you look at all of the power -- the only reason I am going to bring that up is they burn 25,000 tons of coal a day at \$25 a ton. So they are burning a half a million tons.

The kilowatts that they produce, if you tried to use a calculator to determine the costs of this spread out over all the kilowatts that that one plant generates --

COMMISSIONER NEELY: Well, that is just one plant, but they are having to do it everywhere.

MR. KOPELMAN: That is my point. You take that one plant, the bulk of that power is shipped out of state. So if you looked at all the customers, there is probably not a computer around -- we would have to go back

and get one -- to give you that decimal point that this cost adds to a kilowatt hour of power.

In other words, it wouldn't affect a rate.

COMMISSIONER NEELY: Larry, I am talking about Appalachian Power or Allegheny Power Systems, okay, who owns everything on the East Coast practically. They are all going to have to be fitted and they are all going to have their fees doubled, tripled, quadrupled and so forth.

Isn't this going to have some kind of increased cost of electricity? Is there any interface with the Public Service Commission? That is what I want to know.

MR. KOPELMAN: What I am suggesting is --

CHAIRMAN THOMAS: It is going to cost no more than what they have identified here. The \$25 in fees, that is all it is going to cost. Somebody is going to pay for it, but that is all it is going to cost.

MR. KOPELMAN: Twenty thousand dollars spread out over the Amos Plant, which is the second largest coal power plant in the world, and the quantity of

power that they generate every year is so insignificantly small you can't put it on a piece of paper.

COMMISSIONER NEELY: Is there any interface with the Public Service Commission for this whole implementation of fees plus this --

MR. KOPELMAN: I am sure that when they go for a rate increase or decrease -- and by the way, there was a recent rate. When they adjust their regs, this \$10,000 will be on some schedule on some place --

COMMISSIONER NEELY: It is not just this \$10,000, Larry. I am thinking about when you get into Title V and you get so much a ton and so on --

MR. KOPELMAN: Well, let's take a time-out there -- and correct me if I am wrong, Dale, because I got this a long, long time ago -- but the power companies are exempt.

MR. FARLEY: No, they are not exempt, and ultimately they will pay the fees. What it is, it is a little gray, the Phase I plants that have to get federal permits. The Clean Air Act says we can't charge them --

MR. KOPELMAN: Right, which are all the plants --

MR. FARLEY: -- a pollution based fee.

MR. KOPELMAN: Right, until the year
2000.

MR. FARLEY: There is some uncertainty
about what kind of fees you can charge them, but you can't
charge them a pollution based fee.

MR. KOPELMAN: In other words, the people
that are subject to the acid rain, Title IV, don't have to
pay Title V.

MR. FARLEY: Only they would be scheduled
about five years --

MR. KOPELMAN: Kim, can you help me
there?

MS. POLAND: Dale is correct. There is a
temporary hiatus for the Stage I plant so that those fee
burdens weren't put on them at the same time they were
having to put on scrubber technology and absorb those
costs. So they were exempt for a period of time.

MR. KOPELMAN: But that applies company
wide, not plant wide.

MS. POLAND: Any Phase I plant.

MR. KOPELMAN: But you spread that out

company wide, don't you? In other words, the Amos Plant not putting on a scrubber would not have to pay the fee if Appalachian Power is putting on a scrubber at the Mountaineer Plant because you can spread that scrubber over the company.

MS. POLAND: That is right. It is still a Phase I plant technically.

MR. KOPELMAN: Yes, the company. So what I am saying is; don't worry about it until the year 2000, in terms of the power company having to pay a fee under Title V.

CHAIRMAN THOMAS: Well, we are getting a little off the consideration and I would like to --

COMMISSIONER NEELY: Okay, I didn't mean to --

MR. KOPELMAN: She asked the question if we would have a rate problem with the power companies, and I am just suggesting that it won't.

CHAIRMAN THOMAS: Okay. Any other questions of the Commissioners? If not, would anyone in the audience like to make any comments?

(Witness sworn.)

THEREUPON,

K I M P O L A N D

having been first duly sworn to tell the truth, was examined and testified as follows:

DIRECT EXAMINATION

THE WITNESS: I don't have many more comments to add because Dale stole all my thunder in his remarks. He got the chance to preview read the comments and he has mentioned most of the things that we have reflected in the comments of the Manufacturers.

I would just emphasize that we do support the ramp up in the fees, and we have had a lot of discussion with the staff about the need to do that in order to begin to staff the Commission for permit writers on some graduated basis.

But our interest in that ramp up and our support for it is very much keyed to protection of those funds for that purpose.

We know that this is going to be an issue in this session of the Legislature and it is one that I really can't underscore strongly enough from the Manufacturers in the business community, that to the

extent that those funds are there for that purpose; that they be dedicated to that purpose.

I agree with Larry's remark that I think in the case of the air program it is even more than that. I think it is actually a mandate of program delegation in order for the State to qualify for a delegated permit program. That funds to support that operating program are going to have to be dedicated funds.

If the State relies on general appropriation or money that is the equivalent of general appropriations, that EPA will find that inadequate to support delegation of the program to West Virginia. So we may have our program in jeopardy.

CHAIRMAN THOMAS: Question, what can we do to this regulation to address that?

THE WITNESS: Well, in this regulation itself, I don't think you can address that. I think it is a statutory question that is going to have to be addressed because of the amendment that was made last year, the so-called sticky fingers provision, that was added to the statute last year that said that the Legislature can declare a surplus and take away the money.

They determine what money is enough and can take it all away and you can't spend any of the money until there is appropriation, and that was a direct response to the suit by Secretary Benedict.

CHAIRMAN THOMAS: Isn't that a factor posing for legislation to correct that?

THE WITNESS: That issue is being addressed in the context of the DEP reorganization bill because of the concern about the impact of that issue, not just on the air program but on all of the environmental programs that require funds to support certain programs and reflect fees which have been negotiated and agreed upon by industry -- by the regulated community, assuming that that is what the money was actually going to go for, not for other matters.

So I would like to underscore that while we support the ramp up in the fees, we very much see that keyed to protection of those fees for that purpose and not for other purposes.

CHAIRMAN THOMAS: It is a matter of necessity, isn't it? If they don't fund it through some source, this is dwindling out. We will default on our

commitments to EPA.

THE WITNESS: Yes, we could find ourselves ultimately in the lamentable position of having a permit requirement for the State of West Virginia, and a permit requirement for the federal government because they haven't approved our state program, and we have a dual permitting system set up unless we took measures to repeal the requirement as a matter of state law.

COMMISSIONER NEELY: You mean the EPA would jump in and enforce the law themselves?

THE WITNESS: They can. They have that reserved authority under the Federal Act. That is the consequence --

COMMISSIONER NEELY: How do you suppose that we explain that to the Legislature?

THE WITNESS: I think in just those terms. I rather think before it is over with that we will probably get a direct written expression from EPA to that effect, that the money must be protected in some way to assure that the program will be adequately funded, and that is a condition of the delegation of the program to the State of West Virginia. Otherwise, they won't approve

it.

They won't approve the State to run the program. They will run it themselves. They will be forced to do that under federal law.

So we have that problem. It happens to be specifically addressed in the air program and creates a special problem for this program, but it is a theme or a concern across all other environmental programs in the state.

We support the changes in the transfer provisions that are reflected in the draft. We think those will simplify matters and we are glad to see the transfer fee go and support that.

We do have a question about the dates of the initiation of the increased fees, Dale, and I wasn't sure from what you said. We are suggesting or presuming that the ramp up fees wouldn't be due until July 1, until the new round of fee slips would go out.

So that we are not talking about a 50 percent kicker for '92 only to turn around and get hit with another fee at that increased rate two months later, say, on July 1, but we are talking about an initiation of

July 1 and not to go back and back bill people for the balance of the '92.

MR. FARLEY: I don't think that was the intent. I think we thought that the reg, since we left the fiscal year basis of collection and everything, it would be well understood that way, but I think if we need to clarify that, we could in the way of writing ---

CHAIRMAN THOMAS: Can we put the provision on an effective date? ..

MR. FARLEY: Yes.

THE WITNESS: Yes.

MR. FARLEY: The intent would be if we could get this thing authorized or passed in some bill that we would only be collecting, if we get everything else pulled together properly on Title V -- we would only be collecting this probably once, and then after that the Title V program would kick in.

THE WITNESS: The rule was simply silent on that point and we weren't sure about the impact of it but wanted to raise that issue, that we were not talking about a back assessment or an additional assessment for '92, that we are talking about initiating it with the new

series of slips that will go out.

MR. FARLEY: Right, but I think that is the way the cost thing is done too, although it is lean. Actually when I worked this up I found a glitch in some of our earlier numbers and then we did this -- although it didn't hit us real hard, the general revenue cuts and stuff like that, it would have been nice to have had about another \$200,000 in the Fee program.

Obviously we left it the way it was, but the thought was to have the collection just as it normally would be for that start-up fiscal year one time, and of course, would stay in place later if we didn't do anything to replace it or supercede it, but it would be a one-time collection.

COMMISSIONER SHOCK: So these fees are only going to be collected one time?

MR. FARLEY: Right, and I think the thought there is -- presumably if the reg went in place and we never did anything to change it, it would be collected like this every year.

COMMISSIONER SHOCK: Then you say Title V is going to kick in?

CHAIRMAN THOMAS: Yes.

MR. FARLEY: But we owe the Federal Government a Title V program by the end of this year, and we would be proposing to kick in our fiscal year based fee collections on that starting July 1 of 1994.

COMMISSIONER SHOCK: So you are just going to put a different color cover on this?

MR. FARLEY: No. It will look completely different.

MR. KOPELMAN: No, you will see a different reg.

CHAIRMAN THOMAS: This will supercede it.

MR. FARLEY: It will supercede this reg.

COMMISSIONER NEELY: Well, the only one they have annual is the chicken reg, pardon the expression.

THE WITNESS: I believe they are all annual. It is an annual certificate to operate fee. It is not a permit, if you will; it is a tax ticket. That is simply what it is, and it is annual. It may be expressed specifically as annual there, but the rest of them are annual too.

MR. FARLEY: Yes, the only non-annual fees in here are literally permit fees. New source permits cost you money and you pay that when you file an application.

THE WITNESS: And those are one time things.

MR. FARLEY: Right.

THE WITNESS: Along that line, we have only one comment, and that was to Section 3.4.b that you will have noted in our comments, and that is that it seems to imply that there is a \$20,000 charge for a proposal to do emissions trading and while

COMMISSIONER NEELY: 3.4.b?

THE WITNESS: Yes, 3.4.b. We don't think that was the intention to make a separate charge for emissions trading at the rate of \$20,000, because that is something which is good and ought to be fostered as a means of reducing emissions and providing flexibility and operating approaches and would suggest that it simply refers to PSD and non-attainment review, which is the big permit effort.

Incorporated with PSD or non-attainment

review, you may be getting requests that people implement bubble approaches or emissions trading as part and parcel of those demonstrations or those applications for PSD and new source and nonattainment review, but we don't think that it needs to separately refer to emissions trading lest we come along with some sort of simple emissions trading proposal in the course of a normal permit modification, not a new plant that is undergoing PSD or major modification."

We just want to do a little bubble or an emissions trade approach and it shouldn't cost \$20,000 to do that.

COMMISSIONER NEELY: When does emission trading kick in anyway?

MR. FARLEY: Well, that is another discussion topic. There is a time to come up and a time to do that, but one of the things that I -- the mind-set here when we did this reg way back when, if you will note, it probably said \$10,000 for bubbles before we called it bubble transactions.

The reason we left it in there that way. I don't think we were thinking about simple say, VOC

trades and ozone nonattainment areas and stuff like that. We were thinking about those monsters that take months to review and you have to have EPA approval like a full-blown bubble for a major source where you have an inter-source trade or something like that.

Now those probably warrant -- if you are talking about a sort of fee-for-service concept; those warrant a fee. A simple trade along the lines of what Kim will probably talk about later in relation to say, VOC trades in a nonattainment area where you don't have to do a lot of bottling, et cetera.

That probably would be -- \$20,000 would probably be out of line for that. So we may want to re-think that, how we can go back and restructure that to target only certain types of extensive ---

CHAIRMAN THOMAS: Okay.

COMMISSIONER NEELY: Can't you rephrase that emissions trade and be more specific about what you are talking about?

THE WITNESS: Well, that is why we have suggested if you just refer to PSD and nonattainment review -- I think the reason why bubble got in there is

that Reg 19 is the nonattainment review and it contained the concept of the bubble approach to nonattainment compliance.

So it hasn't gotten rolled up in the description, and our concern is only that that one concept, which happens to be sometimes a part of nonattainment review not be independently applied to some of these simpler transactions at the rate of 20 grand.

MR. FARLEY: Well, this rule is two years old and we have never charged anybody for an emissions trade, and I would imagine that for what we are trying to accomplish here, if we deleted that altogether it wouldn't do any harm.

CHAIRMAN THOMAS: Just take out emissions trade?

MR. FARLEY: Yes. That is something we will consider or figure out whether to do that or just simply define emissions trade better than we have.

THE WITNESS: Those are our only comments and we have already turned those into the Reporter.

CHAIRMAN THOMAS: Before we finish, this business of you charge a thousand dollars and then if you

warrant these others, you get that thousand plus these. Why don't you just add the thousand to all of those numbers?

MR. FARLEY: It is just the way the thing was structured originally. Originally we just put a thousand dollar fee and then someone thought about it and said, "Well, yes, but" --

CHAIRMAN THOMAS: It is not a \$20,000 fee; it is a \$21,000 fee.

MR. FARLEY: Right.

THE WITNESS: That would be the total.

MR. FARLEY: Right. That is just the way it was originally done. It could have been done differently.

COMMISSIONER NEELY: There is no reason for it? It is just our policy?

CHAIRMAN THOMAS: We might look at the form on that.

MR. KOPELMAN: Well, you could have a -- I might be wrong. You could have a PSD review that is also an NSPS. You could have one that is also a NESHAP.

MR. FARLEY: You just keep accumulating.

MR. KOPELMAN: You could have a combination of PSD and NESHAPs.

COMMISSIONER NEELY: So keep it separate so that you can add, mix and match?

MR. KOPELMAN: Yes. You just add them up. Whatever applies, you add them up and that is --

MR. FARLEY: There are an overwhelming number of plants. There is a thousand dollars or maybe two thousand dollars for NSPS. Very few of them take more than that for permits.

CHAIRMAN THOMAS: Any questions?

COMMISSIONER SHOCK: Yes. How do you propose to implement this?

MR. FARLEY: Implement it?

COMMISSIONER SHOCK: Yes. I mean, are you going through legislative rule-making or are you going to get an emergency filing?

MR. FARLEY: Yes, well, I don't know how an emergency filing would fare.

COMMISSIONER SHOCK: I didn't hear you.

MR. FARLEY: I don't know how an emergency filing would fare because if we were doing a

full-blown --

COMMISSIONER SHOCK: That is the reason for the comment. I would agree with you.

MR. FARLEY: Yes. If we were doing this as a Title V -- full blown Title V reg, we could probably justify that with whatever flack we got because that is due to EPA. It is a requirement that we submit it by November.

I think the thought is here to see how this fares with the Commission and see what we can do with the Legislatures having it run as a bill.

COMMISSIONER NEELY: So I still don't understand how you are going to do this. Are you going to submit this as a bill?

CHAIRMAN THOMAS: Are you going to get it in this session of the Legislature?

MR. FARLEY: Right, see if it can be handled in a special manner as a bill, and if it is feasible to do it as an emergency reg, maybe that is a possibility too.

COMMISSIONER NEELY: But we are not guaranteed that this money is going to go for the purpose

for which it is intended either?

CHAIRMAN THOMAS: No, we are not.

COMMISSIONER BENEDICT: We can't win that argument. That is the focus of my question, really, Ms. Poland. I understand the concern that the fees be used for the program for which they are collected and I certainly share that concern, but you know, it occurs to me if I were a Legislature with a budget shortfall that I would not take on the political hassle of attacking a special revenue account per se but simply back out general revenue dollars to say, the extent of two-thirds of the increase of new monies from fees and say, "Well, you guys have got more money and we have go to take care of all these important programs over here."

Does that thought occur to you?

THE WITNESS: Oh, yes. We anticipate that the move will be to remove general revenue funds, and that has been part and parcel of discussion.

COMMISSIONER BENEDICT: It further occurs to me that the more willing that an interested group is to advance special revenues, the more you are likely to encourage that sort of misbegotten social behavior on the

part of the Legislature.

MR. KOPELMAN: But, you know, interestingly, that topic came up two years ago or however long we have had.

COMMISSIONER BENEDICT: Yes, I think we have talked about this before.

MR. KOPELMAN: And, you know, the Legislature in their benevolence has not reduced the general revenue. They have not increased it.

MR. FARLEY: It has been decreased but it is not decreased by the amount of --

MR. KOPELMAN: They have decreased it a little bit but not significantly.

COMMISSIONER NEELY: Yes, I know, but there is a big crunch and we are going to have all of this gambling and all this other stuff to raise money, and you know, the pinch is getting harder.

CHAIRMAN THOMAS: Okay, any more questions of Ms. Poland? If not, thank you.

THE WITNESS: Thank you.

(Witness stands aside.)

CHAIRMAN THOMAS: Is there anyone else

that would like to present testimony?

If not, the record will stay open for 30 days, and if there are no other questions or concerns of the Commissioners, we will ask for a motion to adjourn the hearing.

COMMISSIONER NEELY: So moved.

COMMISSIONER SHOCK: I second it.

CHAIRMAN THOMAS: All in favor signify by saying aye. Opposed? Motion carries. The hearing is adjourned. Thank you very much.

(WHEREUPON, at 5:20 p.m., the hearing was concluded.)

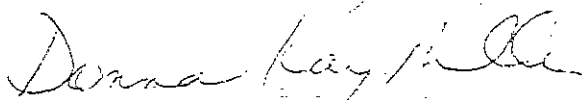
REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

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

Given under my hand this 31st day of
January, 1993.



Donna Kay Miller
Certified Court Reporter

My Commission expires November 4, 2002.

COMMISSION MEETING

JANUARY 7, 1993

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Leslie J. Muller	"	"
R. B. Poland	Robinson & McElwee	Charleston, WV
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Comments Of The
WEST VIRGINIA MANUFACTURERS ASSOCIATION
Regarding The

45 C.S.R. 22
AIR QUALITY MANAGEMENT FEE PROGRAM

Presented By The West Virginia Manufacturers Association

Filed: January 7, 1993

COMMENTS OF THE WEST VIRGINIA MANUFACTURERS ASSOCIATION
REGARDING 45 C.S.R. 22
AIR QUALITY MANAGEMENT FEE PROGRAM

I. INTRODUCTION

The West Virginia Manufacturers Association (WVMA) is a statewide trade organization representing approximately 215 businesses and industries in West Virginia. The membership reflects a broad-based constituency from all aspects of the manufacturing sector of the State's economy. The WVMA has been integrally involved for a number of years in commenting on all aspects of state environmental rules and regulations. Based on our review of the proposed Air Quality Management Fee Program regulations filed by the Air Pollution Control Commission, the WVMA continues its constructive role by offering the comments which are set forth below.

II. COMMENTS

A. General Comments

The WVMA understands the need for increased fees in order to fund preparations for the air pollution permit program that must be developed and implemented within the next two years. Title V of the Clean Air Act Amendments of 1990 requires development of an extensive air permit program in a relatively short time. For that reason, the WVMA proposed increasing the Regulation 22 operating certificate fees in order to hire more permit writers, complete an emissions inventory database, and take other action which would allow the Air Pollution Control Commission to be ready to implement a timely and effective operating permit program when required by law. However, the WVMA's support for this large fee increase was

conditioned upon agreement of legislative leaders that the Legislature would not appropriate the increased fees for some other purpose, or reduce general revenue funding to the Air Pollution Control Commission or the Office of Air Quality in an amount equal to the new fees. We do not see any reason that sources subject to this rule should, in effect, be required to contribute money to the state's general revenue account, without any benefit to the state air program.

Unfortunately, the WVMA has not received assurances from legislative leaders or the Governor's Office that the increased fees will be used to "jump start" the Air Permit Program required by Title V. The WVMA's enthusiasm for supporting what amounts to an increased assessment on its members would be significantly reduced by use of the increased fees for purposes other than a Title V program. This could have negative ramifications for future attempts by industry and the state to come up with creative solutions to program and staffing problems.

B. Specific Comments

1. Fees for Emission Trades.

Section 3.4.b provides for a \$20,000.00 charge for emission trades that occur pursuant to 45 C.S.R. 19. The WVMA opposes charging a fee for emission trading and banking. Such a fee will discourage emission trading, which was intended as a means of reducing emissions while still providing flexibility of operation. The APCC apparently intended the reference to "emissions trades" to replace the "bubble approach that was found

in Regulation 19. However, now that a new rule allowing banking and trading of emissions has been proposed, it no longer makes sense to penalize such trades with such a huge fee. The rule should only assess a fee for PSD and Nonattainment Review, not emissions trades.

2. Changes in Ownership and Operation.

New Section 4.2 represents an improvement in the regulation, and the WVMA commends the Office of Air Quality for making the change. Major air emission sources will soon to be required to have a permit, and therefore it will be mostly minor sources which will be transferring ownership or operational control pursuant to this subsection. This amended rule, which allows the change in ownership or operational control to occur subject to later notification, is much less onerous and more realistic than the prior provision without sacrificing regulatory oversight.

The WVMA assumes that one of the other changes intended by the amendment of Section 4.2 was the deletion of the requirement that the person holding the operating certificate be required to pay a transfer fee of \$400.00. If so, we suggest that Section 4.2.a be changed to replace the period after the word "operate" with a comma, and add the following language: "and no additional fee shall be required of such new owner or operator as a result of a transfer of a valid and current certificate to operate."

3. Date of Initiation of Increased Fees.

The rule does not provide for the date the increased fees would go into effect. Presumably they would not be payable until

July 1, 1993, and the pro rata calculations required by Subsection 4.5.b would not apply to these increased fees. It would be unfair to increase the fees at the time this regulation would become effective, sometime in May of 1993, and ask the regulated community to immediately pay an additional assessment of 50% when only two months remain in the current operating year.

III. CONCLUSION

The WVMA welcomes this opportunity to comment on the proposed revisions to 45 C.S.R. 22 and expresses its hope that industry and state regulators can work together to develop a reasonable and effective operating certificate program. If you should have any questions about these comments, please contact us.

Respectfully submitted this 7th day of January, 1993.

WEST VIRGINIA MANUFACTURERS ASSOCIATION

SUMMARY OF HEARING COMMENTS AND SUGGESTED CHANGES
TO THE PROPOSED REVISIONS TO IN REGULATION 22
(45CSR22) - "AIR QUALITY MANAGEMENT FEE PROGRAM"

Comments and discussion from the January 7, 1993 hearing on proposed revisions to 45CSR22 are summarized as follows. No additional written comments were received during the thirty day period following the hearing.

(1) Positive comment was received from the West Virginia Manufacturers Association (WVMA) concerning the proposed reconstruction of Section 4.2. dealing with changes in ownership. The intent of the proposed revision, however, was discussed at some length by the Commission during the hearing.

Response: It is suggested that Section 4.2.a. be revised as follows:

"A person who is a new owner or new operator of a plant or stationary source subject to this rule shall not be in violation of this rule for operating the plant or stationary source under a previous owner's or previous operator's certificate to operate provided that all fees and penalties due have been paid by the previous operating certificate holder and that such certificate to operate is otherwise valid and current. In the event that required fees and any penalties have not been paid by a prior certificate holder, a new owner or operator of a plant or stationary source shall be required to pay all such outstanding fees and penalties."

(2) During the hearing a typographical error was noted by Chairman Thomas in Subsection 4.4.b. on Page 9.

Response: To correct the error a period should be placed after "Section 4.4.a." in line 5 and the remainder of that sentence deleted.

(3) The WVMA suggested that the regulation revisions clarify that revised fees would not be collected immediately upon this rule becoming effective and then again collected at the beginning of FY'94.

Response: It is suggested that a new Subsection 4.5.c. be added as follows:

4.5.c. - "Any operating certificate fee increase required by the provisions of this rule shall become effective beginning with the July 1, 1993 operating certificate period."

(4) The WVMA suggested that it would be inappropriate to require a \$20,000 fee for all emissions trading transactions.

Response: It was not intended to require a \$20,000 fee for all types of emissions trades particularly any such trades which could be handled under a generic emissions trading and banking rule as suggested by the WVMA. The OAQ, however, believes that a significant fee is appropriate for the extensive review and work required in finalizing "bubble" transactions which require SIP revision approval by USEPA. To clarify the fee schedule of Section 3.4, it is suggested that

Subsection 3.4.b. be reconstructed as follows:

"b. In addition to the fee required in Section 3.4.a. of this regulation, all persons subject to PSD requirements (45CSR14), Nonattainment Review requirements (45CSR19), NSPS requirements (45CSR16), NESHAPs requirements (45CSR15), Toxic Air Pollutant requirements (45CSR27), or certain Emissions Trading requirements shall pay additional fees as described below:

<u>Category</u>	<u>Fee</u>
A. NSPS Requirements:	\$ 1,000.00
B. NESHAPs or Toxic Air Pollutant Requirements:	\$ 2,500.00
C. PSD Permit Review for New Sources Under Regulation 14 (45CSR14):	\$20,000.00
D. Nonattainment Area Permit Review Under Regulation 19 (45CSR19):	\$20,000.00
E. Emission Trading Plan Review Requiring SIP Revision Approval By USEPA:	\$20,000.00
F. PSD or Nonattainment Area Major Modification Review Under 45CSR14 or 45CSR19:	\$10,000.00

In the event that a fee would be required under Subsection 3.4.b. D and E, the \$20,000 fee shall apply only once."

WEST VIRGINIA OFFICE OF AIR QUALITY

PROJECTED EXPENDITURES AND FUNDING FOR
AIR QUALITY MANAGEMENT PROGRAM INCLUDING INCREASED
FUNDING FROM THE PROPOSED REVISIONS TO 45CSR22

Basis of Analyses and Fee Proposal:

- a. The 21 month period extending from October 1, 1992 to July 1, 1994 is considered in the analysis.
- b. Assumes that a Title V operating permit rule and permanent fee schedule will become effective by July 1, 1994 - approximately the time that the WVOAQ would have to begin Title V permit program implementation. Revised Regulation 22 (as proposed) would be superseded partly or totally by the new fee schedule after July 1, 1994.
- c. Projected staffing targets and total air program operating costs based upon review of work load criteria internally and from other states, known costs plus projected contract support to meet Clean Air Act mandates including:
 - o Urban Airshed Modeling only for the Huntington-Ashland-Ironton ozone nonattainment area with costs shared with Kentucky and USEPA.
 - o SO₂ modeling support for completion of Weirton area SO₂ attainment demonstration.
 - o Additional LOE funds created by de-obligation of a portion of FY92-93 federal grant award for ozone inventory completion.
 - o Substantial contract support to enable the State (OAQ) to develop required motor vehicle inspection and maintenance programs.
- d. Funding from the proposed increased annual fees would supplement the total air quality program income from current fees, the FY'93 general revenue appropriation, the requested FY'94 general revenue appropriation, FFY'93 federal grants and projected FFY'94 federal air program grant. Staff increases resulting from the added funding would primarily involve adding engineers and technical personnel to implement the new Title V operating permit program by 1994. Early funding increases and staff acquisition is required to insure that OAQ has trained personnel to write operating permits by mid to late 1994.
- e. The current total program funding levels can support a staff of approximately 65 on an on-going basis at current salary levels and operating costs. Accrued special revenue plus the proposed increased fees in conjunction with current level general revenue and federal

grants can support staffing to a level of approximately 88 by early to mid 1994. This is possible by phasing in (primarily) new professional staff gradually over a 12 to 18 months period.

PROJECTED COSTS (21 month period, October 1, 1992 - July 1, 1994)

1.	Personnel costs - current staff:	
	56 employees salary and fringe benefits:	<u>\$3,306,840</u>
2.	Adjustments to salaries and benefits for current staff:	<u>\$ 200,000</u>
3.	Personnel costs - phase-in of additional employees:	
	22 Technical positions @ \$33,000/person:	\$ 726,000/yr
	3 Technical positions @ \$35,000/person:	\$ 105,000/yr
	1 Administrative/Technical Assistant:	\$ 40,000/yr
	5 Assistants (Secretarial) @ \$18,000/each:	\$ 90,000/yr
	1 Air Monitoring Specialist:	\$ 26,000/yr
	Total:	<u>\$ 987,000/yr</u>
	+ Fringe benefits @ 29%:	\$ 286,230/yr
	+ Additional Office expenses for 22 additional employees*:	\$ 110,400/yr
	Total:	<u>\$1,383,630/yr</u>
	Additional staff costs per month: $\frac{1,383,630}{12} =$	\$ 115,302
	Assume staff additions as follows:	
	16 by mid 1993	
	16 by first of 1994	
	Costs: \$115,302 x 12 months x 16/32 =	\$ 691,812
	\$115,302 x 6 months x 16/32 =	\$ 345,906
	Total:	<u>\$1,037,718</u>

*Office costs associated with 10 of the 32 positions to be added are already reflected in the operating budget summarized at Item 4 below.

4. Operating expenses (see line item breakout on attached appropriation request for details).

FFY'92-93 budget - Current expenses:	\$ 779,000
Minus unexpended contractual/consulting services (\$140,000):	\$ 639,000

For 21 month period: \$639,000/yr x 1.75 yrs = \$1,118,250

+Projected 21 month costs for "Repairs and Alterations":	\$ 90,000
+Equipment costs (21 months):	\$ 200,000
+Costs for inspector uniforms (above budgeted):	\$ 16,000
+Costs to dispose of waste chemicals:	\$ 25,000
+Costs for support of Commission:	\$ 91,000

Total Operating Costs: \$1,540,250

5. Contractor Support Required to Meet Clean Air Act Requirements:

°Urban Airshed Modeling (Huntington):	\$ 100,000
°Completion of Emission Inventories:	\$ 50,000
°Sulfur Dioxide SIP Demonstration/Modeling Support:	\$ 50,000
°Development of Motor Vehicle I/M Program:	\$ 225,000

Total: \$ 425,000

6. Total of all projected costs: \$6,509,808

21-Month Funding Shortfalls: Costs - Income

\$6,509,808 Projected Program Costs
<u>-\$5,999,524 Projected Program Income</u>
\$ 510,284

WV OFFICE OF AIR QUALITY
PROJECTED PROGRAM FUNDING

OCTOBER 1, 1992 - JULY 1, 1994

1. Current Fee Program

October 1, 1992 Balance:	\$1,651,787
Minus Outstanding Obligations:	<u>- 351,787</u>
	\$1,300,000
Projected Fee Collections: (Oct., 92 - July, 94)	\$ 800,000
Total Income from Fees:	<u>\$2,000,000</u>

2. Fiscal Year 92-93 General Revenue Appropriation

Full Year Appropriation	\$ 713,219
Oct. 1, 1992 - July 1, 1993 Available Funds:	
713,219 x .75 =	\$ 534,914
Minus 5% Budget Cut	<u>- 35,661</u>
	\$ 499,253

3. FY 93-94 General Revenue Appropriation Request

\$713,219 Requested with 5% Budget Cut Assumed: \$ 677,558

4. FFY 93 Federal CAA \$105 Grant Award: \$1,485,836

Assume Same Grant Award in FFY 94

Oct. 1, 1992 - July 1, 1994 Grant Funding:
 1,485,836/yr x 1.75 yrs = \$2,600,213

5. Hazardous Waste Program Grant (Pass-thru)

 \$70,000/yr. x 1.75 yrs. = \$ 122,500

6. Total Projected Income (Oct, 92- July, 94): \$5,999,524

1993-94 APPROPRIATION REQUEST
OFFICE ACCOUNT SUMMARY

DEP
Division
Air Quality
Office

Revised
8391
Appropriated Special Revenue
Account Number

7906
Appropriated Federal Revenue
Account Number

6760
Appropriated General Revenue
Account Number

94
FY
0001
Fund
0301
Org
304
Activity

16.6
General
30.0
Federal
17.0
Special

16.6
General
30.0
Federal
17.0
Special

16.6
General
30.0
Federal
17.0
Special

Y 93 RECOMMENDED POSITIONS

	FY 1991-92 ACTUAL STATE		FY 1992-93 BUDGETED				FY 1993-94 CURRENT-LEVEL REQUEST				RECOMMENDATION		
	GENERAL	SPECIAL	FEDERAL	OTHER	TOTAL	GENERAL	SPECIAL	FEDERAL	OTHER	TOTAL	FEDERAL	SPECIAL	GENERAL
Number of Positions	16.6	17.0	30.0	2.0	65.6	16.1	27.0	31.5	2.0	76.6			
Personal Services	421,922	489,000	838,304	67,500	1,823,378	428,574	802,000	878,452	67,500	2,176,526			
Increment Positions	6,300	17.0	17.0	1.0	33.0	16.0	2.0	20.0	1.0	39.0			
Annual Increment	6,480	7,812	7,812	324	14,616	6,804	612	8,100	360	15,876			
TOTAL PERSONAL SERVICES	428,222	489,000	846,116	67,824	1,837,994	435,378	802,612	886,552	67,860	2,192,402			
Employee Benefits													
10- Personnel, Ins. & Ret. Fees	2,993	3,050	5,400	360	11,690	2,880	4,860	5,580	360	13,680			
11- Social Security Matching	32,406	37,100	60,755	5,190	136,330	33,305	61,400	67,820	5,190	167,715			
12- Pub. Emp. Insurance Prem.	40,962	77,500	85,940	4,620	211,455	41,875	102,345	85,050	4,900	234,170			
13- Other Health Insurance	8,230	3,750	2,745	1,485	14,725	9,485	6,860	3,430	1,635	19,775			
14- Workers Compensation	11,046	10,700	16,440	1,485	37,630	10,495	19,340	21,365	1,635	52,835			
15- Unemployment Compensation													
16- Pension & Retirement	40,044	46,500	72,700	6,440	166,970	41,360	76,245	84,220	6,450	208,275			
TOTAL EMPLOYEE BENEFITS	135,681	178,600	243,980	18,095	578,800	139,400	271,050	267,465	18,535	696,450			
Current Expenses													
20- Office, Postal & Freight	4,952	12,500	10,000	581	28,021	7,000	20,000	15,000	500	42,500			
21- Printing & Binding	28	1,000	500		1,700	100	2,000	1,000		3,100			
22- Rental Expenses (Building)	65,832	50,000	20,000		142,000	72,000	27,000	17,000		116,000			
23- Utilities	12,210	15,000	15,000		43,000	15,000	25,000	22,000		62,000			
24- Telephone & Telegraph	10,786	15,000	15,000	1,200	43,200	13,665	30,000	15,000	1,200	59,865			
25- Contractual/Professional	318	78,500	17,000		96,000	500	90,000	20,000		110,500			
26- Travel	10,283	77,000	25,000	10,000	122,000	12,000	88,000	25,000	12,000	137,000			
27- ISC		2,000	1,000		3,000		3,000	3,000		3,000			
28- Consultants & Cont. Fees		68,500	15,000		83,500		60,000	60,000		60,000			
29- Vehicle Rental		50,500	28,800	2,500	90,200		50,000	35,000	3,000	88,000			
30- Rental (Machine & Misc.)	240						15,000			15,000			
31- Association Dues		2,000	2,000		4,000			3,000		3,000			
32- Fire, Auto, Bonding													
33- Food Products	779	3,000	2,000		5,500	500	3,000	7,000	1,000	11,500			
34- Clothing & Household	96	1,000	1,000		1,500	500	2,000	1,000		3,500			
35- Advertising	4,730	6,000	10,000		19,000	2,000	7,500	9,000		18,500			
36- Vehicle Maintenance	9,014	15,408	15,408		29,408	6,000	20,000	15,000		41,000			
37- Research, Educ. & Med.		25,000	40,000		65,000		12,500	28,000		40,500			
38- Maintenance Contract													
39- Manufacturing Supplies													
40- Merchandise For Resale													
41- Security Service													

1993-94 APPROPRIATION REQUEST
OFFICE ACCOUNT SUMMARY
(Continued)

DEP
Division
AIR QUALITY
Office

4760
Appropriated General Revenue
Account Number

8391
Appropriated Special Revenue
Account Number

7906
Appropriated Federal Revenue
Account Number

16.6 General 30.0 Federal 17.0 Special

94 FY 0001 Fund 0301 Orig 304 Activity

FY 93 RECOMMENDED POSITIONS

	FY 1991-92 ACTUAL STATE			FY 1992-93 BUDGETED				FY 1993-94 CURRENT-LEVEL REQUEST				RECOMMENDATION		
	GENERAL	FEDERAL	SPECIAL	OTHER	TOTAL	GENERAL	FEDERAL	SPECIAL	OTHER	TOTAL	FEDERAL	SPECIAL	GENERAL	
42-Hospitality														
43-Educ. Training (Stipends)														
44-Professional														
45-Farm Expense														
46-Subsistence														
47-Debt Service														
48-Discharge & Parole Allow.														
49-Misc. Repair & Alteration														
50-Recreational Supplies														
51-Miscellaneous	200	700	1,000		1,900	500	1,500	2,500		4,500				
TOTAL CURRENT EXPENSES	120,061	218,408	416,000	14,281	778,929	129,765	217,500	454,500	17,700	819,465				
Repairs & Alterations														
60-Labor (Contractual)					2,524									
61-Office Equipment		1,000	10,000		11,000	500	1,500	7,000		9,000				
62-Research: Ed. & Med. Eq. Rep.	3,434	27,996	20,500		48,996	1,000	20,000	35,000		56,000				
63-Bld. Household, Comm Eq. Rep.														
64-Building Repairs & Alterations														
65-Vehicle Repairs	2,999	7,000	1,000		9,500	500	3,000	4,000		7,500				
66-Ground Improvements														
67-Farm & Constr. Equip. Rep.														
68-Other Repairs & Alterations														
TOTAL REPAIRS & ALTERATIONS	6,433	35,996	34,024		72,020	2,000	24,500	46,000		72,500				
Equipment														
70-Office & Communication	6,710	5,000	173,000	1,000	185,500	6,500	5,000	20,000	1,000	32,500				
71-Medical														
72-Research & Educational		25,000	175,000		201,000		25,000	60,000		85,000				
73-Household Eq. & Furnishings	190													
74-Building														
75-Vehicles														
76-Livestock, Farm, & Const.														
77-Books	300	500	2,500	800	4,100	500	1,200	1,000	500	3,200				
78-Other Equipment														
TOTAL EQUIPMENT	7,800	30,500	350,500	1,800	390,600	7,000	31,200	81,000	1,500	120,700				
UNCLASSIFIED														
GROSS TOTAL														
LESS REAPPROPRIATIONS														
NET TOTAL	697,755	1,375,000	1,468,124	102,000	3,658,343	713,543	1,427,217	1,655,162	105,595	3,901,517				

STAFFING AND FUNDING ANALYSIS FOR AIR MANAGEMENT PROGRAM

TITLE V INFORMATION

	Actual as of 07/01/92	Current Year Plan Personnel (Present to mid 1993)	Implementation 1993 - 1994 Addition Total	1994 - 1995 Addition Total
Administrative/Support	12.6	14.6	5.9	4.0
Permits/Comp Prof/tech	20.0	26.0	14	10
Program Planning/Support	6.0	7.0	2.0	2.0
Ambient Monitoring/Lab Support	14	16	-----	5.0
Legal	2	2.0	1.0	1.0
TOTAL	54.6	65.6	22.9	22.0
	parttime & assignees (5)		88.5	110.5
TOTAL FUNDING NEED	-----	3.66 Million	4.94 Million	6.0 Million
TITLE V SOURCES	-----	-----	3.34 Million	4.3 Million

BASIS OF EARLIER PROGRAM
COST ESTIMATES AT FULL IMPLEMENTATION

A. Staffing

1. Permits and Compliance Monitoring

New Source Review and Title V Permitting:
23 technical positions

Compliance Tracking: 27 technical positions
Tests
Inspections
Reporting
Pre-enforcement Actions
Etc.

Assistants: 10 positions

41 Technical positions @ \$33,000/yr	=	\$1,353,000
7 Workgroup Supervisors @ \$38,000/yr	=	266,000
2 Assistant Chiefs/Section Supervisors @ \$42,000/yr	=	84,000
10 Assistants @ \$18,000/yr	=	180,000
TOTAL: 60 Positions		\$1,883,000

2. Planning and Support

1 Assistant Chief/Section Supervisor @ \$42,000/yr	=	\$ 42,000
1 Assistant to Supervisor @ \$38,000/yr	=	38,000
2 Modeling Specialists @ \$45,000/yr	=	90,000
4 Technical: Emission Inventory/Regulatory Support @ \$35,000/yr	=	140,000
3 Technical: Small Business Program @ \$33,000/yr	=	99,000
2 Assistants @ \$18,000/yr	=	36,000
TOTAL: 13 Positions		\$ 445,000

3. Air Monitoring

1 Assistant Chief/Section Supervisor @ \$42,000/yr	=	\$ 42,000
6 Chemists @ \$32,000/yr	=	192,000
7 Air Monitoring Specialists @ \$27,000/yr	=	189,000
7 Technicians @ \$24,000/yr	=	168,000
2 Assistants @ \$18,000/yr	=	36,000
TOTAL: 23 Positions		\$ 612,000

4. Administrative/General

1 Chief @ \$45,000/yr	=	\$ 45,000
1 Assistant Chief @ \$45,000/yr	=	45,000
1 Accountant @ \$35,000/yr	=	35,000
2 Assistants @ \$20,000/yr	=	40,000
1 Information Specialists @ \$26,000/yr	=	26,000
2 Clerks @ \$15,000/yr	=	30,000
1 Mail Runner @ \$12,000	=	12,000
TOTAL: 9 Positions		<u>\$ 233,000</u>

5. Legal Staff

4 Lawyers @ \$43,000/yr	=	\$ 172,000
2 Assistants @ \$18,000/yr	=	36,000
TOTAL: 6 Positions		<u>\$ 208,000</u>

GRAND TOTAL: 111 Positions \$3,396,000

B. Fringe Benefits

Fringe benefits @ 29% of total personnel costs = \$ 984,840

C. Operating Expenses

Ratio up current budget for 66 employees
111/66 x \$779,000 = \$1,310,000

D. Total Costs

Total costs excluding equipment and repairs	=	\$5,690,840
Repairs	=	100,000
Equipment	=	230,000
TOTAL		<u>\$6,020,840</u>

BASIS:

- Title V Permit Program: 120 permits/yr
including: 20 complex
- New Source Review: 120 permits/yr
including: 2 complex
- Compliance Monitoring and Inspections
 - Major Sources 350 inspections per year
 - Minor Sources 400 inspections per year
 - Complaints 700 inspections per year
 - Stack Tests 100 per year
 - NOV's 100 per year
 - CEM Audits 40 per year
- Slightly expanded air quality monitoring station network plus enhanced analytical capabilities for toxic metals and hazardous organic compounds

SUMMARY OF POST-HEARING CHANGES
TO 45CSR22 - "AIR QUALITY MANAGEMENT FEE PROGRAM"

Subsequent to the January 7, 1993, hearing on the proposed rule and in consideration of the Office of Air Quality's Summary of Hearing Comments and Suggested Changes", the following changes were made to 45CSR22:

3.4.b. In addition to the fee required in Section 3.4.a. of this regulation, all persons subject to PSD requirements (45CSR14), Nonattainment Review/~~Bubble Concept~~ requirements (45CSR19), NSPS requirements (45CSR16), NESHAPs requirements (45CSR15), ~~or~~ Toxic Air Pollutant requirements (45CSR27), or certain Emissions Trading requirements shall pay additional fees as described below:

<u>Category</u>	<u>Fee</u>
A. NSPS Requirements	\$ 1,000.00
B. NESHAPs or Toxic Air Pollutant Requirements	\$ 2,500.00
C. PSD or Nonattainment Review/ -Bubble-Concept-for -(1)-New-Major-Sources-and ---Bubble-Plans, or	-----\$ 10,000.00
-(2)-Major Modifications	-----\$ 5,000.00
<u>PSD Permit Review for New Sources Under Regulation 14 (45CSR14):</u>	<u>\$ 20,000.00</u>
D. <u>Nonattainment Area Permit Review for New Sources Under Regulation 19 (45CSR19):</u>	<u>\$ 20,000.00</u>
E. <u>Emission Trading Plan Review Requiring SIP Revision on Approval by USEPA:</u>	<u>\$ 20,000.00</u>
F. <u>PSD or Nonattainment Area Major Modification Review under 45CSR14 or 45CSR19:</u>	<u>\$ 10,000.00</u>

In the event that a review is requested or required under Subsection 3.4.b.D. and 3.4.b.E. a maximum fee of \$20,000 shall apply. Further, in the event that a review is requested or required under Subsection 3.4.b.E. and 3.4.b.F., a maximum fee of \$20,000 shall apply.

4.2. Was reworded, to the following:

4.2. Changes in ownership.

a. A person who is a new owner or new operator of a plant or stationary source subject to this rule shall not be in violation of this rule for

operating the plant or stationary source under a previous owner's or previous operator's certificate to operate provided that all fees and penalties due have been paid and that such certificate to operate is otherwise valid and current. In the event that required fees and any penalties have not been paid, a new owner or operator of a plant or stationary source shall be required to pay all such outstanding fees and penalties.

b. If a plant or source is described by more than one of the groups in Section 4.4.a. or contains individual emitting facilities listed under more than one of the groups in Section 4.4.a., only the single highest fee shall apply. For each stationary source, no person shall be required to pay more than one fee listed in Section 4.4.a. ~~source, no person shall be required to pay more than one fee listed in Section 4.4.a.~~