

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Do Not Mark In This Box

FORM #3

12-22-99

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

AGENCY: Division of Environmental Protection, Office of Air Quality TITLE NUMBER: 45

CITE AUTHORITY: W. Va. Code §§22-5-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 24

TITLE OF RULE BEING AMENDED: "To Prevent and Control Emissions from
Hospital/Medical/Infectious Waste Incinerators"

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 24

TITLE OF RULE BEING PROPOSED: _____

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



Authorized Signature



Executive Office
#10 McJunkin Road
Nitro, WV 25143-2506
Telephone No: (304)759-0575
Fax No: (304)759-0526



West Virginia Bureau of Environment

Cecil H. Underwood
Governor

Michael C. Castle
Commissioner

December 22, 1999

Ms. Judy Cooper
Director, Administrative Law
Division
Secretary of State's Office
Capitol Complex
Charleston, WV 25305

RE: 45CSR24 - "To Prevent and Control Emissions From
Hospital/Medical/Infectious Waste Incinerators"

Dear Ms. Cooper:

This letter will serve as my approval to file the above-referenced rule with your office as an agency-approved legislative rule.

Your cooperation in the above request is very much appreciated. If you should have any questions or require additional information, please call Carrie Chambers in my office at 759-0515.

Sincerely,

Michael C. Castle
Commissioner

MCC:cc

cc: Karen Watson
Carrie Chambers

Questionnaire

DATE: December 22, 1999

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (AGENCY NAME, ADDRESS & PHONE NUMBER) Division of Environmental Protection
Office of Air Quality
1558 Washington Street, East
Charleston, WV 25311-2599
Phone: 304-558-4022

LEGISLATIVE RULE TITLE: 45CSR24 "To Prevent and Control Emissions from
Hospital/Medical/Infectious Waste Incinerators"

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

2. a. Date filed in State Register with Notice of Hearing or Public Comment
Period:
September 1, 1999

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

- I. Class I legal advertisement, Charleston Daily Mail and Charleston Gazette
- II. Sent a copy of the Public Notice to our agency mailing list
- III. DEP's "Public Notice Bulletin" and DEP's "In Depth" (September issues)
- IV. Public Notice placed on agency's website

c. Date of Public Hearing (s) or Public Comment Period ended:
October 12, 1999

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

Attached _____ No comments received X

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

December 22, 1999

f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Edward L. Kropp, Chief
 1558 Washington Street, East
 Charleston, West Virginia 25311-2599
 Phone: 304-558-4022
 Fax: 304-558-3287
 E-Mail: skropp@mail.dep.state.wv.us

g. **IF DIFFERENT from item 'f'**, please give Name, title, address and phone number (s) of agency person (s) who wrote and/or has responsibility for the contents of this rule: (Please type)

See "f" above

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 or comment period:

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

**BUREAU OF ENVIRONMENT
DIVISION OF ENVIRONMENTAL PROTECTION**

BRIEFING DOCUMENT

Rule Title: 45CSR24 - "To Prevent and Control Emissions from Hospital/Medical/Infectious Waste Incinerators"

A. AUTHORITY: W.Va. Code §§22-5-1 et seq.

B. SUMMARY OF RULE:

This rule establishes emission limits and performance standards for new and existing hospital/medical/infectious waste incinerators (HMIWI). The pollutants regulated by this rule include metals (cadmium, lead, and mercury); particulate matter; acid gases (sulfur dioxide and nitrogen oxides, and hydrogen chloride); organic compounds (dioxins and furans); carbon monoxide; and opacity. This rule also establishes requirements for HMIWI operator training/qualification, waste management plans, and testing/monitoring of pollutants and operating parameters. The purpose of revising the rule is to correct typographic errors and to maintain consistency with the federal rule.

C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:

Under sections 111 and 129 of the Clean Air Act (CAA) as amended in 1990, the United States Environmental Protection Agency (EPA) is required to develop regulations to control air pollutant emissions from Hospital/Medical/Infectious Waste Incinerators (HMIWI). Section 111 addresses Standards of Performance for Stationary Sources. Section 129 addresses Solid Waste Combustion. Under the authority of these sections EPA codified regulations governing emissions from new and existing HMIWI in title 40 of the Code of Federal Regulations (CFR) Part 60 Subparts Ec and Ce, respectively. These regulations were promulgated on September 15, 1997.

Under Subpart Ec, facilities that started construction after June 20, 1996 are considered new sources and must comply with New Source Performance Standards (NSPS). Subpart Ce applies to existing HMIWI that commenced construction on or before June 20, 1996. This subpart establishes criteria for state and local agencies to develop emission guidelines and performance standards for existing HMIWI. The proposed rule, 45 CSR 24, incorporates HMIWI emission limits and performance standards codified by USEPA under 40 CFR 60 Subparts Ce and Ec. Promulgation of this rule by the Legislature is necessary for the State to fulfill its responsibilities under the Clean Air Act, as amended.

D. FEDERAL COUNTERPART REGULATIONS - INCORPORATION BY REFERENCE/DETERMINATION OF STRINGENCY:

A federal counterpart to this proposed rule exists. In accordance with the Director's recommendation, and with limited exception, the Office of Air Quality proposes that the rule incorporate by reference the federal counterparts.

Because the proposed rule incorporates by reference the federal counterpart, no determination of stringency is required.

E. CONSTITUTIONAL TAKINGS DETERMINATION:

In accordance with §22-1A-1 and 3(c,) the Director has determined that this rule will not result in taking of private property within the meaning of the Constitutions of West Virginia and the United States of America.

F. CONSULTATION WITH THE ENVIRONMENTAL PROTECTION ADVISORY COUNCIL:

At a meeting September 9, 1999, the Advisory Council reviewed and discussed this rule; there were no substantive changes as a result of the Council's meeting. (See attached minutes of that meeting.)

APPROVED MINUTES

ENVIRONMENTAL PROTECTION ADVISORY COUNCIL

September 9, 1999, Director's Conference Room, Nitro

The seventeenth meeting of the DEP Advisory Council was held Thursday, September 9, 1999, in the Director's Conference Room located in Nitro, Chairman Michael Castle called the meeting to order at 2:00 p.m.

Attending:

Advisory Council Members:

Michael Castle, Chairman
Jacqueline Hallinan
William Raney
William Samples

Environmental Protection:

Tony Grbac
Randy Huffman
Skipp Kropp
Pam Nixon
Terry Polan
Cap Smith
Barbara Taylor
Karen Watson

- 1) Chairman Castle introduced himself and made opening remarks.
- 2) Review and Approval of June 10, 1999 Minutes. Chairman Castle called the meeting to order at 2:00 p.m. The first order of business was approval of the minutes of the June 10, 1999, Advisory Council meeting: they were approved as written.
- 3) Update on Status of Blasting Rule by Randy Huffman. Deputy Director Huffman reiterated that the Blasting Rule was developed as a result of Senate Bill 681. The Blasting Rule was originally filed in June; however due to complaints by citizens/industry regarding their lack of involvement in the development of the rule, a stakeholders group was formed. This group met weekly to review the rule and to make any agreed upon changes by the end of July. The results of the meetings are available on the DEP website - Blasting Stakeholders. A number of consensus recommendations to the rule were developed into a 2-page summary. The revised rule was filed in August.

4) Discussion of Proposed Rules by Karen Watson

45CSR8 - AMBIENT AIR QUALITY STANDARDS FOR SULFUR OXIDES AND PARTICULATE MATTER. The purpose of this rule is to establish ambient air quality standards for sulfur oxidizes and particulate matter, equivalent to those national primary and secondary ambient air quality standards established by the U. S. EPA. The rule being proposed by the Director suspends the PM 2.5 standard until further direction from either the U.S. EPA or the U.S. Supreme Court of Appeals. The proposed rule retains the standard for PM10 since sold basis for the Court vacating the PM10 standard was that the PM2.5 and the PM10 standards could not co-exist without there being essentially double regulation.

45CSR9 - RULES PERTAINING TO AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE ANDF OZONE. The purpose of this rule is to establish ambient air quality standards for carbon monoxide and ozone, equivalent to those national primary and secondary ambient air quality standards established by the U. S. EPA. To be consistent with this ruling, the rule being proposed by the Director suspends the ozone standard until further direction from either U.S. EPA or the Supreme Court of Appeals.

45CSR24 - TO PREVENT AND CONTROL EMISSIONS FROM HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS. This rule establishes emission limits and performance standards for new and existing hospital/medical/infectious waste incinerators (HMIWI). The pollutants regulated by this rule include metals (cadmium, lead, and mercury); particular matter; acid gases (sulfur dioxide and nitrogen oxides, and hydrogen chloride); organic compounds (dioxins and furans); carbon monoxide; and opacity. This rule also established requirements for HMIWI operator training/qualification, waste management plans, and testing/monitoring or pollutants and operating parameters. The purpose of revising the rule is to correct typographic errors and to maintain consistency with the federal rule.

5) Discussion of Proposed Rule by Terry Polan.

45CSR13 - PERMITS FOR CONSTRUCTION, MODIFICATION, RELOCATION AND OPERATION OF STATIONARY SOURCES OF AIR POLLUTANTS, NOTIFICATION REQUIREMENTS, ADMINISTRATIVE UPDATES, TEMPORARY PERMITS, GENERAL PERMITS, AND PROCEDURES FOR EVALUATION - The purpose of this rule is to set forth the procedures for stationary source reporting, and the criteria for obtaining a permit to construct and operate a new stationary source which is not a major stationary source, to modify a non-major stationary source, to make modifications which are not major modifications to an existing major stationary source, and to relocate non-major stationary sources with the State of West Virginia. Such construction, modification or relocation without a required permit is a violation of this rule. This rule also establishes the requirements for obtaining an administrative update to an existing permit, temporary permit or a general permit, and for filing notifications of changes not otherwise subject to the permit requirements of this rule. The rule

establishes public participation requirements as well as procedures for the transfer, suspension and revocation of permits.

6) Discussion by Cap Smith regarding Tire Piles. Cap Smith, Chief of the Office of Waste Management, discussed the problems and solutions currently being utilized regarding existing tire piles and the handling of the 2 million tires being produced each year. The EPA wants to be involved in the solution; however, they have no funding sources available to dedicate to the problem. Legislation will again be proposed. Mr. Smith also commented on the serious ongoing tire fire in Toledo, Ohio and distributed an article regarding this hazard (copy attached).

7) Discussion and Update by Barbara Taylor regarding TMDL Stakeholders. Barbara Taylor, Chief, Office of Water Resources, provided a detailed update on the status of the efforts of the TMDL Stakeholders group and provided explanatory handouts/graphics (copies attached). The TMDL Stakeholders group is focusing on going forward and making improvements.

8) Status update by Skipp Kropp on Regional Haze order. Skipp Kropp reported that EPA has promulgated a Regional Haze rule. The rule assumes that the EPA NOx SIP Call for ozone transport and the new 8-hour ozone standard are in place. Inasmuch as the new ozone standard has been remanded to EPA in an appeal in which WV DEP participated, and the NOx SIP Call is being litigated, so far successfully, by WV DEP and other parties, Mr. Kropp advised that OAQ had also joined Michigan and several other parties in appealing the haze rule as well.

Chairman Castle thanked everyone for attending. The meeting was adjourned at 4:30 p.m.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR24 "To Prevent and Control Emissions from Hospital/Medical/Infectious Waste Incinerators"

Type of Rule: Legislative Interpretive Procedural

Agency: Office of Air Quality

Address: 1558 Washington Street, East

Charleston, WV 25311-2599

1. Effect of Proposed Rule	Annual		Fiscal Year		
	Increase	Decrease	Current	Next	There-after
Estimated Total Cost	\$ 600	\$ 0	\$ 0	\$ 600	\$ 600
Personal Services	600	0	0	600	600
Current Expense	0	0	0	0	0
Repairs and Alterations	0	0	0	0	0
Equipment	0	0	0	0	0
Other	0	0	0	0	0

2. Explanation of above estimates: Most costs anticipated to be incurred in the implementation of 40 CFR Part 60, Subpart Ec will be covered under prior budget estimates for implementing Title V of the Clean Air Act, as amended, under 45CSR30 authorized by the Legislature during the 1994 session and with EPA interim approval on November 15, 1995. The program cost estimates in Item 1 reflect only those increased costs for state implementation of the adopted standards which may affect minor sources. Staff time representing approximately 0.015 FTE is projected for the regulation of these additional facilities.

3. Objectives of these rules:

The proposed rule is required to control air pollutant emissions from HMIWI pursuant to Sections 111 and 129 of the federal Clean Air Act as amended in 1990 (CAA). USEPA promulgated the NSPS (Subpart Ec) for HMIWI on September 15, 1997. This rule is proposed for revision to correct typographic errors and to maintain consistency with the Federal rule.

Appendix B
Fiscal Note For Proposed Rules
Page Two

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

See Section 2.

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

No impact above that resulting from the currently applicable federal standards.

C. Economic Impact on Citizens/Public at Large.

No impact above that resulting from the currently applicable federal standards.

Date: 12/22/99

Signature of Agency Head or Authorized Representative

Carrie J. Chambers

45CSR24

TITLE 45
LEGISLATIVE RULE
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

SERIES 24
TO PREVENT AND CONTROL EMISSIONS FROM
HOSPITAL/ MEDICAL/INFECTIOUS WASTE INCINERATORS

§45-24-1. General.

1.1 Scope.--This rule establishes standards of performance and emission standards for hospital/medical/infectious waste incinerators (HMIWI) pursuant to Sections 111 and 129 of the federal Clean Air Act as amended in 1990 (CAA). It is the intent of the Director to adopt these standards by reference. It is also the intent of the Director to adopt associated reference methods, performance specifications and other test methods which are appended to such standards.

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

1.3. Filing Date. -- ~~May 20, 1999.~~

1.4. Effective Date. --~~June 1, 1999.~~

1.5. Incorporation by Reference.--Federal Counterpart Regulation. The Director has determined that a federal counterpart rule exists. In accordance with the Director's recommendation, and with limited exception, this rule incorporates by reference 40 CFR Part 60 Subpart Ec, effective September 15, 1997.

1.6. Former Rules -- This legislative rule amends 45CSR24 - "To Prevent and Control Emissions From Hospital/Medical/Infectious Waste Incinerators" which was filed on May 20, 1999 and became effective on June 1, 1999.

§45-24-2. Definitions.

2.1. Definitions of all terms used, but not defined in this subsection, shall have the meaning given to them in 40 CFR Part 60 Subpart Ec. Terms not defined therein shall have the meaning given to them in the federal Clean Air Act, 40 CFR Subparts A and B, or this rule.

2.2. "Administrator" shall mean the Administrator of the United States Environmental Protection Agency or his or her designated representative.

2.3. “Director” shall mean the ~~D~~director of the ~~West Virginia D~~division of ~~E~~environmental ~~P~~rotection or ~~his or her designated representative~~ such other person to whom the director has delegated authority or duties pursuant to W.Va. Code §§ 22-1-6 or 22-1-8.

2.4. “Existing” shall mean each HMIWI for which construction was commenced on or before June 20, 1996.

2.5. “Hospital/medical/infectious waste incinerator” or “HMIWI” means any device that combusts any amount of hospital waste and/or medical/infectious waste as defined in 40 CFR §60.51c.

2.6. “Hospital waste” shall mean discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.

2.7. “Medical/infectious waste” shall mean any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that is listed below:

2.7.a. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate, and mix cultures.

2.7.b. Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.

2.7.c. Human blood and blood products including:

2.7.c.1. Liquid waste human blood;

2.7.c.2. Products of blood;

2.7.c.3. Items saturated and/or dripping with human blood; or

2.7.c.4. Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.

2.7.d. Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips.

2.7.e. Animal waste including contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals.

2.7.f. Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases.

2.7.g. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.

The definition of medical/infectious waste does not include hazardous waste identified or listed under the regulations in 40 CFR Part 261; household waste, as defined in 40 CFR §261.4(b)(1); ash from incinerators of medical/infectious waste, once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage materials as identified in 40 CFR § 261.4(a)(1).

2.8. “New” shall mean each HMIWI that commenced construction after June 20, 1996 or for which modification is commenced after March 16, 1998.

2.9. “Small Rural HMIWI” shall mean an existing HMIWI which is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area and which burns less than 2,000 pounds per week of hospital waste and medical/infectious waste. The 2,000 lb/week limitation does not apply during performance tests.

2.10. “Standard Metropolitan Statistical Area (SMSA)” shall mean any areas listed in OMB Bulletin No. 93-17 entitled “Revised Statistical Definitions for Metropolitan Areas” dated June 30, 1993.

§45-24-3. Exemptions.

3.1. The following combustors are exempt from this rule:

3.1.a. A combustor is not subject to this rule during periods when only

pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned, provided the owner or operator of the combustor:

3.1.a.1. Notifies the Director of an exemption claim; and

3.1.a.2. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned.

3.1.b. Any co-fired combustor if the owner or operator of the co-fired combustor:

3.1.b.1. Notifies the Director of an exemption claim; and

3.1.b.2. Provides an estimate of the relative amounts of hospital, medical/infectious waste, and other fuels and wastes combusted at the co-fired combustor.

3.1.b.3. Keeps records on a calendar quarter basis of the weight of hospital waste, medical/infectious waste, and all other fuels and wastes combusted at the co-fired combustor.

3.1.c. Any combustor required to have a permit under 42 U. S. C. §6925, 45 CSR 25 and 33 CSR 20.

3.1.d. Any combustor which meets the applicability requirements under 40 CFR Part 60 Subparts Ca, Cb, Ea, and Eb.

3.1.e. Any pyrolysis unit.

3.1.f. Cement kilns firing hospital waste and/or medical/infectious waste.

3.2. Physical or operational changes made to an existing HMIWI solely for the purpose of complying with this rule are not considered a modification under 40 CFR §60.51c and do not result in an existing HMIWI becoming subject to the requirements of Section 4.2.

§45-24-4. Requirements.

4.1. No person may construct, reconstruct, modify, or operate, or cause to be constructed, reconstructed, modified, or operated a HMIWI which results in a violation of this rule.

4.2. Each new HMIWI shall comply with all of the applicable standards, requirements and provisions of 40 CFR Part 60 Subpart Ec, effective September 15, 1997, including any reference methods, performance specifications and other test methods associated with Subpart

Ec, which are herein incorporated by reference.

4.3. Each existing HMIWI shall comply with the following:

4.3.a. Emission limits presented in Table 1.

4.3.b. Operator training and qualification requirements specified in 40 CFR §60.53c.

4.3.c. Waste management plan specified in 40 CFR §60.55c.

4.3.d. Compliance and performance testing specified in 40 CFR § 60.56c, excluding the fugitive emissions testing requirements under 40 CFR §§60.56c(b)(12) and (c)(3).

4.3.e. Monitoring requirements 40 CFR §60.57c.

4.3.f. Reporting and recordkeeping requirements specified in 40 CFR §60.58c, excluding sections 40 CFR §§60.58c (a), (b)(2)(ii), and (b)(7).

4.3.g. Opacity requirements specified in 40 CFR §60.52c(b).

4.4. Each existing small rural HMIWI shall comply with the following:

4.4.a. Emission limits presented in Table 1, under the Rural category.

4.4.b. Operator training and qualification requirements specified in 40 CFR §60.53c.

4.4.c. Waste management plan specified in 40 CFR §60.55c.

4.4.d. No later than 1 year after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators, an initial equipment inspection shall be conducted. Annual equipment inspections shall be conducted thereafter (no more than 12 months following the previous annual equipment inspection), as outlined in subsection 4.4.d.1. through subsection 4.4.d.17. Within 10 operating days following an equipment inspection all necessary repairs shall be completed unless the owner or operator obtains written approval from the Director establishing an alternative repair schedule. All equipment inspections shall include the following:

4.4.d.1. Inspection of all burners, pilot assemblies, and pilot sensing devices for proper operation: cleaning of pilot flame sensor, as necessary;

4.4.d.2. Ensuring proper adjustment of primary and secondary

- chamber combustion air, and adjustment as necessary;
- necessary;
- 4.4.d.3. Inspection of hinges and door latches and lubrication as necessary;
- operation;
- 4.4.d.4. Inspection of dampers, fans, and blowers for proper operation;
- sealing;
- 4.4.d.5. Inspection of HMIWI door and door gaskets for proper sealing;
- 4.4.d.6. Inspection of motors for proper operation;
- 4.4.d.7. Inspection of primary chamber refractory lining; cleaning and repairing/replacing lining as necessary;
- spots;
- 4.4.d.8. Inspection of incinerator shell for corrosion and/or hot spots;
- cleaning as necessary;
- 4.4.d.9. Inspection of secondary/tertiary chamber and stack, cleaning as necessary;
- 4.4.d.10. Inspection of mechanical loader, including limit switches, for proper operation, if applicable;
- 4.4.d.11. Visual inspection of waste bed (grates), and repairing/sealing, as appropriate;
- 4.4.d.12. For the burn cycle that follows the inspection, documentation that the incinerator is operating properly and making any necessary adjustments;
- 4.4.d.13. Inspection of air pollution control device(s) for proper operation, if applicable;
- 4.4.d.14. Inspection of waste heat boiler systems to ensure proper operation, if applicable;
- 4.4.d.15. Inspection of bypass stack components;
- 4.4.d.16. Ensuring proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and
- 4.4.d.17. Generally observing that the equipment is maintained in

good operating condition.

4.4.e. Compliance and performance testing in accordance with the following:

4.4.e.1. Testing requirements in 40 CFR §§60.56c(a), (b)(1) through (b)(9), (b)(11) (Mercury only), and (c)(1). The 2,000 lb/week limitation does not apply during performance tests.

4.4.e.2. Establishment of maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits.

4.4.e.3. Following the date on which the initial performance test is completed or is required to be completed under 40 CFR §60.8, whichever date comes first, the designated facility shall not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times except during periods of startup, shutdown, and malfunction. Operating parameter limits do not apply during performance tests.

4.4.e.4. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameter(s). Operation above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the PM, CO and dioxin/furan emission limits, except as provided for in subsection 4.4.e.5.

4.4.e.5. The owner or operator of a designated facility may conduct a repeat performance test within 30 days of violation of applicable operating parameter(s) to demonstrate that the designated facility is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to this section must be conducted using the identical opening parameters that indicated a violation under subsection 4.4.e.4.

4.4.f. Monitoring in accordance with the following:

4.4.f.1. Installation, calibration (to manufacturer's specifications), maintenance, and operation of a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum once every minute throughout operation.

4.4.f.2. Installation, calibration (to manufacturer's specifications), maintenance, and operation of a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI.

4.4.f.3. The owner or operator of a designated facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day and for 90 percent of the operating hours per calendar quarter that the designated facility is combusting hospital waste and/or medical/infectious waste.

4.4.g. Maintenance of records of the annual equipment inspections, any required maintenance, and any repairs not completed within 10 days of an inspection or Director approved repair date.

4.4.h. Submission of an annual report containing information recorded under subsection 4.4.g. no later than 60 days following the year in which data were collected. Subsequent reports shall be sent no later than 12 calendar months following the previous report (once the unit is subject to permitting requirements under Title V, the owner or operator must submit these reports semiannually). The report shall be signed and certified in accordance with subsection 4.5.

4.4.i. Opacity requirements specified in 40 CFR §60.52c(b).

4.5. Where reports are required to be submitted to the Director under the terms of a permit issued pursuant to 45 CSR 13, 45 CSR 14, 45 CSR 19, or 45 CSR 30, the reports shall be signed and certified in accordance with the requirements of the applicable permitting rule. Where reports are required to be submitted to the Director under this rule, and no permit is in effect under 45 CSR 13, 45 CSR 14, 45 CSR 19, or 45 CSR 30, the report shall be signed by the facility manager and shall contain a certification stating that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

4.6 Whenever provisions of the Code of Federal Regulations (CFR) are incorporated by reference in this rule, the reference shall be to the CFR, effective September 15, 1997.

§45-24-5. Director.

5.1. Any and all references in 40 CFR Part 60 Subpart Ec to the “Administrator” are amended to be the “Director” except in the following references which shall remain “Administrator”, as follows:

5.1.a. The requirements of 40 CFR §60.56c(fi) establishing operating parameters when using controls other than those listed in 40 CFR §60.56c(d).

5.1.b. Alternative methods of demonstrating compliance under 40 CFR §60.8.

§45-24-6. Permits.

6.1. On or before September 15, 2000, existing HMIWI facilities subject to this rule shall submit a complete application for a CAA Title V permit in accordance with the requirements of 45 CSR 30.

6.2. New HMIWI facilities subject to this rule shall submit a complete application for a CAA Title V permit in accordance with the requirements of 45 CSR 30 within twelve (12) months after commencing operation.

6.3. Nothing contained in this rule shall be construed or inferred to mean that permit requirements in accordance with applicable rules shall be in any way limited or inapplicable, including, but not limited to, the permitting requirements under 45 CSR 13, 45 CSR 14, and 45 CSR 19.

§45-24-7. Compliance Dates.

7.1. Except as provided for in subsections 7.2, 7.3, and 7.4, one year after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators, the owner or operator of any HMIWI facility shall be in compliance with all of the provisions of this rule.

7.2. No later than 120 days after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators, the owner or operator of an existing HMIWI facility required to install air pollution control equipment shall submit a compliance plan and schedule subject to the approval of the Director that meets the following criteria:

7.2.a. No later than 1 year after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators, a facility that plans to install air pollution control equipment other than a dry scrubber followed by a fabric filter, a wet scrubber or dry scrubber followed by a fabric filter and a wet scrubber shall submit a petition for site specific operating parameters under 40 CFR §60.56c(f) to the EPA Administrator and the Director;

7.2.b. No later than 1 year after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators services of an architectural and engineering firm regarding air pollution device(s) shall be obtained;

7.2.c. No later than 18 months after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators design drawings of an air pollution device(s) shall be ordered;

7.2.d. No later than 18 months after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators air pollution device(s) shall be ordered;

7.2.e. No later than 2 years after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators site preparation for installation of the air pollution device(s) shall be initiated;

7.2.f. No later than 33 months after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators initial startup of the air pollution device(s) shall be conducted;

7.2.g. No later than 33 months after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators initial compliance test(s) of the air pollution device(s) shall be conducted; and

7.2.h. No later than 3 years after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators or by September 16, 2002, whichever date is earlier, no owner or operator of an existing HMIWI shall allow or cause to be allowed an HMIWI to be operated except in compliance with all applicable provisions of this rule.

7.3. An owner or operator, who submits in writing to the Director a request for an extension to comply beyond the dates required by subsection 7.2., shall submit to the Director no later than 9 months after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators the following information:

7.3.a. An analysis to support the need for an extension, including an explanation of why up to three years after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators is not sufficient time to comply with section 7.2.

7.3.b. A demonstration of the feasibility to transport the waste offsite to a commercial medical waste treatment and disposal facility on a temporary or permanent basis; and

7.3.c. Measurable and enforceable incremental steps of progress to be taken towards compliance with the emission limits presented in Table 1.

7.4. The owner or operator will be notified in writing by the Director of his or her decision as to whether an extension shall be granted or denied. The owner or operator shall comply with one of the following:

7.4.a. If the request for extension is denied, the owner or operator shall submit a

compliance plan in accordance with section 7.2 no later than 30 days after denial of the request for extension, or one year after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Hospital/Medical/Infectious Waste Incinerators, whichever is later.

7.4.b. If the request for extension is granted, the owner or operator shall submit a compliance plan and schedule commensurate with the granted extension no later than 30 days after the date the request for extension has been granted.

§45-24-8. Inconsistency Between Rules.

8.1 In the event of any inconsistency between this rule and any other existing rule of the West Virginia Division of Environmental Protection, such inconsistency shall be resolved by the determination of the Director and such determination shall be based upon the application of the more stringent provision, term, condition, method, or rule.

45 CSR 24

**Table 1
Emission Limits for Hospital/Medical/Infectious Waste Incinerators**

Pollutant	Units (7% oxygen, dry basis)	HMIWI Size			
		Small	Medium	Large	Rural
Particulate Matter	mg/ dscm (gr/dscf) ^a	115 (0.05)	69 (0.03)	34 (0.015)	197 (0.086)
Carbon Monoxide	ppmv ^b	40	40	40	40
Dioxins/furans	ng/dscm total CCD/CDF (gr/10 ⁹ dscf) or ng/dscm TEQ (gr/10 ⁹ dscf) ^c	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)	800 (350) or 15 (6.6)
Hydrogen chloride	ppmv or percent reduction	100 or 93%	100 or 93%	100 or 93%	3100
Sulfur dioxide	ppmv	55	55	55	55
Nitrogen oxides	ppmv	250	250	250	250
Lead	mg/dscm (gr/10 ³ dscf) or percent reduction ^d	1.2 (0.52) or 70%	1.2 (0.52) or 70%	1.2 (0.52) or 70%	10 (4.4)
Cadmium	mg/dscm (gr/10 ³ dscf) or percent reduction	0.16 (0.07) or 65 %	0.16 (0.07) or 65 %	0.16 (0.07) or 65 %	4 (1.7)
Mercury	mg/dscm (gr/10 ³ dscf) or percent reduction	0.55 (0.24) or 85%	0.55 (0.24) or 85%	0.55 (0.24) or 85%	7.5 (3.3)

^a milligrams per dry standard cubic meter (grains per dry standard cubic feet)

^b parts per million by volume

^c nanograms per dry standard cubic meter total dioxins/furnas (grains per billion dry standard cubic feet) or nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)

^d milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)

ORIGINAL

BEFORE THE WEST VIRGINIA DIVISION OF
ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

In the matter of:

PUBLIC HEARING ON PROPOSED LEGISLATIVE RULE

45 CSR 24 " To Prevent and Control Emissions from
Hospital/Medical/Infectious Waste
Incinerators"

Transcript of proceedings had at a public hearing in the above-styled matter taken by Missy L. Young, Certified Court Reporter and Commissioner in and for the State of West Virginia, at the West Virginia Division of Environmental Protection, Office of Water Resources', Conference Room, 1201 Greenbrier Street, East, Charleston, West Virginia, 25305, commencing at 6:04 p.m., on the 12th day of October, 1999, pursuant to notice.

Missy L. Young, C.C.R.
Post Office Box 13221
Sissonville, WV 25360
(304) 984-2300 or 540-8179

1 will be to introduce each rule individually, allow time
2 for oral comments and close the hearing for that
3 particular rule. Written comments for any rule may be
4 submitted at the end of this public hearing tonight. For
5 those of you wishing to make oral comments, a sign-up
6 sheet is in the back and please, sign up now, before I
7 take it up. Please limit your comments to five minutes.
8 Your comments will be made a part of the rulemaking
9 record.

10 The court reporter is Ms. Missy L. Young,
11 if anyone desires a transcript of this proceeding, please
12 contact Ms. Young at 984-2300.

13 45CSR24 - "To Prevent and Control
14 Emissions from Hospital/Medical/Infectious Waste
15 Incinerators".

16 This rule establishes emission limits and
17 performance standards for new and existing
18 hospital/medical/infectious waste incinerators. The
19 pollutants regulated by this rule include metals (cadmium,
20 lead and mercury); particulate matter; acid gases (sulfur
21 dioxide and nitrogen oxides, and hydrogen chloride);
22 organic compounds (dioxins and furans); carbon monoxide
23 and opacity. This rule also establishes requirements for
24 hospital/medical/infectious waste operator

1 training/qualification, waste management plans, and
2 testing/monitoring of pollutants and operating parameters.
3 The purpose of revising the rule is to correct typographic
4 errors and to maintain consistency with the federal rule.

5 Under sections 111 and 129 of the Clean
6 Air Act as amended in 1990, the U.S. EPA is required to
7 develop regulations to control air pollutant emissions
8 from hospital/medical/infectious waste incinerators.
9 Section 111 addresses Standards of Performance for
10 Stationary Sources. Section 129 addresses Solid Waste
11 Combustion. Under the authority of these sections EPA
12 codified regulations governing emissions for new and
13 existing hospital/medical/infectious waste incinerators in
14 title 40 Code of Federal Regulations, Part 60 Subpart Ec
15 and Ce, respectively. These regulations were promulgated
16 on September 15, 1997.

17 Under Subpart Ec, facilities that started
18 construction after June 20, 1996 are considered new
19 sources and must comply with New Source Performance
20 Standards. Subpart Ce applies to existing
21 hospital/medical/infectious waste incinerators that
22 commenced construction on or before June 20, 1996.

23 This subpart establishes criteria for
24 state and local agencies to develop emission guidelines

1 and performance standards for existing
2 hospital/medical/infectious waste incinerators. The
3 proposed rule, 45CSR24, incorporates
4 hospital/medical/infectious waste incinerator emission
5 limits and performance standards codified by U.S.
6 Environmental Protection Agency under 40CSR60 Subpart Ce
7 and Ec. Promulgation of this rule by the Legislature is
8 necessary for the State to fulfill its responsibilities
9 under the Clean Air Act, as amended. In accordance with
10 the Director's recommendation, and with limited exception,
11 the Office of Air Quality proposes that the rule
12 incorporate by reference the federal counterparts.

13 The floor is now open for public comment.
14 There being nothing further, this public hearing for
15 45CSR24 is concluded.


16 (WHEREUPON, the public hearing
17 was concluded.)

BEFORE THE WEST VIRGINIA DIVISION OF
ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to-wit:

I, the undersigned, Missy L. Young, a
Certified Court Reporter and Commissioner within and for
the State of West Virginia, duly commissioned and
qualified, do hereby certify that the foregoing is, to the
best of my skill and ability, a true and accurate
transcript of all the proceedings had in the
aforementioned matter.

Given under my hand and official seal this
15th day of October 1999.



Certified Court Reporter
Commissioner for the State of West Virginia

My commission expires April 15, 2008.



WEST VIRGINIA REGISTER

Published by Ken Hechler, Secretary of State

CONTENTS

Volume XVI

Issue 36

September 3, 1999

Pages 1588-1633

A Weekly Publication

Administrative Law Division

*Judy Cooper
Director*

*Lisa Blake
Leah Powell
Administrative Assistants*

*Secretary of State
Administrative Law Division
Bldg. 1, Suite 157K
1900 Kanawha Blvd. E.
Charleston, WV 25305-0770*

*(304)558-6000
www.secretary.state.wv.us/sos*

I. Chronological Index

II. Open Government Meetings Listing

III. Price List

IV. Rule Monitor

V. Notices

a. Legislative Rules

b. Interpretive Rules

c. Procedural Rules

d. Emergency Rules

e. Legislative Rule-Making Review Committee

VI. Legislative Interims

VII. Orders

IX. Ethics Commission Opinions

X. Attorney General Opinions

XI. Other Documents or Information Filed

XII. Publication Deadlines and Publication Dates

LEGISLATIVE

WEST VIRGINIA
 SECRETARY OF STATE
 KEN RECHLER
 ADMINISTRATIVE LAW DIVISION
 Form #1

Do Not Mark In This Box

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Division of Environmental Protection, Office of Air Quality TITLE NUMBER 43
 RULE TYPE: Legislative CITE AUTHORITY W. Va. Code §§22-5-1, c.l.s.c.

AMENDMENT TO AN EXISTING RULE: YES NO
 IF YES, SERIES NUMBER OF RULE BEING AMENDED: 24

TITLE OF RULE BEING AMENDED: "To Prevent and Control Emissions From Hospital Medical/Infectious Waste Incinerators"

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

DATE OF PUBLIC HEARING: October 12, 1999 TIME 6:00 p.m.

LOCATION OF PUBLIC HEARING: Office of Air Quality - Conference Room
1201 Greenbrier Street
Charleston, West Virginia 25311

COMMENTS LIMITED TO: ORAL _____ WRITTEN BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Mr. Edward L. Kropp, Chief

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 will be limited to the proposed rule

ATTACH A BILL AS SUBSTANTIVE OF YOUR PROPOSAL

Charleston, WV 25311
Carrie J. Chamberlain
 Authorized Signature

WEST VIRGINIA
 SECRETARY OF STATE
 KEN RECHLER
 ADMINISTRATIVE LAW DIVISION
 Form #4

Do Not Mark In This Box

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: State Auditor TITLE NUMBER 155
 CITE AUTHORITY 12-3-10

AMENDMENT TO AN EXISTING RULE: YES NO
 IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Standards For Registrants For Payment Issued By State Officers On The Auditor

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

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Paul A. McWhorter



CHARLESTON NEWSPAPERS

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

INVOICE DATE	09/07/99
ACCOUNT NBR	037143002
SALES REP ID	0016
INVOICE NBR	671138001

Legal pricing is based upon 63 words per column inch at a rate of \$.0925 per word
 Each successive insertion is discounted by 25% of the first insertion rate (\$.069375 per word)

ISSUE DATE	AD TYPE	PUB	DESCRIPTION		AD NUMBER	AD SIZE	RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR	PURCHASE ORDER #		TOTAL RUN			
09/04	LEGF	GZ	PUBLIC HEARING		L441227	1X0988			
			671138001			9.88	5.83	57.55	
09/04	LEGF	DM	PUBLIC HEARING		L441227	1X0988			
			671138001			9.88	5.83	57.55	115.10
TOTAL INVOICE AMOUNT									115.10

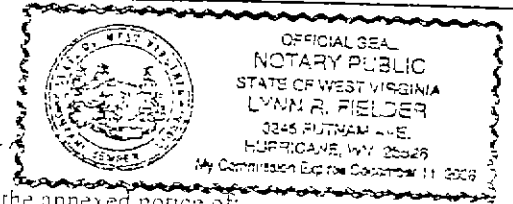
State of West Virginia.

AFFIDAVIT OF PUBLICATION

I, Sandra Ligo of
 THE CHARLESTON GAZETTE, A DAILY DEMOCRATIC NEWSPAPER,
 THE DAILY MAIL, A DAILY REPUBLICAN NEWSPAPER,
 published in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of:
 PUBLIC HEARING

was duly published in said paper(s) during the dates listed below, and was posted at the front door of the court house of said Kanawha County, West Virginia, on the 6TH day of SEPTEMBER, 1999. Published during the following dates: 09/04/99 - 09/04/99

Subscribed and sworn to before me this 8 day of September
 Printers fee \$ 115.10



Lynn R. Fielder
 Notary Public of Kanawha County, West Virginia

SEP 21 1999

**NOTICE OF
PUBLIC HEARING AND
PUBLIC COMMENT
PERIOD**

On Tuesday, October 12, 1999 beginning at 6:00 p.m., the West Virginia Division of Environmental Protection, Office of Air Quality will hold a public hearing on proposed revisions to the following legislative rules:

45CSR8 "Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter"

45CSR9 "Rules Pertaining to Ambient Air Quality Standards for Carbon Monoxide and Ozone"

45CSR13 "Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Temporary Permits, General Permits, and Procedures for Evaluation"

45CSR24 "To Prevent and Control Emissions from Hospital/ Medical/ Infectious Waste Incinerators"

Upon authorization and promulgation of revisions to 45CSR8, 45CSR9 and 45CSR13, the Office of Air Quality will seek federal approval of the rule change by the U.S. Environmental Protection Agency for inclusion in the State Implementation Plan for the Federal Clean Air Act.

Upon authorization and promulgation of revisions to 45CSR24, the rule will be submitted to the U.S. Environmental Protection Agency for approval as part of the State's Plan for Hospital/ Medical/ Infectious Waste Incinerators, pursuant to section 111(d) of the Federal Clean Air Act, and also included in the State's request for delegation of authority to implement and enforce 40 CFR Part 60 Subpart Ec.

The hearing will be held at the Division of Environmental Protection, Office of Water Quality - Conference Room, 1201

and is open to the public. Written and oral comments will be accepted until the close of the hearing on October 12th and will be made a part of the rulemaking record. Comments will not be accepted by e-mail. The public may submit written comments by mail, facsimile (304-558-3287) or other delivery to the Office of Air Quality through October 12th for inclusion in the rulemaking record at the following address:

Edward K. Kropp,
Chief
Office of Air Quality
1558 Washington St., E.
Charleston, WV 25311-2599

Comments submitted by mail must be postmarked by October 12, 1999. Copies of the proposed legislative rules for 45CSR8, 45CSR9, and 45CSR24 will be available for public review on or before September 3, 1999 at the Office of Air Quality's Charleston office at the above address. Copies of the proposed legislative rule for 45CSR13 will be available for public review on or before September 8, 1999, at the same address.