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ADMINISTRATIVE LAW DIVISION

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OFFICE OF WEST VIRGINIA SECRETARY OF STATE

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

AGENCY: Air Pollution Control Commission TITLE NUMBER: 27

CITE AUTHORITY Chapter 16, Article 20

AMENDMENT TO AN EXISTING RULE: YES___ NO__X_

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 27

TITLE OF RULE BEING PROPOSED: "To Prevent and Control the Emissions of Toxic Air Pollutants"

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

G. Dale Farley
Director

This Version of Regulation 27 was Adopted by the Commission on September 18, 1989.

[PROPOSED]

45CSR27

TITLE 45
LEGISLATIVE RULES
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

SERIES 27
TO PREVENT AND CONTROL THE EMISSIONS OF TOXIC AIR POLLUTANTS

Index.

[PROPOSED]

45CSR27

TITLE 45
LEGISLATIVE RULES
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

SERIES 27
TO PREVENT AND CONTROL THE EMISSIONS OF TOXIC AIR POLLUTANTS

§45-27-1. **General.**

1.1. **Scope.**

The purpose of Regulation 27 is to prevent and control the discharge of toxic air pollutants by requiring the application of best available technology.

1.2. **Authority.**

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

1.3. **Filing Date.**

This regulation was promulgated or last amended on the _____ day of _____, _____, was filed with the office of the Secretary of State the _____ day of _____, _____. Further, this regulation was filed pursuant to West Virginia Code, Chapter 29A, Article 2, Section 5 on the _____ day of _____, _____ in the office of the Secretary of State.

1.4. **Effective Date.**

The effective date of this regulation is the _____ day of _____, _____.

1.5. **Type.**

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

§45-27-2. **Definitions.**

2.1. "Air Pollution", 'statutory air pollution' ~~shall have~~has the meaning ascribed to it in Section 2, of Chapter 16, Article 20 of the Code of West Virginia, as amended.

2.2. "Air Pollution Control Device"~~shall~~ means any equipment used for the purpose of preventing, reducing, or controlling the emission of toxic air pollutants into the open air.

2.3. "BAT", 'Best Available Technology' ~~shall~~ means an emissions limitation requiring the application of the maximum degree of reduction and control which the Director, on a case-by-case basis, determines is achievable for each toxic air pollutant which would be emitted from any stack, pipe, air pollution control device, ~~similar~~ or from any other equipment or facilities associated with a chemical processing unit. In the case of chemical processing units constructed or modified after the effective date of this regulation, BAT shall not be less stringent than the most stringent emissions level that is achieved in practice by similar sources or processes. For existing chemical processing units, BAT may be less stringent than requirements for new or modified units. For all facilities, BAT shall represent the maximum degree of emission reduction that the Director determines is achievable taking into consideration the cost of achieving such emission reduction, and public health and environmental impacts. No BAT proposal shall be approvable that represents a level of control less stringent than any requirement

for a chemical processing unit under 40CFR61 or 40CFR60. BAT measures shall include but not be limited to measures which:

a. reduce or eliminate the emission rate of toxic pollutants through process changes or substitution of materials,

b. enclose or seal equipment or systems to eliminate toxic air pollutant emissions,

c. collect, capture, destroy and/or otherwise treat toxic air pollutants released from a process, stack, storage, or fugitive emissions point,

d. are work practice or operational methods.

2.4. "Chemical Processing Unit" ~~shall~~ means an assembly of reactors, tanks, distillation columns, heat exchangers, vaporizers, compressors, dryers, decanters, ~~incinerators~~ and/or other ~~similar~~ equipment used to treat, store, manufacture, ~~incinerate~~ or use toxic air pollutants. For the purpose of this regulation, the term chemical processing unit shall include surface coating equipment or similar equipment utilizing a toxic air pollutant as a solvent or for other purposes but shall not include equipment used in the production and distribution of petroleum products providing that such equipment does not produce or contact materials containing more than 5% benzene by weight.

2.5. "Commission" ~~shall~~ means the West Virginia Air Pollution Control Commission.

2.6. "Director" ~~shall~~ means the Director of the West Virginia Air Pollution Control Commission.

2.7. "Plant" 'Facility' means all chemical processing units existing on one or more contiguous or adjacent properties, which are owned by or under the control of the same person or persons.

2.~~7~~8. "Person"~~shall~~ means any and all persons, natural or artificial, including the State of West Virginia or any other state, the United States of America, any municipal, statutory, public or private corporation organized or existing under the laws of this or any other state or country, and any firm, partnership or association of whatever nature.

2.~~8~~9. "Stack", for the purpose of this regulation,~~shall~~ means, but is not ~~be~~ limited to, any stack, vent, duct, control equipment exhaust, or similar apparatus, from which a toxic air pollutant is or may be emitted into the open air.

2.~~9~~10. "Toxic Air Pollutant"~~shall~~ means any of the following chemicals: Acrylonitrile, Allyl chloride, Benzene, 1,3-Butadiene, Carbon tetrachloride, Chloroform, Ethylene dichloride, Ethylene oxide, Formaldehyde, Methylene chloride, Propylene oxide, Trichloroethylene, Vinyl chloride, and Vinylidene chloride.

2.1~~0~~1. "Toxic Air Pollutant Service"~~shall~~ means for the purpose of this regulation that a piece of equipment such as a pump, valve or flange contains or contacts a process fluid containing 10% or more by weight of a toxic air pollutant.

2.12. "Modification" or "Modified" shall mean any physical change or change in the method of operation of a chemical processing unit which increases its potential to emit a toxic air pollutant.

§45-27-3. **Chemical Processing Units.**

3.1. ~~No~~Except as provided in Sections 3.2 and 3.3,~~person shall operate a chemical processing unit~~ the owner or operator of a plant that discharges or may discharge a toxic air pollutant~~(s)~~ into the open air ~~that is not equipped and operated with BAT~~in excess of the amount shown in the Table A shall employ BAT at all chemical processing units emitting the toxic air pollutant, provided, however, that any source or equipment specifically subject to a federal regulation or standard shall not be required to comply with provisions more stringent than such regulation or standard.

Table A

	Pounds/year
Acrylonitrile	500
Allyl Chloride	10,000
Benzene	1,000
1,3 Butadiene	500
Carbon Tetrachloride	1,000
Chloroform	1,000
Ethylene Dichloride	1,000
Ethylene Oxide	500
Formaldehyde	1,000
Methylene Chloride	5,000
Propylene Oxide	5,000
Trichloroethylene	10,000
Vinyl Chloride	1,000
Vinylidene Chloride	2,000

3.2. A BAT program for a plant containing multiple chemical processing units or emission sources may, for each chemical, consider the overall effectiveness of emissions control measures within a unit or the plant. All BAT programs shall fully consider the additive or cumulative health and environmental impacts of multiple pollutant and multiple unit emissions.

3.3. The Director may exempt a chemical processing unit from the BAT requirement if the owner/operator can demonstrate to the satisfaction of the Director that the maximum toxic air pollutant emissions from the source or unit, taking into consideration all other toxic air pollutant sources at the plant and other sources in the area of the plant, cause insignificant impacts upon public health and the environment.

If the Director so exempts a unit from the BAT requirement, the maximum emission rates of toxic air pollutants discharged to the air from the unit shall be set forth as enforceable limitations within the compliance program required or established under Section 11 of this regulation.

3.24. All chemical processing units shall be properly instrumented to alert the operator of process upsets, leaks, and other abnormal discharges of toxic air pollutants into the air and ~~to~~the operator shall record all such incidents and the associated emissions estimated from direct measurements of toxic air pollutant concentration and/or calculations using other process measurements.

3.5. The Director may on a case-by-case basis require the installation and proper operation of monitoring devices to continuously or intermittently determine the concentrations or mass emission rates of toxic air pollutants normally or routinely emitted to the air.

§45-27-4. **Fugitive Emissions of Toxic Air Pollutants ~~Shall be Prevented and Controlled by the Use of the Following Equipment:~~**

4.1. All owners and operators subject to the requirements of this regulation shall prevent and control fugitive emissions to the air of toxic air pollutants as a result of leakage from equipment in toxic air pollutant service including but not limited to, pump seals, compressor seals, valves, sampling connections, open-ended lines, safety relief valves, and flanges, by application of BAT. In no event shall any equipment standard, program, or work practice less stringent than required under 40CFR61, Subpart V be deemed to represent BAT for control of toxic air pollutant emissions provided, however, that any source or equipment specifically subject to a federal regulation or standard shall not be required to comply with provisions more stringent than such federal regulation or standard. Equipment to be used in toxic air pollutant service installed after the effective date of this regulation shall, to the maximum extent possible, be designed and operated so as to prevent leaks of toxic air pollutants.

4.2. In quantifying plant or facility emissions of a toxic air pollutant pursuant to determining the applicability of this regulation under Section 3.1, emissions from potentially leaking equipment components which handle streams containing the toxic air pollutant shall be included. Such quantification shall be in accordance with estimation methods approved by the Director.

~~4.1.---Pumps.~~

~~a.-----To prevent leakage of toxic air pollutants into the air, each pump shall be totally enclosed or must be equipped with a dual mechanical seal and include a nontoxic barrier fluid system where the barrier fluid is at a pressure that is at all times greater than the pump stuffing box pressure; or is equipped with a barrier fluid degassing reservoir that is connected by a closed vent system to a BAT control device; or is equipped with a system that purges the barrier fluid into a process stream with zero emissions into the atmosphere.---Each barrier fluid system must be equipped with a sensor that will detect the failure of both the seal system and the barrier fluid system; or~~

~~b.-----Each pump must be of sealless design (canned or diaphragm); or~~

~~c.-----Each pump must utilize a closed vent system with venting to a control device that is BAT to completely contain and control all toxic air pollutant emissions.~~

~~4.2.---Compressors.~~

~~a.-----Each compressor shall be equipped with a seal system that includes a barrier fluid system that prevents leakage of toxic air pollutants into the air.---Each compressor seal system shall operate with the nontoxic barrier fluid at a pressure that is greater than the compressor stuffing box pressure; or is equipped with a nontoxic barrier fluid system that is connected by a closed vent system to a BAT~~

~~control device; or equipped with a system that purges the barrier fluid into a process stream with zero emissions into the atmosphere; or~~

~~b. Each compressor must utilize a closed vent system with venting to a control device representing BAT to completely contain and control all toxic air pollutant emissions.~~

~~4.3. Pressure Relief Valves. All pressure relief valves shall vent to a control device or shall have a rupture disc installed in line ahead of the pressure relief valve. The rupture disc shall be equipped with alarms to alert the operator and record a failure of the rupture disc.~~

~~4.4. Valves.~~

~~a. Chemical processing units shall employ to the maximum extent possible bellow seal valves, diaphragm valves or other valve designs that do not have an external actuating mechanism in contact with process fluids containing a toxic air pollutant.~~

~~b. If an owner or operator of a chemical process unit can demonstrate to the Director that the valve design prescribed in Sub section 4.4.a. cannot be employed in all or part of a chemical processing unit the following shall apply:~~

~~A. An alternative packing valve design must be employed which is demonstrated to effectively minimize leaking of toxic air pollutants; and~~

~~B. A leak detection and repair program meeting the requirements of 40 CFR 60 Subpart VV must be employed.~~

~~4.5. Sampling Connections. Each sampling connection system shall be equipped with a closed purge system or closed vent system. Each closed purge system or closed vent system shall return the purged process gas and/or fluid directly to the process line with zero emissions to atmosphere, or collect and recycle the purged process~~

~~gas and/or fluid with zero emissions to atmosphere, or be designed and operated to capture and transport all the purged process gas and/or fluid to a BAT control device.~~

~~4.6. Open-ended Valves or Lines. Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve to seal the open end at all times except during operations requiring process fluid flow through the open ended valve or line.~~

~~Section 5. Flanges.~~

~~a. All chemical processing units shall employ flange/gasket designs which minimize emissions of toxic air pollutants. Chemical process units newly contructed or modified after the effective date of this regulation must employ a design which minimizes the number of flanges employed; and~~

~~b. A flange leak detection and repair program, approved by the Director on a case by case basis, shall be employed in all chemical processing units. Flange leak detection and repair programs would be required only for these flanges in toxic air pollutant service to satisfy the valve leak detection and repair programs requirements of this regulation.~~

§45-27-65. **Tanks.**

65.1. Owners and operators of chemical processing units or facilities subject to the requirements of this regulation shall prevent and control working and filling losses of toxic air pollutants from tanks ~~shall be controlled~~ by routing such tank emissions to BAT control devices. The Director may approve the use of floating roof storage tanks as BAT, provided that such tanks are designed and operated in a manner which minimizes toxic air pollutant emissions taking into consideration the toxic air pollutant emission rate, tank size, and control efficiency associated with such tanks. On a case-by-case basis, the Director may exempt very small process or storage tanks or tanks storing material mixtures containing low mass fractions of toxic air pollutants

from the BAT requirement taking into consideration the actual level of emissions control and/or the toxic air pollutant emission rate from the tank.

§45-27-~~7~~6. **Wastewater from Chemical Processing Units.**

~~7~~6.1. ~~Toxic air pollutants shall be removed from the wastewater of chemical process units by the destruction of at least 99 percent of the toxic air pollutants at the source or through the application of BAT at the wastewater treatment plant or unit to prevent air stripping or evaporation of toxic air pollutants into the air.~~Owners and operators of chemical processing units and/or wastewater treatment systems subject to this regulation shall employ BAT to remove and control or destroy toxic air pollutants from wastewater at the source and/or apply BAT at the wastewater treatment plant to prevent or control the discharge of toxic air pollutants resulting from air stripping or evaporation provided, however, that this provision shall not be more stringent than any specifically applicable federal regulation or standard.

6.2. In quantifying total plant or facility emissions of a toxic air pollutant pursuant to determining the applicability of this regulation under Section 3.1, emissions of a toxic air pollutant resulting from the discharge of the toxic air pollutant to wastewater streams and the subsequent treatment of wastewater shall be included. Emissions shall be determined by a method specified or approved by the Director.

6.3. The Director may exempt wastewater treatment units, tanks, or equipment from the requirement for BAT if the owner or operator can demonstrate to the satisfaction of the Director that air stripping or volatilization and emission to the air of toxic air pollutants from such sources does not occur or is insignificant from the standpoint of emissions and/or impact upon public health.

§45-27-~~8~~7. **Loading and Unloading ~~Barges~~, Railcars and ~~Truck~~Tanks Trucks.**

~~8~~7.1. Owners and operators of chemical processing units or facilities subject to the requirements of this regulation shall employ BAT to prevent or control

toxic air pollutant discharges in the ~~All~~-loading and unloading of ~~barges,~~-railcars and ~~truck~~tanks trucks with toxic air pollutants or material mixtures containing toxic air pollutants ~~shall employ BAT to prevent the discharge of toxic air pollutants into the open air~~.

§45-27-~~9~~8. **Registration.**

~~9~~8.1. Not later than ninety (90) days after the effective date of this regulation, all persons owning and/or operating an existing chemical processing unit(s) which discharges or may discharge a toxic air pollutant shall register each such chemical processing ~~vent~~unit with the Commission. The information required for registration shall be determined by the Director, and shall be provided in the manner specified by the Director.

§45-27-~~10~~9. **Permits.**

~~10~~9.1. No person shall construct, modify, or relocate chemical processing unit(s) without first obtaining a permit in accordance with the provisions of ~~Section 2,~~ Chapter 16, Article 20, ~~Paragraph~~Section 11b of the Code of West Virginia, as amended, and all applicable regulations of this agency. If the construction of a new chemical processing unit or the modification of an existing chemical processing unit at a plant increases total plant emissions of a toxic air pollutant to a level in excess of that in Table A, all chemical processing units emitting the pollutant shall become subject to BAT requirements or alternatively total plant emissions of the toxic air pollutant shall be reduced below the level of Table A.

§45-27-~~11~~0. **Reports, Records and Testing.**

~~11~~0.1. At such reasonable times as the Director may designate, the owner or operator of any chemical processing unit may be required to conduct or have conducted tests to determine the compliance with this regulation. Such tests shall be conducted in such manner as the Director may specify or approve and be filed on forms and in a

manner specified by the Director. The Director, or his duly authorized representative, may at ~~this~~ option witness or conduct such tests. Should the Director exercise his option to conduct such tests, the operator will provide all the necessary sampling connections and sampling ports to be located in such manner as the Director may require, power for test equipment, and the required safety equipment such as scaffolding, railings, and ladders to comply with generally accepted good safety practices.

10.2. The Director, or his duly authorized representative, may conduct such other tests as he may deem necessary to evaluate toxic air pollutant emissions.

10.3. Written records shall be maintained that identify all pumps, compressors, pressure relief valves, ~~relief~~ valves, sampling connections, open-ended ~~valves or~~ lines, and flanges of a chemical processing unit that are in toxic air pollutant service. These records shall record the results of all monitoring and inspections, emissions control measures applied and the nature, timing, and results of repair efforts.

10.4. ~~The abnormal or accidental release, spill or emission of any toxic air pollutant and any period of failure or inoperability of air pollution control equipment required by this regulation shall be reported within 24 hours of any such occurrence.~~ The emission to the air of any toxic air pollutant resulting from an abnormal release or spill in excess of the following amounts shall be reported to the Director or his authorized representative not later than 24-hours after the chemical processing unit owner/operator has knowledge of such emission:

a. For ethylene oxide, and vinyl chloride, one (1) pound

b. For acrylonitrile and butadiene, ten (10) pounds

c. For all other toxic air pollutants, fifty (50) pounds.

The owner or operator shall file a written report with the Director ~~of~~stating the details of all such incidents resulting in the emission of more than fifty (50) pounds of any toxic air pollutant within seven (7) days of the occurrence. The owner/operator shall

manner specified by the Director. The Director, or his duly authorized representative, may at this option witness or conduct such tests. Should the Director exercise his option to conduct such tests, the operator will provide all the necessary sampling connections and sampling ports to be located in such manner as the Director may require, power for test equipment, and the required safety equipment such as scaffolding, railings, and ladders to comply with generally accepted good safety practices.

11.0.2. The Director, or his duly authorized representative, may conduct such other tests as he may deem necessary to evaluate toxic air pollutant emissions.

11.0.3. Written records shall be maintained that identify all pumps, compressors, pressure relief valves, ~~relief~~ valves, sampling connections, open-ended ~~valves or~~ lines, and flanges of a chemical processing unit that are in toxic air pollutant service. These records shall record the results of all monitoring and inspections, emissions control measures applied and the nature, timing, and results of repair efforts.

11.0.4. ~~The abnormal or accidental release, spill or emission of any toxic air pollutant and any period of failure or inoperability of air pollution control equipment required by this regulation shall be reported within 24 hours of any such occurrence.~~ The emission to the air of any toxic air pollutant resulting from an abnormal release or spill in excess of the following amounts shall be reported to the Director or his authorized representative not later than 24-hours after the chemical processing unit owner/operator has knowledge of such emission:

a. For ethylene oxide, and vinyl chloride, one (1) pound

b. For acrylonitrile and butadiene, ten (10) pounds

c. For all other toxic air pollutants, fifty (50) pounds.

The owner or operator shall file a written report with the Director ~~of~~stating the details of all such incidents resulting in the emission of more than fifty (50) pounds of any toxic air pollutant within seven (7) days of the occurrence. The owner/operator shall

submit to the Director, at his request, records of all abnormal toxic air pollutant discharges to the air.

10.5. Any period of failure or inoperability of air pollution control equipment required by this regulation shall be reported to the Director not later than 24-hours after the owner/operator has knowledge of such failure. Such reports shall be made in conjunction with necessary requests for variances as provided under Section 12.

§45-27-12~~1~~. **Compliance Programs and Schedules.**

12~~1~~.1. In the event that a chemical processing unit ~~is~~ in existence prior to the adoption of this regulation does not meet the ~~emission limitations, or equipment specifications~~ requirements of this regulation~~, set forth herein~~, an acceptable program to fully comply with ~~the~~this regulation shall be ~~developed and offered~~submitted to the ~~Commission~~Director by July 1, 1991 by the owner or operator. Any compliance program for a chemical processing unit submitted to the Director on or before April 1, 1991 and approved by the Commission within a Consent Order ~~prior to April 1~~on or before June 30, 1991 shall be accepted as and deemed to be a voluntary emission reduction plan. A compliance program may be submitted to the Commission for individual chemical processing units or alternatively a single compliance program for all chemical processing units at one plant may be submitted.

11.2. In proposing a BAT plan, the owner or operator must fully document and describe all potentially applicable emissions control measures or technologies and fully justify that any selected control measure providing less emission reduction than the most stringent measures achieved in practice for similar processes is technologically or economically infeasible for application to a particular chemical process unit requiring BAT. ~~Such program shall be submitted upon the request of and within such time as shall be fixed by the Commission.~~

11.3. ~~Once this program has been approved~~Upon approval by the Commission of a compliance program, the owner ~~and~~/or operator of ~~such~~a chemical processing unit or facility shall not be in violation of this regulation so long as the approved or amended compliance program is observed, provided, however, that the Commission may re-evaluate toxic air pollutant emissions, control technology employed, and risks to public health at the end of a seven (7) year period following completion of each compliance program and may require additional or improved control measures.

11.4. Any compliance programs ~~and schedules~~ or Consent Orders that have previously been approved by the Commission shall remain in effect unless an emissions control program required by this regulation must replace a prior program with more stringent control measures.

11.5. All compliance plans and orders required or approved under this regulation shall contain detailed compliance plans with increments of progress, schedules or completion dates and, to the extent possible, shall set forth maximum compliance emission rates for controlled sources upon completion of the compliance program.

11.6. In the event that an owner or operator subject to this regulation fails to submit an acceptable compliance program by July 31, 1991, the Commission shall, by Order, determine the compliance program.

§45-27-12. **Variance.**

12.1. Due to unavoidable malfunction of equipment or other conditions resulting in emissions exceeding a level established in the compliance program, emissions exceeding those provided for in this regulation may be permitted by the Director for periods not to exceed ten (10) days upon specific application to the Director. Such application shall be made within twenty-four (24) hours of the malfunction. In cases of major equipment failure, additional time periods may be granted by the Commission

provided a corrective program has been submitted by the owner or operator and approved by the Commission.

§45-27-14<u>3</u>. **Inconsistency Between Regulations.**

14<u>3</u>.1. In the event of any inconsistency between this regulation and any other regulation of the Commission, 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, rule or regulation.

G. Dale Farley
Secretary
West Virginia Air Pollution Control Commission

DATE: October 16, 1989

FILED

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

1989 OCT 16 PM 2:56

FROM: G. DALE FARLEY, DIRECTOR
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

LEGISLATIVE RULE TITLE:

1. Authorizing statute(s) citation Chapter 16, Article 20, Section 5

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

July 17, 1989

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

Notice was given to all designated air quality control regions (10) in West Virginia in a newspaper of local circulation. Also a copy was provided for public review in each region prior to the hearing.

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

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

Attached X No comments received ____

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

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

G. Dale Farley, Director

(304) 348-3286

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government:

None anticipated except for the APCC's personal services and operating expenses dedicated to implementing and enforcing the regulation including cost shown in Item 1.

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

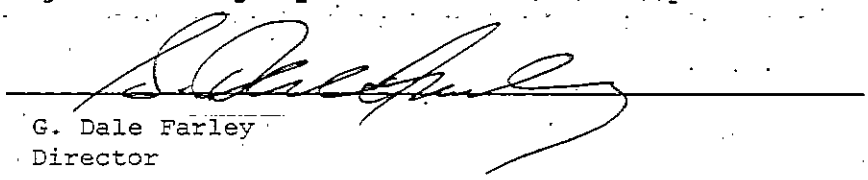
The actual cost of compliance with this regulation is uncertain due to the case-by-case control determination and the costs and effects of voluntary emission reduction efforts and process changes completed or on-going. It is estimated that additional capitol costs to the regulated industry may be on the order of 35 - 50 million dollars above the total reported costs accruing from voluntary reduction plans.

C. Economic Impact on Citizens/Public at Large.

Unknown - Reduction in emissions of these chemicals could reduce health care costs if excess cancer cases are attributable to exposure to these chemicals or if other health effects are caused by or aggravated by exposure to these chemicals.

Date: October 16, 1989

Signature of Agency Head or Authorized Representative



G. Dale Farley
Director

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

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: TO PREVENT AND CONTROL THE EMISSIONS OF TOXIC AIR POLLUTANTS

Type of Rule: X Legislative _____ Interpretive _____ Procedural

Agency Air Pollution Control Comm. Address 1558 Washington Street, East Charleston, WV 25311

1. Effect of Proposed Rule	ANNUAL Increase	ANNUAL Decrease	FISCAL YEAR Current	FISCAL YEAR Next	FISCAL YEAR Thereafter
Estimated Total Cost	$	$	$	$	$
Personal Services	65,000	------	-----	65,000	65,000
Current Expense	5,000	------	-----	5,000	5,000
Repairs and Alterations	1,000	------	-----	1,000	1,000
Equipment	1,000	------	-----	1,000	1,000
Other					
Fringe Benefits	18,000	------	-----	18,000	18,000

2. Explanation of above estimates:

Two additional chemical engineers would be hired and trained to review and support the enforcement of BAT plans developed by the regulated industry.

3. Objectives of these rules:

To comprehensively reduce and minimize the emission into the ambient air of fourteen volatile organic chemicals which are known or suspected carcinogens by the case-by-case establishment and implementation of best available emissions control technology or methods.

WEST VIRGINIA
AIR POLLUTION CONTROL COMMISSION
1558 Washington Street, East
CHARLESTON, WEST VIRGINIA 25311
TELEPHONE: 348-2275 OR 348-3286

October 16, 1989

The Honorable Lloyd G. Jackson, II
Co-Chairman
Legislative Rule-Making Review Committee
Capitol Complex, Main Building
Charleston, West Virginia 25305

Dear Senator Jackson:

Proposed Regulation 27 is intended to control emissions to the ambient air of 14 known or suspected carcinogens by application of best available emissions control technology (BAT) or methods.

A hearing on the original draft of this regulation was held on December 29, 1988. Subsequent to that hearing the regulation was substantially revised in response to extensive comment from the potentially regulated industry. A second hearing was held on July 31, 1989 on the redrafted regulation. The proposed regulation upon which the Commission held a hearing on July 31, 1989 was filed with the Secretary of State sixty (60) days prior to the hearing and the Commission re-opened the record for public comment on the air toxics regulation at its May 16, 1989 meeting.

All written comment received from May 16, 1989 to August 30, 1989 was made a part of the record on the regulation. Proper notice of the July 31, 1989 hearing was placed in a newspaper in each of the ten designated air quality control regions in West Virginia and a copy of the regulation was made available for public review in each region prior to the Commission's hearing.

The attached copy of the undersigned's September 15, 1989 letter to APCC Chairman, Crede D. Douglass, Jr., explains the changes made to the proposed regulation subjected to the July 31, 1989 hearing. The final revisions were adopted along with one additional revision at the Commission's September 18, 1989 meeting. The additional amendment adopted on September 18, 1989 concerned the definition of BAT in Sub-section 2.3. The phrase "For all facilities" was added to the beginning of the fourth sentence in Sub-section 2.3 to clarify that costs would be considered in the BAT determination for new chemical process units.

We apologize for filing this regulation with the Rule-Making Review Committee so late, however, development and revision of this rule has been a complex process. We would be most appreciative of your consideration of the rule.

Sincerely yours,

Dale Farley
Director

DF/tlm

Attachments

cc: The Honorable Leonard A. Harvey
Secretary, Department of Commerce, Labor &
Environmental Resources

Ms. Debra A. Graham
Associate Counsel

WEST VIRGINIA
AIR POLLUTION CONTROL COMMISSION
1558 Washington Street, East
CHARLESTON, WEST VIRGINIA 25311
TELEPHONE: 348-2275 OR 348-3286

October 16, 1989

The Honorable Patrick H. Murphy
Acting Co-Chairman
Legislative Rule-Making Review Committee
Capitol Complex, Main Building
Charleston, West Virginia 25305

Dear Delegate Murphy:

Proposed Regulation 27 is intended to control emissions to the ambient air of 14 known or suspected carcinogens by application of best available emissions control technology (BAT) or methods.

A hearing on the original draft of this regulation was held on December 29, 1988. Subsequent to that hearing the regulation was substantially revised in response to extensive comment from the potentially regulated industry. A second hearing was held on July 31, 1989 on the redrafted regulation. The proposed regulation upon which the Commission held a hearing on July 31, 1989 was filed with the Secretary of State sixty (60) days prior to the hearing and the Commission re-opened the record for public comment on the air toxics regulation at its May 16, 1989 meeting.

All written comment received from May 16, 1989 to August 30, 1989 was made a part of the record on the regulation. Proper notice of the July 31, 1989 hearing was placed in a newspaper in each of the ten designated air quality control regions in West Virginia and a copy of the regulation was made available for public review in each region prior to the Commission's hearing.

The attached copy of the undersigned's September 15, 1989 letter to APCC Chairman, Crede D. Douglass, Jr., explains the changes made to the proposed regulation subjected to the July 31, 1989 hearing. The final revisions were adopted along with one additional revision at the Commission's September 18, 1989 meeting. The additional amendment adopted on September 18, 1989 concerned the definition of BAT in Sub-section 2.3. The phrase "For all facilities" was added to the beginning of the fourth sentence in Sub-section 2.3 to clarify that costs would be considered in the BAT determination for new chemical process units.

We apologize for filing this regulation with the Rule-Making Review Committee so late, however, development and revision of this rule has been a complex process. We would be most appreciative of your consideration of the rule.

Sincerely yours,

Dale Farley
Director

DF/tlm

Attachments

cc: The Honorable Leonard A. Harvey
Secretary, Department of Commerce, Labor &
Environmental Resources

Ms. Debra A. Graham
Associate Counsel

WEST VIRGINIA
AIR POLLUTION CONTROL COMMISSION
1558 Washington Street, East
CHARLESTON, WEST VIRGINIA 25311
TELEPHONE: 348-2275 OR 348-3286

September 15, 1989

The Honorable Crede D. Douglass, Jr.
Commissioner, WVAPCC
122 Northgate Drive
New Martinsville, WV 26155

Dear Chairman Douglass:

Pursuant to the Commission's directive at its August 31, 1989 meeting, please find enclosed a suggested amended version of proposed Regulation 27 for toxic air pollutants.

We have incorporated language in Section 11 of the proposed regulation along the lines discussed in the August 31, 1989 meeting. A number of other revisions have been made to clarify the stated intent of the regulation, to correct certain structural problems, to further accommodate some of the specific concerns of the West Virginia Manufacturers and to conform the regulation as much as possible to the pending Clean Air Act amendments as we currently understand them.

Changes made to the regulation and associated explanations are summarized as follows:

Section 2.3

The BAT definition was slightly revised to conform more to the "MACT" definition in the federal administration's Clean Air Act proposal and to answer the Manufacturers' concern that costs would not be factored into BAT determination for new or modified sources. The revised definition clarifies that BAT control measures for existing sources may be less stringent than those for new sources. Costs could be considered for new and existing sources. This parallels the current federal proposal.

Section 2.12

A definition for "Modification" is added for clarification since the Regulation 13 definition does not correctly address toxic air pollutants as opposed to criteria air pollutants.

Section 3.1

Section 3.1 was restructured to correct or eliminate confusion in the original language as opposed to the previously stated intent of this section. We have also eliminated the prior provision that all toxic air pollutants would require BAT application if the plant emission rate of a single pollutant exceeded the specified level in the threshold table.

A new review was made of the threshold (e.g. exemption) levels specified in the table in response to the Manufacturers position that the levels should be ten times higher. Although there may be some justification for increasing the exemption levels for two or three pollutants based upon cancer potency estimates (unit risk factors) these pollutants (primarily allyl chloride and trichloroethylene) already have relatively high threshold levels. When the printout of the 1987 SARA 313 inventory data was reviewed, it was found that the effect of a ten-fold increase in the exemption levels in Regulation 27 could be to drop six of the chemicals from control requirements at 9 plants. Such a ten-fold increase in the threshold could also decrease, perhaps significantly, the amount of pollutant emission decrease required under the regulation. The SARA inventory shows that there are 26 facilities potentially subject to Regulation 27.

An increase in the exemption levels is not a recommended change to the regulation based upon the conservative maximum risk-based approach (Kanwha Valley) used in establishing the threshold levels for the more potent and important pollutants.

Section 3.2

Section 3.2 was completely replaced based upon a further review of the basis for the 10,000 lb. aggregate emissions cap and also to accommodate the Manufacturers major concern that a pollutant-specific plant-wide "bubble" type BAT determination be possible. Since the prior 10,000 pound cap is now believed to be inadequate to address aggregate risks from the emissions of multiple pollutants, the currently proposed revision to Section 3.2 is believed to be potentially more effective.

Section 3.3

This section was revised to provide more flexibility for exemption of sources that can be shown to cause insignificant contributions to cancer risks. A clarification is also made that maximum emission rates for BAT-exempted units must still be made enforceable within the overall compliance program.

Section 3.4 and 3.5

Section 3.4 was slightly revised to clearly require instrumentation to detect abnormal releases of toxic air pollutants and Section 3.5 was added to provide authorization for the Director to require monitoring for routine emissions on a case-by-case basis.

Section 6.2

The alternative wastewater emission estimation method based upon an assumption of total volatilization has been deleted.

Section 7.1

Due to proposed federal pre-emption of state emission control requirements for marine vessels (including barges), the reference to control of barge loading/unloading emissions has been deleted.

Section 9.1

Language was added to clarify the intent in the regulation to potentially require BAT at all sources if the addition of a unit or the modification of a unit increases emissions of a specific toxic air pollutant to a level above the threshold control level.

Section 10.4 and 10.5

The abnormal emissions reporting threshold was increased for acrylonitrile and butadiene to 10 lb. and 50 lb. for other toxic pollutants (with the exception of vinyl chloride and ethylene oxide which remain at 1 lb.). The Director's authority to periodically request abnormal release records is stated. Also the possible need for variance requests in conjunction with reporting of control equipment failure is clarified in a new Section 10.5.

Section 11

This section's requirements was the primary area discussed at the August 31 Commission meeting. Section 11 has been expanded into several subsections incorporating old and new language due, in part, to the cumbersome length of the original paragraph. The addition of the new cut-off dates for compliance program submission and approval is intended to:

(a) Provide sufficient time for program development by industry.

(b) Provide a delay in Regulation 27 program implementation for an assessment of Clean Air Act revisions and EPA regulatory directions over the next 1 - 1½ years.

(c) Provide for the acceptance of voluntary control programs which may be eligible for "grandfathering" in lieu of possible EPA emissions standards as per the current draft of the Clean Air Act amendments.

(d) Provide clearer deadlines for plan submission and approval.

Provisions have also been added to Section 11 to clarify the intent to require the establishment of compliance emission rates associated with BAT installation and to clearly provide for Commission promulgation of compliance programs (by Order) if a company fails to submit an acceptable program by July 1, 1991.

I apologize for the delay in getting this draft back to the Commission, however, the regulation has gone through a number of redrafts and we have given some further consideration to items of discussion in our September 11, 1989 meeting with the Manufacturers representatives as well as other comments.

Sincerely yours,

Dale Farley
Director

DF/tlm

Enclosure

cc: The Honorable Leonard A. Harvey, Secretary
Department of Commerce, Labor &
Environmental Resources

The Honorable L. Newton Thomas, Jr.
Vice-Chairman, WVAPCC

The Honorable Cleve Benedict
Commissioner, WVAPCC
Commissioner, WV Department of Agriculture

The Honorable Samuel Kusic
Commissioner, WVAPCC

The Honorable George W. Lilley, Jr., Ed.D.
Acting Director, WV Department of Health

Regulation 27

Proposed Regulation 27 was re-drafted (amended) in response to substantial comment during the original public comment period. This re-draft was filed June 1, 1989. The Commission has provided an extension to the period for both written and oral comments to provide an opportunity for comments on the amendments to the re-drafted proposed regulation.

[PROPOSED]

45CSR27

TITLE 45
LEGISLATIVE RULES
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

SERIES 27
TO PREVENT AND CONTROL THE EMISSIONS OF TOXIC AIR POLLUTANTS

§45-27-1. **General.**

1.1. **Scope.**

The purpose of Regulation 27 is to prevent and control the discharge of toxic air pollutants by requiring the application of best available technology.

1.2. **Authority.**

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

1.3. **Filing Date.**

This regulation was promulgated or last amended on the _____ day of _____, _____, was filed with the office of the Secretary of State the _____ day of _____, _____. Further, this regulation was filed pursuant to West Virginia Code, Chapter 29A, Article 2, Section 5 on the _____ day of _____, _____ in the office of the Secretary of State.

1.4. **Effective Date.**

The effective date of this regulation is the _____ day of _____, _____.

1.5. **Type.**

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

§45-27-2. **Definitions.**

2.1. "Air Pollution", 'statutory air pollution' ~~shall have~~has the meaning ascribed to it in Section 2, of Chapter 16, Article 20 of the Code of West Virginia, as amended.

2.2. "Air Pollution Control Device"~~shall~~ means any equipment used for the purpose of preventing, reducing, or controlling the emission of toxic air pollutants into the open air.

2.3. "BAT", 'Best Available Technology' ~~shall~~ means an emissions limitation requiring the application of the maximum degree of reduction and control which the Director, on a case-by-case basis, determines is achievable for each toxic air pollutant which would be emitted from any stack, pipe, air pollution control device, ~~similar~~ or from any other equipment or facilities associated with a chemical processing unit. In the case of chemical processing units constructed or modified after the effective date of this regulation, BAT shall not be less stringent than the most stringent emissions level that is achieved in practice by similar sources or processes. For existing chemical processing units, BAT may be less stringent than requirements for new or modified units. BAT shall represent the maximum degree of emission reduction that the Director determines is achievable taking into consideration the cost of achieving such emission reduction, and public health and environmental impacts. No BAT proposal shall be approvable that represents a level of control less stringent than any requirement for a

chemical processing unit under 40CFR61 or 40CFR60. BAT measures shall include but not be limited to measures which:

a. reduce or eliminate the emission rate of toxic pollutants through process changes or substitution of materials,

b. enclose or seal equipment or systems to eliminate toxic air pollutant emissions,

c. collect, capture, destroy and/or otherwise treat toxic air pollutants released from a process, stack, storage, or fugitive emissions point,

d. are work practice or operational methods.

2.4. "Chemical Processing Unit" ~~shall~~ means an assembly of reactors, tanks, distillation columns, heat exchangers, vaporizers, compressors, dryers, decanters, ~~incinerators~~ and/or other ~~similar~~ equipment used to treat, store, manufacture, ~~incinerate~~ or use toxic air pollutants. For the purpose of this regulation, the term chemical processing unit shall include surface coating equipment or similar equipment utilizing a toxic air pollutant as a solvent or for other purposes but shall not include equipment used in the production and distribution of petroleum products providing that such equipment does not produce or contact materials containing more than 5% benzene by weight.

2.5. "Commission" ~~shall~~ means the West Virginia Air Pollution Control Commission.

2.6. "Director" ~~shall~~ means the Director of the West Virginia Air Pollution Control Commission.

2.7. "Plant" 'Facility' means all chemical processing units existing on one or more contiguous or adjacent properties, which are owned by or under the control of the same person or persons.

2.~~7~~8. "Person"~~shall~~ means any and all persons, natural or artificial, including the State of West Virginia or any other state, the United States of America, any municipal, statutory, public or private corporation organized or existing under the laws of this or any other state or country, and any firm, partnership or association of whatever nature.

2.~~8~~9. "Stack", for the purpose of this regulation,~~shall~~ means, but is not ~~be~~ limited to, any stack, vent, duct, control equipment exhaust, or similar apparatus, from which a toxic air pollutant is or may be emitted into the open air.

2.~~9~~10. "Toxic Air Pollutant"~~shall~~ means any of the following chemicals: Acrylonitrile, Allyl chloride, Benzene, 1,3-Butadiene, Carbon tetrachloride, Chloroform, Ethylene dichloride, Ethylene oxide, Formaldehyde, Methylene chloride, Propylene oxide, Trichloroethylene, Vinyl chloride, and Vinylidene chloride.

2.1~~0~~1. "Toxic Air Pollutant Service"~~shall~~ means for the purpose of this regulation that a piece of equipment such as a pump, valve or flange contains or contacts a process fluid containing 10% or more by weight of a toxic air pollutant.

2.12. "Modification" or "Modified" shall mean any physical change or change in the method of operation of a chemical processing unit which increases its potential to emit a toxic air pollutant.

§45-27-3. **Chemical Processing Units.**

3.1. ~~No~~Except as provided in Sections 3.2 and 3.3,~~person shall operate a chemical processing unit~~ the owner or operator of a plant that discharges or may discharge a toxic air pollutant~~(s)~~ into the open air ~~that is not equipped and operated with BAT~~in excess of the amount shown in the Table A shall employ BAT at all chemical processing units emitting the toxic air pollutant, provided, however, that any source or equipment specifically subject to a federal regulation or standard shall not be required to comply with provisions more stringent than such regulation or standard.

Table A

	Pounds/year
Acrylonitrile	500
Allyl Chloride	10,000
Benzene	1,000
1,3 Butadiene	500
Carbon Tetrachloride	1,000
Chloroform	1,000
Ethylene Dichloride	1,000
Ethylene Oxide	500
Formaldehyde	1,000
Methylene Chloride	5,000
Propylene Oxide	5,000
Trichloroethylene	10,000
Vinyl Chloride	1,000
Vinylidene Chloride	2,000

3.2. A BAT program for a plant containing multiple chemical processing units or emission sources may, for each chemical, consider the overall effectiveness of emissions control measures within a unit or the plant. All BAT programs shall fully consider the additive or cumulative health and environmental impacts of multiple pollutant and multiple unit emissions.

3.3. The Director may exempt a chemical processing unit from the BAT requirement if the owner/operator can demonstrate to the satisfaction of the Director that the maximum toxic air pollutant emissions from the source or unit, taking into consideration all other toxic air pollutant sources at the plant and other sources in the area of the plant, cause insignificant impacts upon public health and the environment.

If the Director so exempts a unit from the BAT requirement, the maximum emission rates of toxic air pollutants discharged to the air from the unit shall be set forth as enforceable limitations within the compliance program required or established under Section 11 of this regulation.

3.24. All chemical processing units shall be properly instrumented to alert the operator of process upsets, leaks, and other abnormal discharges of toxic air pollutants into the air and ~~t~~the operator shall record all such incidents and the associated emissions estimated from direct measurements of toxic air pollutant concentration and/or calculations using other process measurements.

3.5. The Director may on a case-by-case basis require the installation and proper operation of monitoring devices to continuously or intermittently determine the concentrations or mass emission rates of toxic air pollutants normally or routinely emitted to the air.

§45-27-4. **Fugitive Emissions of Toxic Air Pollutants ~~Shall be Prevented and Controlled by the Use of the Following Equipment:~~**

4.1. All owners and operators subject to the requirements of this regulation shall prevent and control fugitive emissions to the air of toxic air pollutants as a result of leakage from equipment in toxic air pollutant service including but not limited to, pump seals, compressor seals, valves, sampling connections, open-ended lines, safety relief valves, and flanges, by application of BAT. In no event shall any equipment standard, program, or work practice less stringent than required under 40CFR61, Subpart V be deemed to represent BAT for control of toxic air pollutant emissions provided, however, that any source or equipment specifically subject to a federal regulation or standard shall not be required to comply with provisions more stringent than such federal regulation or standard. Equipment to be used in toxic air pollutant service installed after the effective date of this regulation shall, to the maximum extent possible, be designed and operated so as to prevent leaks of toxic air pollutants.

4.2. In quantifying plant or facility emissions of a toxic air pollutant pursuant to determining the applicability of this regulation under Section 3.1, emissions from potentially leaking equipment components which handle streams containing the toxic air pollutant shall be included. Such quantification shall be in accordance with estimation methods approved by the Director.

~~4.1. Pumps.~~

~~a. To prevent leakage of toxic air pollutants into the air, each pump shall be totally enclosed or must be equipped with a dual mechanical seal and include a nontoxic barrier fluid system where the barrier fluid is at a pressure that is at all times greater than the pump stuffing box pressure; or is equipped with a barrier fluid degassing reservoir that is connected by a closed vent system to a BAT control device; or is equipped with a system that purges the barrier fluid into a process stream with zero emissions into the atmosphere. Each barrier fluid system must be equipped with a sensor that will detect the failure of both the seal system and the barrier fluid system; or~~

~~b. Each pump must be of sealless design (canned or diaphragm); or~~

~~c. Each pump must utilize a closed vent system with venting to a control device that is BAT to completely contain and control all toxic air pollutant emissions.~~

~~4.2. Compressors.~~

~~a. Each compressor shall be equipped with a seal system that includes a barrier fluid system that prevents leakage of toxic air pollutants into the air. Each compressor seal system shall operate with the nontoxic barrier fluid at a pressure that is greater than the compressor stuffing box pressure; or is equipped with a nontoxic barrier fluid system that is connected by a closed vent system to a BAT~~

control device, or equipped with a system that purges the barrier fluid into a process stream with zero emissions into the atmosphere; or

b. Each compressor must utilize a closed vent system with venting to a control device representing BAT to completely contain and control all toxic air pollutant emissions.

4.3. Pressure Relief Valves. All pressure relief valves shall vent to a control device or shall have a rupture disc installed in line ahead of the pressure relief valve. The rupture disc shall be equipped with alarms to alert the operator and record a failure of the rupture disc.

4.4. Valves.

a. Chemical processing units shall employ to the maximum extent possible bellow seal valves, diaphragm valves or other valve designs that do not have an external actuating mechanism in contact with process fluids containing a toxic air pollutant.

b. If an owner or operator of a chemical process unit can demonstrate to the Director that the valve design prescribed in Sub section 4.4.a. cannot be employed in all or part of a chemical processing unit the following shall apply:

A. An alternative packing valve design must be employed which is demonstrated to effectively minimize leaking of toxic air pollutants; and

B. A leak detection and repair program meeting the requirements of 40 CFR 60 Subpart VV must be employed.

4.5. Sampling Connections. Each sampling connection system shall be equipped with a closed purge system or closed vent system. Each closed purge system or closed vent system shall return the purged process gas and/or fluid directly to the process line with zero emissions to atmosphere; or collect and recycle the purged process

~~gas and/or fluid with zero emissions to atmosphere; or be designed and operated to capture and transport all the purged process gas and/or fluid to a BAT control device.~~

~~4.6. Open-ended Valves or Lines. Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve to seal the open end at all times except during operations requiring process fluid flow through the open ended valve or line.~~

~~Section 5. Flanges.~~

~~a. All chemical processing units shall employ flange/gasket designs which minimize emissions of toxic air pollutants. Chemical process units newly contructed or modified after the effective date of this regulation must employ a design which minimizes the number of flanges employed; and~~

~~b. A flange leak detection and repair program, approved by the Director on a case by case basis, shall be employed in all chemical processing units. Flange leak detection and repair programs would be required only for those flanges in toxic air pollutant service to satisfy the valve leak detection and repair programs requirements of this regulation.~~

§45-27-~~6~~5. **Tanks.**

~~6~~5.1. Owners and operators of chemical processing units or facilities subject to the requirements of this regulation shall prevent and control working and filling losses of toxic air pollutants from tanks ~~shall be controlled~~ by routing such tank emissions to BAT control devices. The Director may approve the use of floating roof storage tanks as BAT, provided that such tanks are designed and operated in a manner which minimizes toxic air pollutant emissions taking into consideration the toxic air pollutant emission rate, tank size, and control efficiency associated with such tanks. On a case-by-case basis, the Director may exempt very small process or storage tanks or tanks storing material mixtures containing low mass fractions of toxic air pollutants

from the BAT requirement taking into consideration the actual level of emissions control and/or the toxic air pollutant emission rate from the tank.

§45-27-~~7~~6. **Wastewater from Chemical Processing Units.**

~~7~~6.1. ~~Toxic air pollutants shall be removed from the wastewater of chemical process units by the destruction of at least 99 percent of the toxic air pollutants at the source or through the application of BAT at the wastewater treatment plant or unit to prevent air stripping or evaporation of toxic air pollutants into the air.~~Owners and operators of chemical processing units and/or wastewater treatment systems subject to this regulation shall employ BAT to remove and control or destroy toxic air pollutants from wastewater at the source and/or apply BAT at the wastewater treatment plant to prevent or control the discharge of toxic air pollutants resulting from air stripping or evaporation provided, however, that this provision shall not be more stringent than any specifically applicable federal regulation or standard.

6.2. In quantifying total plant or facility emissions of a toxic air pollutant pursuant to determining the applicability of this regulation under Section 3.1, emissions of a toxic air pollutant resulting from the discharge of the toxic air pollutant to wastewater streams and the subsequent treatment of wastewater shall be included. Emissions shall be determined by a method specified or approved by the Director.

6.3. The Director may exempt wastewater treatment units, tanks, or equipment from the requirement for BAT if the owner or operator can demonstrate to the satisfaction of the Director that air stripping or volatilization and emission to the air of toxic air pollutants from such sources does not occur or is insignificant from the standpoint of emissions and/or impact upon public health.

§45-27-~~8~~7. **Loading and Unloading ~~Barges~~, Railcars and ~~Truck~~Tanks Trucks.**

~~8~~7.1. Owners and operators of chemical processing units or facilities subject to the requirements of this regulation shall employ BAT to prevent or control

toxic air pollutant discharges in the ~~All~~ loading and unloading of ~~barges,~~ railcars and ~~truck~~tanks trucks with toxic air pollutants or material mixtures containing toxic air pollutants ~~shall employ BAT to prevent the discharge of toxic air pollutants into the open air~~.

§45-27-~~9~~8. **Registration.**

~~9~~8.1. Not later than ninety (90) days after the effective date of this regulation, all persons owning and/or operating an existing chemical processing unit(s) which discharges or may discharge a toxic air pollutant shall register each such chemical processing ~~vent~~unit with the Commission. The information required for registration shall be determined by the Director, and shall be provided in the manner specified by the Director.

§45-27-~~10~~9. **Permits.**

~~10~~9.1. No person shall construct, modify, or relocate chemical processing unit(s) without first obtaining a permit in accordance with the provisions of ~~Section 2,~~ Chapter 16, Article 20, ~~Paragraph~~Section 11b of the Code of West Virginia, as amended, and all applicable regulations of this agency. If the construction of a new chemical processing unit or the modification of an existing chemical processing unit at a plant increases total plant emissions of a toxic air pollutant to a level in excess of that in Table A, all chemical processing units emitting the pollutant shall become subject to BAT requirements or alternatively total plant emissions of the toxic air pollutant shall be reduced below the level of Table A.

§45-27-~~11~~0. **Reports, Records and Testing.**

~~11~~0.1. At such reasonable times as the Director may designate, the owner or operator of any chemical processing unit may be required to conduct or have conducted tests to determine the compliance with this regulation. Such tests shall be conducted in such manner as the Director may specify or approve and be filed on forms and in a

manner specified by the Director. The Director, or his duly authorized representative, may at ~~t~~his option witness or conduct such tests. Should the Director exercise his option to conduct such tests, the operator will provide all the necessary sampling connections and sampling ports to be located in such manner as the Director may require, power for test equipment, and the required safety equipment such as scaffolding, railings, and ladders to comply with generally accepted good safety practices.

1~~1~~0.2. The Director, or his duly authorized representative, may conduct such other tests as he may deem necessary to evaluate toxic air pollutant emissions.

1~~1~~0.3. Written records shall be maintained that identify all pumps, compressors, pressure relief valves,~~-relief~~ valves, sampling connections, open-ended ~~valves or~~-lines, and flanges of a chemical processing unit that are in toxic air pollutant service. These records shall record the results of all monitoring and inspections, emissions control measures applied and the nature, timing, and results of repair efforts.

1~~1~~0.4. ~~The abnormal or accidental release, spill or emission of any toxic air pollutant and any period of failure or inoperability of air pollution control equipment required by this regulation shall be reported within 24 hours of any such occurrence.~~ The emission to the air of any toxic air pollutant resulting from an abnormal release or spill in excess of the following amounts shall be reported to the Director or his authorized representative not later than 24-hours after the chemical processing unit owner/operator has knowledge of such emission:

a. For ethylene oxide, and vinyl chloride, one (1) pound

b. For acrylonitrile and butadiene, ten (10) pounds

c. For all other toxic air pollutants, fifty (50) pounds.

The owner or operator shall file a written report with the Director ~~of~~stating the details of all such incidents resulting in the emission of more than fifty (50) pounds of any toxic air pollutant within seven (7) days of the occurrence. The owner/operator shall

submit to the Director, at his request, records of all abnormal toxic air pollutant discharges to the air.

10.5. Any period of failure or inoperability of air pollution control equipment required by this regulation shall be reported to the Director not later than 24-hours after the owner/operator has knowledge of such failure. Such reports shall be made in conjunction with necessary requests for variances as provided under Section 12.

§45-27-121. **Compliance Programs and Schedules.**

121.1. In the event that a chemical processing unit ~~is~~ in existence prior to the adoption of this regulation does not meet the ~~emission limitations, or equipment specifications~~ requirements of this regulation~~, set forth herein~~, an acceptable program to fully comply with ~~the~~this regulation shall be ~~developed and offered~~submitted to the ~~Commission~~Director by July 1, 1991 by the owner or operator. Any compliance program for a chemical processing unit submitted to the Director on or before April 1, 1991 and approved by the Commission within a Consent Order ~~prior to April 1~~on or before June 30, 1991 shall be accepted as and deemed to be a voluntary emission reduction plan. A compliance program may be submitted to the Commission for individual chemical processing units or alternatively a single compliance program for all chemical processing units at one plant may be submitted.

11.2. In proposing a BAT plan, the owner or operator must fully document and describe all potentially applicable emissions control measures or technologies and fully justify that any selected control measure providing less emission reduction than the most stringent measures achieved in practice for similar processes is technologically or economically infeasible for application to a particular chemical process unit requiring BAT. ~~Such program shall be submitted upon the request of and within such time as shall be fixed by the Commission.~~

11.3. ~~Once this program has been approved~~Upon approval by the Commission of a compliance program, the owner ~~and~~/or operator of ~~such~~a chemical processing unit or facility shall not be in violation of this regulation so long as the approved or amended compliance program is observed, provided, however, that the Commission may re-evaluate toxic air pollutant emissions, control technology employed, and risks to public health at the end of a seven (7) year period following completion of each compliance program and may require additional or improved control measures.

11.4. Any compliance programs ~~and schedules~~ or Consent Orders that have previously been approved by the Commission shall remain in effect unless an emissions control program required by this regulation must replace a prior program with more stringent control measures.

11.5. All compliance plans and orders required or approved under this regulation shall contain detailed compliance plans with increments of progress, schedules or completion dates and, to the extent possible, shall set forth maximum compliance emission rates for controlled sources upon completion of the compliance program.

11.6. In the event that an owner or operator subject to this regulation fails to submit an acceptable compliance program by July 31, 1991, the Commission shall, by Order, determine the compliance program.

§45-27-~~13~~2. **Variance.**

~~13~~2.1. Due to unavoidable malfunction of equipment or other conditions resulting in emissions exceeding a level established in the compliance program, emissions exceeding those provided for in this regulation may be permitted by the Director for periods not to exceed ten (10) days upon specific application to the Director. Such application shall be made within twenty-four (24) hours of the malfunction. In cases of major equipment failure, additional time periods may be granted by the Commission

provided a corrective program has been submitted by the owner or operator and approved by the Commission.

§45-27-143. **Inconsistency Between Regulations.**

143.1. In the event of any inconsistency between this regulation and any other regulation of the Commission, 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, rule or regulation.

G. Dale Farley
Secretary
West Virginia Air Pollution Control Commission

COMMISSION MEETING

JULY 31, 1989
REGISTER

Date	Name	Address	Company Affiliation
07/31/89	JACK WHITE	WILLOW ISLAND, WV 26190	AMERICAN CYANAMID
"	Ann Bentley	Charleston	Charles Ryan Assoc.
"	V. Beverly Young	Gallipolis Ferry, WV 25515	Akzo Chemicals Inc
"	Monty Fowler	Huntington, WV	Herald-Dispatch
"	Christy Morris	Charleston, WV	Court Reporter -
"	David Fewell	Institute	Rhone-Poulenc
"	K.B. Poland	Charleston, WV	Robinson + McElwee
"	LARRY T. ESKEW	CHARLESTON, W.V.	BLACK GOLD PRODUCTS, Inc.
"	Vernon Lloyd	Charleston, WV	Occidental Chemical
"	MILDRED HOLT	INSTITUTE	PEOPLE CONCERNED MC

Please Print

COMMISSION MEETING

JULY 31, 1989
REGISTER

Date	Name	Address	Company Affiliation
07/31/89	Bob Parsons	JACKSON & KELLY 3407085	
"	John McCoy	Daily Mail	
"	Richard Sherman	Belle	Du Pont
"	Bruce Morgan	Wheeling-Pitt Steel →	
"	Greg Walker	Charleston	WCHS Radio
"	John Rist	Beckley	Maben
"	Randy Hansford	"	Maben
"	Dale Birchfield	"	Maben
"	Claudia Yon	"	Maben
"	Ethan Handy	"	U.M.W.A.

Please Print

COMMISSION MEETING

JULY 31, 1989
REGISTER

Date	Name	Address	Company Affiliation
07/31/89	Bob Aaron / Larry Clark	1301 Ardmont Rd Charleston WV 25301	WCHS-TV
"	Constance Gratop Lewis	4408 Venable Ave SE Charleston WV	-
"	Paul Nudium	2322 S. Walnut Dr So. Ar	PCMIC
"	David R. Blafford	P.O. Box 379 Red Jacket, WV	Mate Creek Energy
"	Pamela Nixon	506 King ST Dunbar, W.Va.	PC MIC
"	Eric Niller	Gazette	
"	Ron Gallien	P.O. Box 343 Red Jacket WV	Mate CREEK ENERGY
"	Paul Hill	2300 MacCorkle Ave. SE Chas. 25304	NICS
"	Howard D Payne		
"	Jerry Thomson	404 MORRIS ST.	CHARLESTON, WV

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COMMISSION MEETING

JULY 31, 1989
REGISTER

Date	Name	Address	Company Affiliation
07/31/89	Robert L. Worden	Charleston, WV	WV Manufacturers Ass'n
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COMMISSION MEETING

JULY 31, 1989
REGISTER

Date	Name	Address	Company Affiliation
07/31/89	BOB BRUNER / DAILY		WSAZ-TV
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SPEAKERS

COMMISSION MEETING

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JULY 31, 1989

CHRISTIE MORRIS - REGISTER

Date	Name	Address	Company Affiliation
✓ 07/31/89	JACK WHITE	SPEAK ON REGULATION 27 WILLOW ISLAND, WV 26190	AMERICAN CYANAMID
"			
✓ "	MILDRED HOLT	REG 27 - INSTITUTE	PEOPLE CONCERNED
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COMMISSION MEETING

JULY 31, 1989
REGISTER

Date	Name	Address	Company Affiliation
07/31/89	JOHN RIST	BECKLEY	MARSH
"	ALAN HANDLY	"	U.M.W.A.
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WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

PUBLIC HEARING

IN RE: Proposed Amendments to Regulation 8
Proposed Amendments to Regulation 11
Proposed Amendments to Regulation 14
Proposed Amendments to Regulation 15
Proposed Amendments to Regulation 16
Proposed Regulation 27

Transcript of proceedings had in the Conference Room at the offices of the West Virginia Air Pollution Control Commission, at 1558 Washington Street, East, Charleston, Kanawha County, West Virginia, on the 31st day of July, 1989 @ 9:15 a.m., pursuant to notice duly given.

SUPERIOR COURT REPORTING

CHRISTY MORRIS
CERTIFIED COURT REPORTER
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815 QUARRIER STREET
CHARLESTON, WEST VIRGINIA 25301
(304) 343-1404
(304) 587-4107

A P P E A R A N C E S

BEFORE: L. Newton Thomas, Jr., Chairman

Crede Douglass, Jr.

Cleve Benedict, Commissioner Agriculture

Samuel Kusic

Dale Farley, Director

Larry G. Kopelman, Special Assistant Attorney General

I N D E X

MR. THOMAS: I'd like to call the West Virginia Air Pollution Control hearing to order. I'll let the record indicate the quorum of the Commissioners present; Mr. Cleve Benedict, Mr. Crede Douglas, Mr. Sam Kusic and L. Newton Thomas. Let me announce that the Court Reporter this morning is Christy Morris and any of those desiring a transcript will see her at the conclusion of the meeting to make that arrangement on your own.

We have a number of items to come before this hearing this morning. The first on the agenda is Proposed Amendments to Regulation 8 - "Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter".

As I understand this quality--the adjustment in this regulation here is spelled out--by incorporating PM10 requirments in the regulation?

MR. FARLEY: Yes, sir, as part of that, in about July, 1987 USEPA promulgated new particulate standards with an indicator of PM10 meaning the pollutant which there's now--there's now a health and welfare standard, of particulates only less than 10 microns in diameter. As part of the state-wide upgrade, or update to our regulations, to accommodate the new PM10 standards, these three regulations, and if it's appropriate we could hear them together. I don't know--

MR. THOMAS: All right, why don't we do that.

MR. FARLEY: Okay.

MR. THOMAS: If you could read that.

MR. FARLEY: 8, 11, and 14 all contain some amendments to the existing regulations to accommodate or to adopt the PM10, standard to change the emergency episodes criteria to incorporate PM10 levels and also with respect to Regulation 14 to specify or incorporate several changes to accommodate and review PM10 and TSP reviews.

We had sent, and I hope the Commission has received this, a--actually two versions of documents, the second has the appropriate attachments to it; on July 24, 1989 a letter with some explanation or rationale for a proposal by the staff to delete TSP standards from Regulation 8. The TSP criteria for emergency episodes or emergencies and so forth were also deleted by our recommendation. There's some explanation for that in the July 24th letter. There's quite a bit of background that was compiled by U. S. EPA as a standard promulgation.

In the federal register published on July 1, 1987 and to supply such background, I would suggest that that federal register as it relates to PM10 changes in its entirety be made part of the record. That would be the federal register of July 1, 1987, specifically pages 24,

634 to 24, 750.

As part of the package that you have in front of you, this is just for your review and consideration and perhaps subsequent discussion as a followup to this hearing, the staff will be recommending the revisions or substantial changes to its particulate monitoring--current particular monitoring activities. Specifically you will see in the material which has been supplied, I think, after the regulations--immediately after the regulations, after Regulations 14 and 12--excuse me, Regulation 8, the first regulation in the material you have a set of tables describing the existing PM10 sampling sites. Some proposed PM10 sampling sites, in other words, the sites that we would like to upgrade or establish to monitor the PM10 based on funding to purchase additional monitors and so forth, and also a description of what we now define as special purpose TSP monitors which we will be proposing on a schedule, probably not before the end of this year, to discontinue monitoring. Those are scattered throughout the state and the Commission may have some question or comment on that as they review it.

The particular tables that you have there describe and there are abbreviations you may not--you may have questions about, describe the locations and

descriptions of the monitors--the monitoring objectives that's set out, frequency of sampling and so forth. If you have any questions about that table or wish to review it, come back with subsequent discussion at the next scheduled meeting.

The--with respect to the Regulation 8 in our recommendations, now, would include as far as for a particulate matter, only PM10 standard. The TSP from the--

MR. THOMAS: So, it would be different than the copy we have before us?

MR. FARLEY: Actually, when we drafted this, we knew this would just be a matter of decision maybe for discussion, so we left the existing TSP standards in the drafted regulation--or in the proposed revision. We are now recommending, based on the information that was provided to you and any--subsequently any other information which we could put together recommending the least you do is suspend the particulate standards. That would be in accord with what the U. S. EPA has done. There's been a complete revision of those from the federal--part of the federal management of clean air--we could--what I think we've done over here, in case there's any interest by anyone from any members of the Commission or after the meeting, public, whatever, we have set up two different sampling systems over here so that

anyone that has a question about what the technology is for sampling PM10, relative specifications, construction qualities, and so forth, we can talk about as well.

MR. THOMAS: As I understand it, you have four PM10 sampling sites now, and you're suggesting nine more?

MR. FARLEY: Right, subsequent to funding, and we would prioritize those sites in some manner if we had we had to do those over some time that--

MR. THOMAS: Is it proposed to keep the TSP samplers on line until we replace with the PM10?

MR. FARLEY: The proposal we have here, of course, there's the existing network which we obviously keep in place, the proposed PM10 sites, for the most part, are sites that we now monitor, as noted there TSP, there's a couple new sites suggested, and we would--for those particular sites, we would propose that, and there again dependent upon funding when we actually obtain monitors, we would propose to keep TSP in place until such time as PM10 is in place. With respect to the table on special purpose monitors, subject to any discussion or--we would propose to phase those monitors out, probably, for the most part, by the end of this year, this calendar year.

MR. THOMAS: Those thirteen PM10 samplers would cover the entire state?

MR. FARLEY: Well, the way the PM10 monitoring network we have now was established, there was a review made at the time of, shortly of--shortly before or shortly after the time of the PM10 promulgation by EPA, and a lot of historical TSP data was looked at--statistics that data--and there were predictions made as to what the likelihood of any exceedance at the site based on TSP--exceedance of the PM10 standards would be based on the historical TSP data. Consequently, as far as the areas that were predicted to be possible problem areas and needing, by EPA criteria and so forth, having need the PM10 monitoring, those were primarily in the northern panhandle in Weirton, in Brooke County, which are now designated as 3-2 that relates to the probability of paying or non-paying standard. Most of the state based on the historical TSP data was being the low probability of exceeding the PM10 standards, in other words, not a real emphasis on having a very extensive PM10 monitoring network. We would propose, again, based on funding, to monitor these sites so as to have air quality data for certain areas of the state. Some of these areas, I think we had proposed, for example, a monitor at--PM10 monitor at Martinsburg, for example, and then some upgrades to sites that, in time past, had TSP problems which we mentioned on that.

MR. THOMAS: Is the PM10 standard considered a tighter standard than TSP standard have in existence?

MR. FARLEY: I'm not sure you would characterize it as tighter; it's different. It's now here in promulgating the standard, EPA geared standard for health effects as far as the size of particles that could penetrate deep into the lungs and so forth. I don't know, there again, you could get into a lot discussions about the particular limitations or if you're going to call it, quirks of the monitors, themselves, as far as what they pick up and what they efficiently measure as opposed to what they don't. For example, with the high volume filters that's--my understanding is that they're fairly efficient collectors of particles up to about 30 or 40 microns and above that it's sort of hit or miss what they pick up, up to maybe 100 microns. So, it's really hard to answer, yo answer a question, so it's a little more astringent. I don't think you can characterize it that way.

MR. THOMAS: Do you think it would be in compliance with the PM10 standard as set for Weirton, up in that area?

MR. FARIEY: Right, Weirton, right now based on the most up to date monitoring was done is very borderline with respect to PM10 standards. I don't think we have

measured problems at the Mann Lane monitor which is also group 2 in Brooke County, but that entire area, of course, is subject to additional planning and work with the State of Ohio because of exceedances of the PM10 standard, basically PM10 tolerance that have been measured with Mingo Junction in Steubenville.

MR. THOMAS: You're suggesting Regulation 8 and 11 of TSP be deleted from those--Regulation 14?

MR. FARLEY: Deleted. Regulation 14 TSP would obtain because as of now that is going to be changed, and I understand in the future, there are still TSP air quality increments that have to be perfected. As of right now, TSP is identified with Clean Air Acts, so it has to be contained. One thing I would note because--we apologize for this--we have an errata. On page 14, when we sent these out we found several things, typo's, or a couple typo's that we had not corrected. One was on page 12, line 12 of the regulation where we had established or granted or put in PM10 significance criteria. The No. 1.5 comes--that should have been 15. We didn't need the decimal point, but anyway--Page 14, line 12, some of the column headings were not aligned, were not properly aligned, and that's just the formating thing we would correct. On page 16, line 6, we refer to a class, in reference to Class 3 in that line,

that should have said, Class 2.

What I would think we're proposing and I do think that's a very minor change, for clarification on page 14, line 7, where we had the definition of 2.38 for PM10, we proposed to add at the end--what that basically says, PM10 means particulate matter of an air diameter of less than or equal to--I think that word should be nonyls in micro meters, and then just after that, we're proposing to add the phrase "as measured by reference method as described in Appendix J". So, it's clear on how it's measured.

MR. THOMAS: All right, you've heard the Director's explanation. Any questions by the Commissioners? Are there any comments from anyone in the audience on these three Regulations; 8, 11 and 14?

MR. WHITE: We don't have any comments, but we'd like to file these comments.

MR. THOMAS: Would you identify yourself?

MR. WHITE: I'm Jack White, American Cyanamid.

MR. THOMAS: Thank you. Any others? All right, let us move to--

MR. KOPELMAN: We need to announce to the public that the record will stay open or 30 days.

MR. THOMAS: The record for this hearing, and this includes all items in the hearing, will be open for 30 days

for any submittals, and after which time the Commission will act upon the proposed amendments. Let us move then to proposed Amendment to Reg. 15--want to throw 15 and 16 together, or one at a time?

MR. FARLEY: This is something I would bring up here, Mr. President, I would suggest that you do them separate.

MR. THOMAS: All right, Regulation 15 which has to do with NESHF.

MR. FARLEY: Regulation 15 and 16, we adopt by reference--the respectively federal NESHF standards and it's a very simple regulation, because all we really do is refer to what's in the federal register as of given dates as they were basically adopting those standards' test methods and so forth. Something that I--when we proposed this, this was basically in spirit, just trying to play catch up for both 15 and 16 with the facts that we have really not updated our state reference regulations since 1983.

With respect to Reg. 15, and I'm not going to claim the--to up the speed on one area here, in reviewing the status of some of the NESHF standards, apparently in a case about two years old or something on that order, I believe the D. C. Circuit Court had found fault with the way EPA had promulgated vinyl chloride standards, and as reference as

I've seen in the several federal registers, indicates that as far as the methodology used by EPA in promulgating, several of the NESHF standards now in--now indicate the federal regulations that we would adopt by this proposal several of those NESHF sandards are somewhat under a cloud as far as the methodology used by EPA in establishing standards, and if I can find the summary--okay, flipping back into your book to June 2, 1989, letter where we kind of put the cover on all the regulations in 8 thru 16. This summary clip there of just what the sub-part headings for the NESHF standards now are and a description of the NESHF standards and according to the references I've seen in the--some of the federal registers, the promulgated NESHF's that may be, as I indicated, under a cloud as far as the rule-making methodology of EPA, would be the Benzine standard that is sub-part J, the standards of radio-nuclides from a number of sources. You'll see several sub-part notes there and the NESHF references.

What I would recommend subject to further review and perhaps coming back to you at the close of the public commentary is the instruction or a specific provision be included in Regulation 15 as you now have proposed to delete. The sub-parts H, I, J, K and L and sub-pats N, O, P, Q and 8--as a practical standpoint, sub-parts W and 8 for

radon P-22--underground radium mine is probably not something we have to worry about anyway. I think we'd recommend that you go ahead and adopt with that construction at this point, that you adopt the Reg. 15 as noted just to corporate the new structure and new numbering of the NESHF.

MR. THOMAS: You're proposing those be divised to adopt the NESHF standard--as of July 1, '88. Is this a copy being updated to NESHF standards, and, if so, why not a more current date?

MR. FARLEY: The reason we do that, we're about a year behind now, because when we literally reference to this adoption--reference per se, here's what we want--what we're adopting to show someone. We can go to the actual publication that occurs each year of the code of federal regulations. Hopefully, we won't adopt anything too far, too out of date or whatever, but I think some of the NESHF standards are pending or some of the review process that's going on right now, for example, on the coke oven, the proposed NESHF coke oven emissions, additional NESHF Benzine from coke bi-products plants, so those are all, as I understand it--I will try to clarify that before the close of the hearing, before the close of the period--probably somewhat in turmoil right now because of the pre-reviews.

MR. THOMAS: Any comments or questions from the Commissioners? Is there anyone in the audience that would like to comment on Regulation 15? You say you submitted some material on--

MR. WHITE: One part of the--that's submitted that applies to this regulation.

MR. THOMAS: Hearing done. Let us move to Reg. 16 and remind everyone that the record will be kept open for comments on Reg. 15 for 30 days.

MR. FARLEY: With respect to Reg. 16, and this is adoption by reference of the federal performance standard. Basically it updates our regulation from being effective as of September 27, 1983 for adopting all federal standards as promulgated as of September 27, 1983 to July, 1988, and-- July 1, 1988, and we recommend that be adopted as proposed. The sub-parts that are actually picked up in so doing are, there again, in that summary that has all the regulations back with the June 22nd letter to the Commission. The sub-parts that have asterisks are sub-parts previously adopted by the Commission and delegated to the Commission or enforced by EPA. The sub-parts without asterisk would be the ones that we would pick up--

MR. THOMAS: They were not in existence in '83?

MR. FARLEY: Right, but for the most part, they

were not in existence, some of them may have been in proposals, but not along with those standards. Most of those sub-parts that we would pick up we have at least limited applicability, at least on the two facilities that would be subject to.

MR. THOMAS: Is there any questions by the Commissioners? Any from the audience? If not, we'll, again, the record will remain open for 30 days and after which time the Commission will make a decision relative to these changes that have been proposed.

Let us move now to Proposed Regulation 27, "To Prevent and Control Emissions of Toxic Air Pollutants." We have a decision of our, I believe it was our May meeting that we--or June meeting--we decided the Commission to hold other hearings on this proposed regulation because of the revisions that were made and the original proposals. Mr. Farley, if you'd like to introduce that issue?

MR. FARLEY: Okay, Mr. Chairman, before I make any comment, I have quite a few pages here, notes just in response or in reference to some of the material we've received. I think it might be appropriate to clarify what the status of the two different versions of Regulation 27 and 2010, and basically what's part of the record. I think we've received shortly after the Commission reopened

the record subsequent to the redraft, or re-proposal put out of the Reg. 27 from May 16th to June 14th, I think we received two or three letters relative to that redraft since that time, including the one with comments from EPA, I think maybe one from a citizen and perhaps one or two other ones, so they didn't really fall within any prescribed comment period, and I guess what my question is, is to how we treat the entire record for December 29th to today?

MR. THOMAS: Concerning the Commission, I guess we can receive those and as far as the record, even though it tells the period after the deadline, by virtue of this hearing, we open the record again. We'll do it by asking the Commission's counsel--

MR. KOPELMAN: Yes, you may.

MR. THOMAS: Do we have a motion to that effect?

MR. DOUGLAS: I make the motion.

MR. BENEDICT: Seconded.

MR. THOMAS: It has been moved and seconded. All those in favor of the motion indicate so by saying aye.

MR. THOMAS: Aye.

MR. BENEDICT: Aye.

MR. KUSIC: Aye.

MR. DOUGLAS: Aye.

MR. THOMAS: All opposed?

(No response)

MR. THOMAS: Motion carried.

MR. FARLEY: I'll try to cut this down as best I can. As was noted, there was a hearing on the original version of Regulation 27 proposed by Director, Carl Beard, on December 29th, 1988, and on May 16th, a redraft based on quite extensive comments to the originial proposed Reg. 27 was presented to the Commission for consideration now subject to this hearing. The provisions contained in the revised Regulation 27 proposal are intended to address-- were intended to address the number of comments filed by companies initially affected by the regulation. Specifically some of the changes that were made, principle changes, the redrafted regulation and threshold applicability, we think it addresses there is no potential conflicts with Chapter 16 or 20 with respect to certain provisions.

There are provisions added into the redraft to provide some flexibility in exempting various small sources, BAT requirements. The revised definition of BAT allows for--typically it relates to existing sources for economic factors being considered in determination. The redraft provides a 7-year perfection period for--against

reconsideration of BAT determination, and in relation to several comments, exempts controlling marketing operations from the regulation.

Since the redraft of the proposal was made available to the Commission and the public, a number of comments and written responses have been received that indicate that there is perhaps considerable confusion about some of the definitions or construction of the redraft, and I think it's appropriate to comment on those. First, I would note, just a sort of a quick summary, in terms of the other comments we have received since the redraft was presented to the Commission, we have received 27 letters from--primarily from individuals which about 21 of those letters are requested to the Commission to adopt the original version of the regulation. In addition, the West Virginia Citizen Action Group circulated a--what I would call a petition that had some 165 names on it, primarily looked like people who may be living in the western, far west area of the Kanawha Valley. We'd also received comments to some extent from the American Cyanamid Company, Dupont at Belle, Rhone-Poulenc at Institute, U. S. EPA and West Virginia Manufacturing Association. In reviewing the entirety of those comments, I think there are a number of things the need to be pointed out here in terms of what in the re-

draft of that regulation in the respect to the applicability and the definitions. First, on those, it was my understanding that the intended scope of the original Regulation 27 draft was to cover all possible sources of emission of 14 regulated chemicals. The regulation was primarily intended to require BAT chemical manufacturing plants, however, the definition of chemical processing unit was constructed to be sufficiently broad to cover operations that were not specific to chemical manfacturers. The reason for that is because we were aware going into the proposal of a regulation that there were two to three large emitters of these chemicals outside of the Valley which are not manufacturers. Noting that, I can--part of the toxic release information and other reports now just to note a couple of those facilities; one is the 3-M Plant near Charles Town, and another is the Alleghany Ballistics Laboratory near Keyser.

Recent information provided through the new Sarah 313 Inventory system as well as an article that appeared in the annual papers, one of which Mr. Kusic provided me, indicates that the--another very large source of Benzine based on that data is the Wheeling Pittsburg Steel Coke Bi-Products Plant and my understanding that this regulation

would be intended to be applicable to a facility of that type.

With regard to Section 3 which is where a lot of questions have been raised of the redraft regulation--to make a few comments. In proposing threshold values for each of the toxic air pollutants in Section 3.1, an attempt was made to, one, address the criticism of the original Reg. 27 and apply it literally, first molecule toxic air pollutant emitted, and, two, provide a mechanism to define within some small sources. With respect to how those numbers--those threshold values in Section 3.1 was arrived, basically a review was made of the findings in terms of the--we'll call it worse case or most exposed individual, predictions in the Kanawha Valley toxic screening study, those numbers were reviewed, a--point for exemption of 10,000 pounds was basically selected and the values were set accordingly. Basically, the key factors as far as the written assessment in Kanawha Valley, roughly a calculation of the most exposed individual predictions of the Kanawha Valley toxic screen study was made to basically find what level of emissions would give approximately a one and one hundred thousand cancer risk, and that was the criteria that was used to establish most of those particularly lower numbers

in that threshold. That threshold listed 3.1.

The question has been raised and comments received as to what was really meant by the construction of Section 3.1 and clarifying that, I think Section 3.1 was intentionally subject all emission sources of any of the Reg. 27 chemicals to best available technology requirement if any one of the chemicals which was emitted at a rate exceeding the threshold level. The reason for that, of course, is to go back and look at the Risk Assessment document and the information there. The basic approach is to take the added risk to each chemical. Basically, you add to each chemical to determine total risk, and of course, that's the reason for triggering total BAT requirements, if any of the threshold levels are exceeding.

With respect to the 10,000 pound per hour aggregate emission applicability emission, Section 3.2, and that was provided in the regulation as possibly mechanism for required controlled emissions, toxic air pollutants in the event that a substantial number of the Reg. 27 chemicals were all emitted at levels just below the individual threshold as proposed in sub-section 3.1.

Having said that, another point should be noted; one, it was fairly intended for the basis for determining

applicability under the proposed thresholds, be maximum annual emissions, that is potentials to emit; two, it was intended that BAT would not be required if the potential to emit from all toxic air pollutants were below the 3.1 threshold and the aggregate potential emitted below the 10,000 pounds per year. In other words, if the thresholds are not exceeded in either cases--although the chances to require that BAT be evaluated for all emission sources of any processed unit, an overall best avaiable technology plans for each unit could exempt individual emission source or sources as potential emissions at fifty-percent of the value specified in the table of 3.1. That was the way small source was defined in this proposal.

It was not anticipated or required that all toxic air pollutant emissions be reduced to Section 3.1 threshold level or below. Final BAT program may, in fact, be approvalable that allows emissions in order of magnitude. It's intended that each BAT plan curtail the definition of technology, to be employed for a schedule for alternate technology selection, and also a maximum allowable BAT emission rate for each source with the possible exception of emission. That would be consistent with the way to practice in established BACT levels.

I might note there that with respect to those

threshold levels, the only construction you can relate to to judge whether they're too large or too small is the fact that in the PSD regulations where NESHF pollutants of certain threshold levels, significant levels as they're called, of PSD are established for several of the regulated NESHF's pollutants and those significant levels range from less than a pound per year to about 2,000 pounds per year, and in looking at those levels, I might note that there may be some basis to be consistent literally with EPA definitions to increase the vinyal chloride threshold level in proposed Regulation 27 to 2,000 pounds per year. As a practical matter we don't find vinyal chloride in the inventory, anyway.

There were questions raised concerning the BAT definition, and there's some comment probably in order there. The intent--the intent of the approach for BAT evaluations or determinations be essentially the same as what's called top down backed determination is very similar to that, that's required for PSD review, and in describing that, top down backed review requires that literally the best technology, technologically feasible controlled method or device be employed unless substantial justification is made that top technology is just entirely unfeasible from that standpoint. Of course, that determination must

consider the environmental--the health impact.

In the event that such a showing or evaluation would show that the top, or the most--the technology given the greatest period of reproduction, simply could not be employed economically, the evaluation progress would proceed downward, down the ladder to the next floor, next out down comes with technology.

With the respect to the confusion that was noted concerning why there's reference to 40 CFR 60 and 40 CFR 61, that definition, it should be pointed out that in general any PSC--within PSC, that any best available control technology determination would establish as its floor, in other words, it could not go below existing federal required emission standards, and we would deem that to be something you would look at in a generic sense as far as light facilities.

There were a number of other comments from the West Virginia Manufacturers Association that I think we may agree on in part. It should be based on when you become knowledgeable of a release as opposed to when it actually occurred. That's probably something that would practically be commonly denominate. That's an example. I think we would look at this--we'd want to look at all those in a more detailed--one thing I would note to the

Commission in respect to the pending variance provision submitted to us by West Virginia Manufacturers Association in the June 14th, 1989 comment letter, I'd note that this is an area in which the Commission should give particular consideration since the proposal would give variance granting authority to the director of the entire regulations that has been retained by the Commission. I might also note that the WVMA proposal in sub-section 12.2--4A, sub-section 12.2, would provide for variances which may never have intended in the inactment of emission standard.

Several comments were received and including one from former Director, Carl Beard, concerning the agency's lack of staff resources to carry out this air toxic program, and the only thing I can say at this point is these--we can't really dispute those points raised at this point. That's a problem we'll have to deal with. Those are the only comments I have.

MR. THOMAS: I have a couple of questions, one isn't it likely they'd be an aggregate of 10,000 pounds would be the governing factor in most instances as opposed to the voluminous levels in each of the chemicals?

MR. FARLEY: That's probably true for the--plants where, you know, we can see in the inventory we have now.

MR. THOMAS: So, that's really the minimum standards which we will be looking at in most--10,000. Another thing, on your BAT definition some time ago you had given us definitions, used were, BACT, ER and NATP, and I think adopted some of the--

MR. FARLEY: Not yet.

MR. THOMAS: The terminology in this definition, partially was not included, and I'm sure it's--you'll know why--was the part that says in any non-air releases in referring to in the event you're taking considerable costs in computing such additional--non-air quality health and environmental and impact on energy requirements.

MR. FARLEY: BACT definition incorporates the review for energy, environmental and--there's also DAC-2. as well, but the reference to non-air environmental impact, I assume we could give some consideration of that--I saw it wasn't in there as part of the definition, I didn't know for an agency that was reviewing strictly from the context of the air authority--don't know how you'd relate to that.

MR. THOMAS: Well, this definition isn't MACT, the EPA air regulations or air--

MR. FARLEY: I think MACT, that I referred to, although it wasn't really correct, was in that HR 4,

Congressman Dingell proposed a toxic bill, and I'm not quite sure, as there apparently been some changes since we received our rules review packet, or summary packet of what initially the Air Act proposals were. There were some changes made before the legislation was ready, but I'm not sure--fully aware of what the changes was in the definition--the technology requirements and the layout.

MR. THOMAS: Any comments or questions from the Commissioners? If not, we have two persons who identified themselves as wanting to speak to Regulation 27. First, there's Jack White, American Cyanamid. Mr. White, come forward and be sworn in.

MR. WHITE: Here's a copy of my statement.

(Witness sworn.)

THEREUPON came,

JACK WHITE appearing herein and after being duly sworn according to law testified as follows:

MR. WHITE: I appreciate the opportunity to come before you. Commissioners, Mr. Farley, my name is Jack White. I am government affairs manager of American Cyanamid and former plant manager of its Willow Island Plant. I am speaking today on behalf of the Chemical Industry Committee of the West Virginia Manufacturers Association, of which I am chairman. The committee has

asked me to present our position concerning the promulgation of Series 27 regulation in light of pending changes in the federal Clean Air Act. We appreciate the opportunity to address the Commission.

The Chemical Industry Committee which represents all the major chemical manufacturers in the state supports effective environmental regulation and is dedicated to working with the West Virginia Air Pollution Control Commission toward the development of constructive clean air programs that will protect the health and quality of life of communities adjacent to our plants. The industry has made great strides in contributing to the restoration and enhancement of clean air in West Virginia. We are firmly committed to a logical approach to clean air based on good technology and good standards.

Both the Commission and the state's chemical industry, in our view, need the efficient, effective regulations of activities which affect the environment. What we don't need is a wasteful situation in which the state and federal regulations conflict or are needlessly duplicated. Recognizing that the chemical industry, and industry in general, are not the only source of air pollution, we are willing to be an active participant in air quality improvement. I come here today to ask that we

be able to put our energies and resources where they will do the most good--directly to the problem. I will present several reasons to support our request.

First, the chemical industry has been aggressive in voluntarily developing and implementing committed emissions reduction programs. To date, the chemical industries in West Virginia which are emitters of the 14 chemicals of concern as identified by EPA, have reduced their emissions by over three million pounds of material since 1984. This amounts to a 50 percent reduction at a total cost of nearly $23 million dollars. We feel it is obvious that our record in this area has been a good one. We pledge further reductions of which I will speak in a moment. Under SARA, Title III, as you know, the chemical industry is reporting these emissions for public use and understanding.

Second, a new federal regulation is imminent. The federal Clean Air Act will be amended, probably before the end of this year and the chemical industry is actively supporting the changes at the federal level. With those amendments come new regulations for reductions of emissions. Both the Chemical Manufacturers Association in Washington, D.C., and the Chemical Industry Committee of the West Virginia Manufacturers Association support the

development of amending legislation to require further emissions reductions from all sources. We believe it is critical that the reductions be accomplished in a balanced, sensible fashion. No solid evidence exists to suggest there is an immediate health hazard. Rather, we are working towards increasing our margin of safety through further emissions reductions.

Enactments of amendments to the Clean Air Act in the 101st Congress is almost a certainty. Public opinion is demanding improvements and our government leadership is responding. President Bush has called for quick action. Both the Senate and the House leaderships also are committed. Bipartisan and regional support exisits within Congress.

The push for amendments is fueled by several concerns. Fears of the health and environmental effects of acid rain and urban smog are very much a part of the enactment, as well as toxic air pollutants from automobiles and commercial facilities in addition to industry.

Four major bills have been proposed to rectify the acid rain situation. Another four bills target the urban smog problem. Four additional bills address toxic air emissions. I will discuss these last four bills.

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John Dingell, chairman of the House Committee on Energy and Commerce. Senate Bill 816 was introduced by Senators Durenberger, Lautenberg and Breaux of the Senate Environment and Public Works Committee. Another House Bill, 2585, was introduced by Representatives Leland, Molinari and Waxman of the House subcommittee on Health and Environment of the House Committee on Energy and Commerce. Finally, the administration has its own bill, which was just introduced.

When I spoke before the Commission in May, I predicted that Congress could enact the Clean Air Act Amendments in 1990. On June 12, President Bush told Congress he wanted that action this year. Congressional leaders have begun hearings and mark-up sessions this summer and are predicting the passage of the legislation in time to meet the President's deadline. The four proposals for the regulation of air toxics are remarkably similar, which leads us to feel that compromise will be relatively easy to obtain.

With the passage of amendments to the Clean Air Act almost a certainty, we feel it is prudent to forestall new state regulations until federal ones are made clear. We are fully aware that promulgation of federal rules and regulations will take up to two years after enactment.

However, in light of the continued significant progress the West Virginia chemical industry is making on a voluntary basis, and the waste of both the Commissions's and industry's resources in duplicative efforts, we strongly urge the Commission to wait until the federal program is clear before proceeding.

Industry's commitment to further reduction is not a hollow one. You have our pledge, in writing, to continue committed reductions agreed to by 100 percent of the chemical companies in West Virginia who manufacture or use the 14 targeted chemicals. These 18 companies have volunteered to continue further committed reductions using Best Available Control Technology. We desire an interactive program with the APCC under which industry would work with Commission staff to determine exactly how the reductions would be achieved. The committed reductions program is already underway. We feel this approach brings the quickest results for the people in West Virginia. And, as we understand, President Bush's proposed bill actually would exempt from regulation sources which can show major reductions from voluntary efforts.

Let me show you how dramatic the changes have been and will be in emission reductions under our voluntary plan. This chart illustrates the reductions since 1984 and

anticipated reductions through 1992. As I mentioned before, the industry has cut in half emissions from 1984 to 1988. From 1988 to 1992, under our voluntary plan, another 72 percent reduction is anticipated. The total amount of material reduced during this time period would be over 2 million pounds at a cost of $45 million dollars. Looking at industry's record and pledged future performance as a whole, from 1984 to 1992, we anticipate a total emissions reduction of 86 percent at a combined total cost of $68 million.

In addition, it seems to us there is no compelling reason to promulgate new regulations at this time. No imminent health problems have been identified; rather, we are working toward increasing our margin of safety.

The federal regulations under an amended Clean Air Act will mandate that the states implement and enforce the federal program. We think this is going to be a huge undertaking for this Commission, requiring significant resources. Among other things, these regulations will dictate how chemicals will be listed and delisted from jurisdiction, who will be regulated and exempted, what the difference in controls will be between new and existing facilities, what timetables will be followed, and what

permits will be required. If the federal regulations differ from those proposed in Regulation 27, this would mean that monies and energies spent to follow the state regulations would be wasted. A major shift in direction would mean a major loss of time and money.

Because the federal Clean Air Act is so close to amendment, because prolulgation of state rules would surely lead to wasted energies and resources by both the Commission and industry, because industry has pledged, in writing, to continue its committed reductions program, and because no compelling emergency exists, issuing new state regulations at this time is ill advised.

Instead, we suggest that the Commission ask Director Farley to work with industry in formalizing the committed program we have submitted for your review. The program already has shown it is effective, has the commitment of industry, and is an active and immediate step toward our mutually held goal of clean air.

Thank you for allowing us to comment. We welcome your questions.

MR. THOMAS: Thank you, Mr. White. I have no questions. I have a summary, earlier you said up two years on regulations--I understand from what I have here is EPA will publish regulations for controlling

10 source categories within two years, 25 percent source categories within four years, 50 percent in seven years, additional categories, ten years.

MR. WHITE: The reason I only chose two years is because I fully believe that chemical emission will be in that first two--of categories.

MR. THOMAS: You're also suggesting imminent control using maximum available control technology. That is the first real language that we have on the current proposed Reg 27.

MR. WHITE: I believe that's correct. There are several definitions, MACT, BACT, in the various bills. Exact wording of that will be passed; we'll have to wait and see.

MR. THOMAS: Let me ask you a question. Are all the chemical manufacturers members of West Virginia Manufacturers Association?

MR. WHITE: Not all, the major companies are members.

MR. THOMAS: Are all the members are actively participating on voluntary reduction program?

MR. WHITE: That's correct. Not only on these 14 chemicals, but additional chemicals.

MR. THOMAS: Mr. Farley?

MR. FARLEY: Gentlemen, one thing I might note is with respect that who might be affected by the regulation. Based on the inventory data we have had, I think we provided the West Virginia Manfacturers with a summary what was in our inventory data some time ago, I think there's between nearly 18 affected facilities.

Let's look at the recent printout from the West Virginia--as part of SARA Title III, section 313 chemical reporting, it looked like it's sort of a potential, looked like there may be definite under the proposed redraft There's a few we pick up here that's reporting the 22 facilities that might be affected. It looks like they'd definitely be affected and may 4 maybe depending on the actual--I might note that there were a few facilities that we didn't have any inquiry made on.

MR. THOMAS: Any questions from the Commissioners? Thank you, Mr. White.

(Witness excused.)

MR. THOMAS: Next we call on Mildred Holt. I think you need to be sworn in.

(Witness sworn.)

THEREUPON came,

MILDRED HOLT appearing herein and after being duly sworn according to law testified as follows:

MS. HOLT: Thank you for this opportunity to comment. My basic statement, as well as one from Gerald Bellar, who is also a member of our organization will be found on file in Mr. Farley's office.

My name is Mildred Holt, and I'm a 30 year resident of Institute, West Virginia. On behalf of people concerned about MIC, which is a major organization, I wish to register unequivocal support for Regulation 27 which requires the use of best available technology to prevent and control toxic air emissions into the West Virginia environment. Our organization supports stringent governmental standards to protect our air, land and water. Recent efforts made by industry to reduce toxic emissions are recognized and appreciated, however, current reports of still huge volumes of toxic emissions are disdain and they cause a serious credibility gap with the public. We don't know what the real picture is, can we depend upon voluntary compliance? West Virginia Code 16, Article 20 on air pollution control, is explicit in the responsibility of the Commissioners to protect the quality of West Virginia air, which, in turn, will protect human health and welfare as well as plant and animal life. We interpret this to mean the sustaining of an environment which will support a good quality of life. As West Virginia is struggling to

become known as a tourist paradise, it certainly will have to consider the reluctance of people to vacation in an area which is widely publicized as being inundated with toxic pollutants.

In specific reference to the proposed regulation, our interpretations may be askew after the extensive interpretations given by Mr. Farley, but I will persevere. The APCC recommended cutoffs of threshold levels of toxic air pollutants should be maintained in lieu of the higher cutoff levels proposed by manfacturers, and if I'm in error here, please correct me. We believe that every chemical industrial company must be held--should be held equally accountable for using best available technology. The risk of allowing a prolonged period for some to correct the problem is unacceptable when the protection of life and the quality of life is a priority. BAT provides the chemical industrial world a rich opportunity to stop environmental degradation and thus allow some of the egological harm to be reversed.

More and more the public values and environment which supports a good quality of life, and more and more the public supports this anonymous quote "We have not inherited the earth from our fathers, we are borrowing it from our children". As we become more knowledgeable about

the consequences of environmental degradation, the more urgent is the public's determination to aid or to be supportive of working toward a clean, lifesupporting environment and a healthier work place. We feel that time is a critical factor.

Citizens know first hand that industries private primary interest is not necessarily consistent with the public interest. Providing jobs, protecting the environment, insuring worker health and safety and even producing particular goods and services are the residuals of the corporate primary goal to turn a profit. We have no problem with this goal as long as the process does not compromise the habitat which nurtures and supports life as we know it. Also the public is aware that EPA approves of the West Virginia Air Pollution Control Commission's proposal to regulate more stringently toxic air emissions. In the absence of equivolant EPA protection, the state has a responsibility to approve Regulation 27 which will provide the protection stipulated in West Virginia Code 16-20-1. Thus, a more stringent regulation, we feel is abundantly justified.

Finally, on behalf of West Virginia citizens, born and unborn, our citizens depend on the APCC to carry out its mandated responsbilities. Thank you for this

courtesy.

MR. THOMAS: Any questions Commissioners? Is there anyone else in the audience that would like to speak for Regulation 27? If not, we will remind everybody that the record will stay open for 30 days from this hearing and after which time the Commission will act in regard to this regulation.

MR. FARLEY: One thing I might note. There are a few things that are in your packets, quite a volume of information we received from EPA in response to inquiries made after the last summary and comments were done. There are a few things that came from--referring to one, a memo from Charles Garr, Acting Director of Health and Environmental of the EPA to Charles Risk as relates to status of Risk assessments. There's another document that's noted as a memorandum in case--I want to point out is I would suggest making these a part of the record because they are information submitted of our two companies that challenged the EPA risks---

MR. THOMAS: Assessments?

MR. FARLEY: Risk data or health data on methylene chloride and formaldehyde. This is EPA's response to those as far as telling us what the current status of EPA--current status of those chemicals are with respect to

EPA, at least as of May 9th.

Just for reference, that should have been inserted right before the manufacturers' letter, West Virginia Manufacturers Association letter of July 28th as we just obviously received on Friday relating to their voluntary proposal. If not, we'll make a copy so that it's available as part of the record.

MR. THOMAS: Does everyone have that?

MR. FARLEY: In relation to those two documents, I'm not sure whether it's clear from the decision is made on what's in the record. I would suggest maybe a motion might be in order to include those as part of the--

MR. THOMAS: Do we have a motion entering these two documents into the record identified status of Risk assessments? The other one--

MR. FARLEY: This date is not clear on the original.

MR. THOMAS: Occidental Petroleum, HSI, State of West Virginia on methylene chloride. Those two documents will to be entered in the record. Do we have a motion to that effect?

MR. KUSIC: I make that motion.

MR. THOMAS: A second?

MR. BENEDICT: I second.

MR. THOMAS: All in favor signify by saying aye?

MR. KUSIC: Aye.

MR. BENEDICT: Aye.

MR. DOUGLAS: Aye.

MR. THOMAS: Aye.

MR. THOMAS: Opposed, no.

(No response)

MR. THOMAS: Motion carried. Anything else on Reg. 27?

MR. FARLEY: That's all I have.

MR. THOMAS: All right, we will conclude the discussion of Reg. 27. I will now call for executive session of the Commission to consider a legal matter. Counsel has advised us he would like to speak with us. I will call executive session.

(WHEREUPON, the hearing in the above-entitled matter was concluded.)

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to wit:

I, the undersigned, Christy L. Morris, Certified Court Reporter, do hereby certify that the foregoing is, to the best of my skill and ability, a true, accurate and complete transcript of all the proceedings heard as set forth in the caption hereof during said public hearing.

Given under my hand this 13TH day of October, 1989.

Christy L. Morris
Certified Court Reporter

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
CHRISTY L. MORRIS
P. O. Box 26
Maysel, West Virginia 25134
My Commission Expires Dec. 11, 1990

WEST VIRGINIA
MANUFACTURERS ASSOCIATION

SUITE 414
405 CAPITOL STREET
CHARLESTON, WV 25301
TELEPHONE (304) 342-2123

PRESENTATION TO THE

WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

BY J.E. WHITE REPRESENTING THE

WEST VIRGINIA MANUFACTURERS ASSOCIATION'S

CHEMICAL INDUSTRY COMMITTEE

JULY 31, 1989

Commissioners, Director Farley:

My name is Jack White. I am government affairs manager for American Cyanamid and former plant manager of its Willow Island Plant. I am speaking today on behalf of the Chemical Industry Committee of the West Virginia Manufacturers Association, of which I am chairman. The committee has asked me to present our position concerning the promulgation of Series 27 regulation in light of pending changes to the federal Clean Air Act. We appreciate the opportunity to address the Commission.

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First, the chemical industry has been aggressive in voluntarily developing and implementing committed emissions reduction programs. To date, the chemical companies in West Virginia which are emitters of the 14 chemicals of concern as identified by EPA, have reduced their emissions by over three million pounds of material since 1984. This amounts to a 50 percent reduction at a total cost of nearly $23 million. We feel it is obvious that our record in this area has been a good one. We pledge further reductions of which I will speak in a moment. Under SARA, Title III, as you know, the chemical industry is reporting these emissions for public use and understanding.

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the reductions be accomplished in a balanced, sensible fashion. No solid evidence exists to suggest there is an immediate health hazard. Rather, we are working toward increasing our margin of safety through further emissions reductions.

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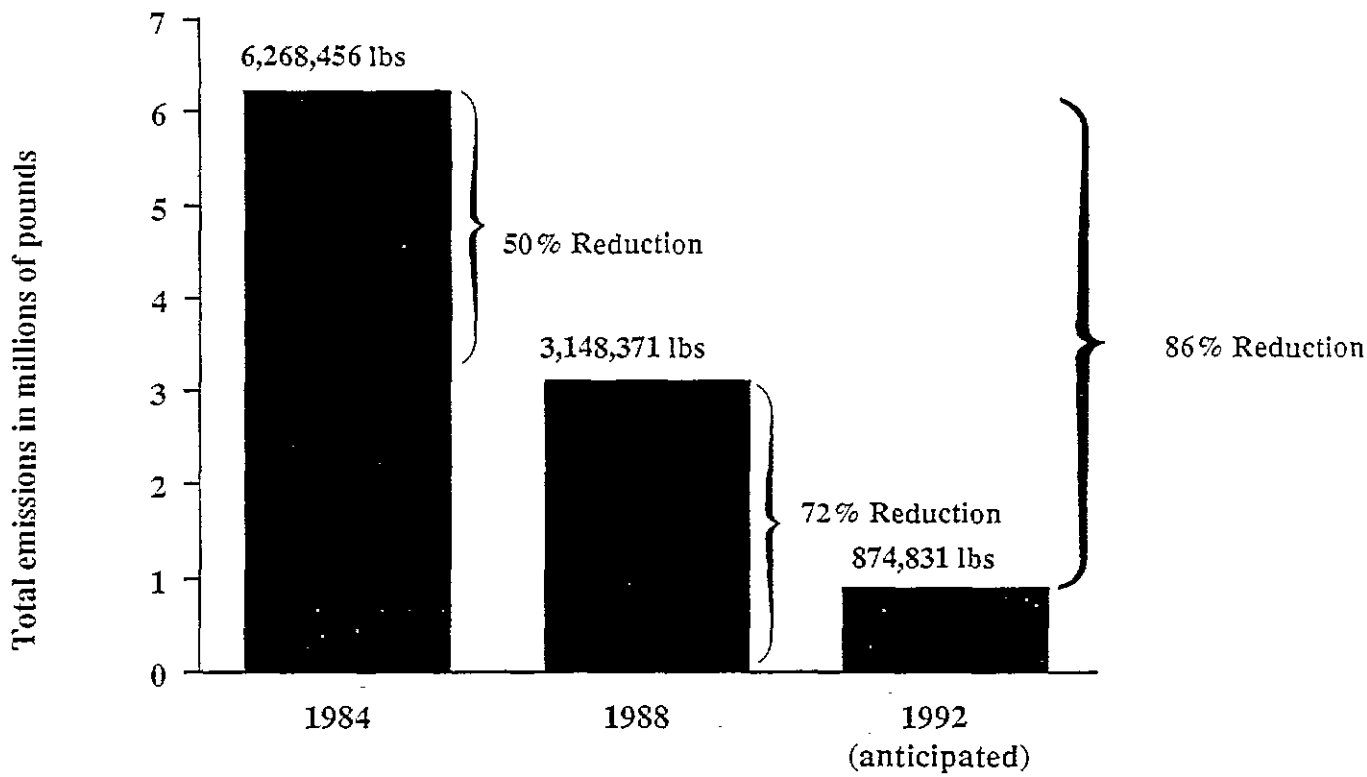
Because the federal Clean Air Act is so close to amendment, because promulgation of state rules would surely lead to wasted energies and resources by

both the Commission and industry, because industry has pledged, in writing, to continue its committed reductions program, and because no compelling emergency exists, issuing new state regulations at this time is ill advised.

Instead, we suggest that the Commission ask Director Farley to work with industry in formalizing the committed program we have submitted for your review. The program already has shown it is effective, has the commitment of industry, and is an active and immediate step toward our mutually held goal of clean air.

Thank you for allowing us to comment. We welcome your questions.

AIR EMISSIONS REDUCTIONS THROUGH INDUSTRY'S VOLUNTARY PROGRAM



I wish to register my support for regulations requiring the use of Best Available Technology to limit the emissions of carcinogens in the Kanawha Valley.

The chemical industry has presented several arguments against BAT. I would like to address some of them.

We are told that voluntary reduction in emissions has, in the past, been effective. In fact, actual measurements of toxics by the APCC have been found not to fully document the estimates made in existing emission inventories; this was one of the key reasons for proposed mandatory regulation. Although it is evident that some major reductions have occurred, it is also clear that some emissions are higher than previously known, and that changes in the Belle and Institute areas may soon lead to increased emissions. It must be presumed that members of the commission are aware that the APCC staff is insufficient to conduct a full investigation of the guesswork that goes into the construction of emission inventories. The commission must also be aware that some of the 14 targeted carcinogens in this regulation have no scientifically valid method of detection available. The CLAIM of reduced emissions is therefore open to challenge.

We are told that the chemical industry is already over-regulated. In fact, regulation over toxic air emissions is almost nonexistent. The EPA has left air toxics regulation to the States, claiming that local regulators can best assess the needs of their areas. The chemical industry, while favoring this approach, has successfully lobbied the West Virginia legislature to write a statute relieving them of state regulations where these are more demanding than those required by the EPA. This does not speak to situations where the EPA has no regulations. Nor does it address situations where regulatory authority has been deliberately left to the states. Yet the industry claims otherwise. It is nothing less than hypocrisy for the industry to claim it is already over-regulated in an area where it has very astutely moved to insure that no one will take the authority to regulate.

It is of the utmost significance that the EPA has itself suggested that the APCC adopt this regulation. The EPA has found it very difficult to develop reasonable emission standards for air toxics, despite considerable congressional and public pressure. Its screening study has shown, however, that the 14 carcinogens targeted under this regulation pose a significant health threat to this area. Lacking the ability or the will to act on its own with respect to air toxic hazards, it has suggested that West Virginia pioneer this regulation. It has acknowledged that there is a danger and has asked the APCC to act upon it. Failure to act by the APCC would mean abdication of responsibility at both national and state levels and the loss of any effective regulation

whatsoever. The chemical industry would be free to "regulate" itself.

If the APCC does not adopt an effective regulation over control technology, citizens must assume either that the APCC disagrees with the EPA's claim that there is a problem, or that the APCC has an adequate substitute for this regulation. It is difficult to imagine what the substitute would be, unless it involved the establishment of actual emission standards which the EPA has not been able to develop as well as effective means for measuring actual quantities of of toxics in the atmosphere. It must be repeated that the APCC staff is not adequate for conducting full-scale measurements. Moreover, there is not complete scientific consensus about how to measure some of these carcinogens.

Industry has argued that each company should be able to negotiate an independent compliance schedule based upon economic factors. They argue against a broadly conceived regulation that would apply equally to all plants. It must be emphasized that one of the key purposes of a regulation is to establish a level playing field for everyone. Every plant should be required to measure the effectiveness of its own control technology against other technologies across the nation. Independent compliance schedules tied to each plant's particular economic needs would establish endless exceptions to this rule, defeating the very reason for its existence. My health, and the health of this community, should not have to depend upon the profit margins of individual corporations.

It is important to acknowledge that we now have, compliments of the EPA's study, a scientifically valid estimate of risk. It is only reasonable at this stage to ask every plant to shoulder the costs necessary to adopt the best technology available to lower that risk. It is <u>not</u> reasonable to suggest that a less effective technology is allowable whenever a plant claims it lacks the economic capacity to be as safe as other plants. Nobody suggests that the chemical products of some of these companies can pose greater health risks than the products of competing companies, simply because their balance sheet looks bad. Nor does anybody suggest that less care can be exercised by some firms with respect to automobiles, aircraft, or foodstuffs because existing levels of safety or health are more economically burdensome for them than their competitors.

I believe that many companies in the Kanawha Valley have acted responsibly; several have clearly reduced emissions, and deserve commendation for doing so. Nonetheless, their opposition to this regulation is unreasonable. To date, the APCC has heard largely from the chemical industry. I can only hope that it will remember that its primary responsibility is to those of us who must breathe the

carcinogens emitted by this industry.

I urge the APCC to adopt BAT as soon as possible. Dilution of this regulation, or its abandonment, would be a fundamental abdication of responsibility to the community.

Gerald E. Beller
Member, People Concerned
About MIC

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

MAY 31 1989

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

Dear Mr. Farley:

This is an additional follow-up of my letter of May 16, 1989. In it, we stated that the AirRISC support group at OAQPS is analyzing the information on formaldehyde and methylene chloride which was provided by industry. EPA's analyses have been completed and are herewith provided as enclosures of this letter.

As you will note in the enclosed, the bottom line is that there are no plans to alter the carcinogenicity classification of either of the above substances. This conclusion was arrived at by the Office of Pesticides and Toxic Substances for formaldehyde and by the Office of Research and Development for methylene chloride to whom AirRISC referred this matter.

In response to Item 5 of your original inquiry of March 16, 1989, we stated we would send additional material concerning New Jersey's regulation governing vapor leaks during barge loading operations. By this time, you should have received that information directly from the office of William O'Sullivan, Assistant Director, Air Quality Engineering and Technology.

It is my understanding that this completes the outstanding questions and concerns which you raised. However, if there is any additional help which we can provide, do not hesitate to contact us. Please feel free to call Israel Milner directly at (215) 597-9090.

Sincerely,

Thomas J. Maslany, Director
Air Management Division

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
RESEARCH AND DEVELOPMENT

MEMORANDUM

SUBJECT: Occidental Petrolium/HSIA Submission to State of West Virginia on Methylene Chloride

FROM: Lorenz Rhomberg, Ph.D.
Human Health Assessment Group
Office of Health and Environmental Assessment (RD-689)

TO: Dan Guth
Air RISC Co-Chair
Office of Air Quality Planning and Standards (MD-15)

THRU: Charles Ris
Acting Director
Human Health Assessment Group
Office of Health and Environmental Assessment (RD-689)

This memorandum is in response to your request for a statement of EPA's position on the carcinogenicity of methylene chloride, especially in view of a Halogenated Solvents Industry Alliance White Paper on this chemical that was submitted to the West Virginia Air Pollution Control Commission by the Occidental Chemical Corporation.

The May 1987 HSIA White Paper on Methylene Chloride argues against the carcinogenicity of this compound on three grounds: pharmacokinetic differences between mice and humans, doubts about the relevance of the mechanism of tumorigenesis in animals to humans, and epidemiological findings in exposed industrial workers. EPA has considered all of these arguments in a document entitled "Update to the Health Assessment Document and Addendum for Dichloromethane (Methylene Chloride): Pharmacokinetics, Mechanism of Action, and Epidemiology," [EPA/600/8-87/030A]. The conclusion is that no change in the classification of methylene chloride as a B2, Probable Human Carcinogen is warranted at this time. Although this document is currently in the draft stage, it has been reviewed by EPA's Science Advisory Board, and represents the Agency's latest statements on methylene chloride carcinogenicity.

Briefly, the pharmacokinetic differences cited by HSIA are quantitative rather than qualitative--they do not alter the

weight of evidence of the compound's carcinogenicity, but do affect the expected degree of risk for humans exposed to low doses. The EPA Update document takes these pharmacokinetic differences into account, lowering the unit carcinogenic risk by about nine fold to 4.7×10^{-7} per ug/m^3 breathed for a lifetime.

EPA found no grounds to reject the relevance of the animal tumors to the case for methylene chloride's potential carcinogenicity in humans. Humans have cells in their lungs biochemically and histologically similar to the mouse Clara cells. The mouse liver tumors occurred in frequencies well above the levels that arise spontaneously in this strain, and analysis of the data shows that they clearly satisfy the criteria set out in EPA's Guidelines for Carcinogen Risk Assessment for relevance of such tumors to the weight of evidence.

As for the epidemiological evidence, the Update document notes that, owing to the limited size of the Kodak study, the lack of positive findings was not incompatible with the human risk levels projected from mice by EPA. Moreover, there was an increase in deaths from pancreatic cancer among these workers above the rate expected in the general population; although this result was not taken as clear positive evidence, it clearly prevents one from characterizing the Kodak studies as "negative." The HSIA White Paper also mentions a forthcoming update of an epidemiological study on triacetate fiber workers; a preliminary version of this update has recently been submitted to EPA and it shows a significant increase in liver and biliary cancers among these workers. At present, EPA has no plans to upgrade the weight of evidence for methylene chloride's carcinogenicity based on this preliminary result, but it certainly raises a red flag and would argue strongly against any possibility of downgrading the classification from its current B2 to C (possible human carcinogen).

In sum, the EPA has considered the arguments raised in the HSIA White Paper on Methylene Chloride, and continues to classify this compound as a B2, Probable Human Carcinogen.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 9 1989

OFFICE OF
PESTICIDES AND TOXIC SUBSTANCES

MEMORANDUM

SUBJECT: Status of Formaldehyde Risk Assessment

FROM: Charles Auer
Acting Director
Health and Environmental
Review Division (TS-796)

TO: Charles Ris
Acting Director
Human Health Assessment Group (RD-689)
Office of Health and Environmental
Assessment

The purpose of my memo is to respond to your request for assistance in providing the State of West Virginia with information on the characterization of cancer risks associated with human exposure to formaldehyde.

Du Pont raised a number of risk assessment issues in a document that was forwarded to West Virginia. Du Pont presented information on risk characterization views of some experts that are contrary to judgments made by EPA on the potential carcinogenicity of formaldehyde.

Du Pont has accurately presented arguments held by some technical experts that formaldehyde poses far less risk to humans than risks calculated by EPA. While not disagreeing that other interpretations of the epidemiological and laboratory animal data can reasonably be made, EPA, using a weight of evidence approach,

made an overall judgment that human evidence for carcinogenicity of formaldehyde is limited and the animal evidence is sufficient. In reaching a judgement on the classification and quantitation of risks associated with formaldehyde, OTS staff reviewed most of the information presented in the DuPont document. Information which has become available since preparation of the assessment of health risks document by EPA, such as the UAREP report, has also been reviewed by OTS staff. There is currently no effort underway in OTS to reclassify formaldehyde based on re-evaluation of data used to prepare EPA's health assessment document or based on evaluation of new information.

In summary, Du Pont's document does not present arguments against the current classification and quantification of risks associated with formaldehyde that would appear to warrant reconsideration of EPA's position at this time.

JOYCE COOPER
2511 Myers Avenue Dunbar, West Virginia 25064 (304) 768-3325

June 9, 1989

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

Dear Mr. Farley,

You are meeting on June 14 to consider Regulation 27 requiring application of Best Available Technology (BAT) for limiting emmissions of several cancer causing chemicals.

We have made much progress in the Kanawha Valley to reduce emissions of particulate matter and to reduce chemical dumping into the river. None of us, including the industries in the valley, would elect to return to conditions prevelant in the 50's.

But -- in order to provide the protection we have today -- those industries were dragged, kicking and screaming, into compliance. They still resist change that the people in this area, and the state, and the nation realize MUST come if we are to continue to live on this planet.

West Virginia has an opportunity to lead the rest of the country in protecting ourselves from a most dreaded disease. Ways will be found to finance any capital improvements needed to comply with Regulation 27. Business has done it, time and time again.

Our very lives hang on the quality of air we breathe and we know that, because of the "progress" we have adopted, we must pay the price for air that will support life.

I urge your vote for Regulation 27.

Yours truly,

Joyce Cooper

Joyce Cooper

June 10, 1989

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

RE: Proposed Regulation 27

Dear Mr. Farley:

I am writing on behalf of the Friends of Sleepy Creek, a non-profit association of Morgan County residents, to urge you and the other Commissioners to adopt Regulation 27 in its original form.

As you well know, high levels of acid rain continue to impact on the quality of our water, forests and lands in Morgan County. Requiring chemical plants to apply the Best Available Technology (BAT) for limiting emissions of cancer-causing chemicals makes good sense and would be a positive step in improving the air quality and reducing acid rain in Morgan County.

Sincerely,

E. Virgil Falloon

E. Virgil Falloon
Friends of Sleepy Creek
P.O. Box 42
Berkeley Springs, WV
25411

tele: (304) 258-4454

cc: Governor Caperton
Cleve Benedict
Norm Steenstra

1278 DOGWOOD AVENUE
MORGANTOWN, WV
JUNE 10, 1989

Dear Mr. Farley:

As a concerned citizen, I urge you and the Commissioners to adopt regulation 27 in its original form.

I feel that all chemical plants ought to operate by the same standards when it comes to the health and safety of plant neighbors.

Sincerely,
Frank Marino

Dear Mr. Tarley

I understand on June 14th the W. Va Air Pollution Control Commission will meet to consider regulations requiring the application of Best Available Technology for limiting emissions of 14 known cancer causing chemicals.

I am sure that the majority of the public are unaware of this event. We must there fore depend on responsible men such as yourself to make decisions that are in the best interests of the citizens of W. Va.

I urge you to consider implementing regulations to force industry in adopting best Available technology when discussing toxic air bourne chemicals.

Sincerely
Lou Schmidt

8 June, 1989

Eva Mullins
958 Leslie Rd.
Charleston, W. Va.
25314
(304) 343-9509

Dear Mr. Farley,

I am a concerned citizen with three children. We live in the Kanawha Valley with several chemical plants around us.

I am writing to you in response to a letter I received today from Mark Steenstra of the Citizen Action Group. Her letter was very informative to me. For instance, I was under the false impression that a out of company agency was monitoring and reporting toxic air emmissions, not the chemical company itself.

I do understand that West Virginia needs to grow economicly for the added revenue, but if we must use this added revenue in the future for health care services for people suffering from problems caused by these chemical emmissions then we are going backwards not forward in economic growth.

Also another point is that it will take years for the chemical companies to comply with the new regulations. Time is running out!

So please for the future of all of us and our children Mr. Farley adopt "Regulation 1.27" in its original form.

June 10, 1989

To: Mr. G. Dale Farley, Director
W.Va. Air Pollution Control Commission
1558 Washington St. E.
Charleston, WV 25311

From: Warren Mock
Rt. 12 - Box 351
Morgantown, WV 26505

Topic: Adoption of Regulation 27 in its original form

It is my judgement that our State should adopt the Best Available Technology in an effort to monitor and control industrial emissions of cancer causing toxins into our air.

The previous State administration proposed the construction of more coal fired electric generating plants for our State. Governor Caperton has indicated strong support for this program. I'm convinced that this desire to create a greater demand for coal in this way is not tied to adequate environmental planning to parallel the development.

On June 9, 1989, President Bush indicated he will propose strong amendments to the 1970 Clean Air Act. The US Environmental Protection Agency has indicated it supports the Best Available Technology to monitor and control toxic air pollution.

I urge you to adopt Regulation 27 in its original form as a protection of the purity of our air and our health.

Sincerely
Warren Mock

RICHARD S. diPRETORO
GEOLOGIST & SURVEYOR
264 HIGH STREET
MORGANTOWN, WV 26505
(304) 296-8963

June 9, 1989

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

Dear Mr. Farley:

Several years ago, I helped organize a public gathering in New Martinsville at which the topic of toxic air pollutants was discussed. A representative of a local chemical company attended and when asked by the invited speaker how the speaker had done in presenting the facts of the situation, the representative said the speaker had done badly. We pressed the representative to tell us how much and what chemicals his company was putting in our air. He refused to give us any answer. The logical conclusion was that either they didn't know what and how much they were putting in the air or they did know and they wouldn't tell us because legally they didn't have to.

I understand that the Commission will soon be considering adopting Regulation 27 requiring application of Best Available Technology for limiting emissions of 14 cancer-causing chemicals into air.

I am writing to urge you and the Commission to adopt Regulation 27 in its original form. The federal government has failed to act in this vital area and State of West Virginia has a chance to move boldly and be a leader in protecting its citizens.

As you probably gather from the above anecdote, I don't believe most companies will apply BAT unless they have to. Any companies conscientious enough to do so in the absence of regulation put themselves at a competitive disadvantage and therefore, the requirement of the use of BAT must be required by law as a floor under the performance of all companies.

Sincerely,

Richard S. diPretoro

Richard S. diPretoro

P.O. Box 33
Oak Hill, WV 25901

June 9, 1989

G. Dale Farley
The West Virginia Air Pollution Control Commission
1558 Washington Street, E.
Charleston, WV 25311

Dear Mr. Farley,

I am writing out of a concern for my home state of West Virginia. Home is the operative word here. West Virginia is home to many important industries, but it is also home to people, people who believe that they have a right to breathe clean air.

I hope that you and the Commissioners take the initiative and adopt Regulation 27 in its original form.

Thank you in advance for taking care of our air.

Sincerely,

Alexis Gannon

Alexis Gannon

1019 2nd St. West
Huntington, W.V. 25701
June 10, 1989

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

Dear Mr. Farley:

I am writing you to express my support of Regulation 27 which deals with the issue of Best Available Technology (BAT) for limiting emmissions into the air from industrial settings.

I realize that the legislation may meet with some resistance from various members of the industrial sector due to the required capital expenditure and operational costs of equipment needed to comply with this regulation. I propose however that this may be a unique opportunity for the State of West Virginia to develop specific criteria on air quality control prior to intervention into this matter by

the federal government. In the long run I believe that a prudent and reasoned approach to this matter will in fact have a tendency to attract industry to this state. It cannot be argued that an effective air pollution control program would give our state a unique advantage in providing a clean wholesome environment for our current citizens and those whom we hope to attract to our state.

I have given this matter much consideration and believe that action at this time would, in a reasonably short period of time, benefit the state both financially and environmentally. I therefore again offer my strong support for this proposal and would ask your serious consideration to the same.

Sincerely,

Margot Durbin Morris

MARGOT DURBIN MORRIS

June 9, 1989

Dale Farley, Director
The WV Air Pollution Control Commission
1558 Washington St. E
Charleston, WV 25311

Dear Mr. Farley,

I am writing this letter to encourage you and the Commissioners to adopt Regulation 27 in its original form. It is my understanding that Regulation 27 would require all chemical plants in the Kanawha Valley to submit proof to APCC that they are utilizing the best available technology to limit emissions of cancer-causing chemicals as identified in the EPA study conducted in 1987.

Since moving to West Virginia 3 years ago I have become increasingly concerned about the long-term impact of living in this valley. It came as a rude surprise to learn that the release of toxic chemicals into the air is unregulated for the most part, at the present time. Since I had a child last year, I am even more concerned about how these chemical emissions are affecting (and will affect) his health. I am a child psychologist and have worked with several children with cancer. This is a devastating illness that no person, big or little, should ever have to endure. If through the passage of legislation and adoption of appropriate regulations we can make even a small difference in the occurrence of this life-threatening disease, it will have been worth it.

Sincerely,

Holly Cloonan

Holly A. Cloonan, Ph.D.

People Concerned About MIC

P. O. Box 423, Institute, WV 25112

STATEMENT RE: Regulation 27 - "To Prevent and Control the Emissions of Toxic Air Pollutants"

As a thirty-year resident of Institute, West Virginia and as co-chairman of People Concerned About MIC, I wish to register unequivocal support for the use of Best Available Technology to prevent and control the emissions of toxic air pollutants.

Given the recent results from SARA Title III reporting requirements showing that "unacceptably high" (EPA quote) airborne toxic waste pollutes the national air and given the results of local studies which indicate that Kanawha Valley plants produce air emissions which cause relatively high long-time health risks, it is both morally and pragmatically proper for the Commission to support Best Available Technology.

Although the chemical industry insists there is no proof that chemicals are a serious threat to health, there is substantial research which indicates that persons who live in rural or "clean air" areas are less sick than those who live in chemically polluted areas.

In specific reference to the proposed regulation--

1. The APCC cut-off levels of toxic air pollutants (3.1) should be maintained in lieu of the higher cut-off levels proposed by manufacturers.

2. Every chemical/industrial company must be held equally accountable for using Best Available Technology. The risk of allowing a prolonged period for some to "correct the problem" is unacceptable when the protection of life is a priority. Across-the-board accountability will signal that the environment can no longer afford a "free lunch" for industry.

3. BAT provides the chemical/industrial world a rich opportunity to stop the gross degradation of the environment and thus try to undo some of the ecological harm that has been done.

As we learn more and more of the consequences of environmental degradation, the more urgent is the public's will to work toward a clean life-supporting environment and a healthier workplace.

Further, the public is aware that EPA approves of the KVAPCC's proposal to regulate more stringently toxic air emissions. In the absence of equivalent EPA protection, the State has a responsibility to approve a regulation(s) which will provide protection of human health and welfare, plant and animal life and property as set forth in West Virginia Code 16-20-1.

Therefore, on behalf of West Virginia citizens, born and unborn, the APCC is urged to carry out its responsibility of protecting, through regulations, their health and safety from chemical toxicants which enter the air routinely and/or furitively from both large and small industries. APCC approval of Regulation 27 will demonstrate its accountability not only to West Virginians but also to citizens of the world.

Mildred Holt

Mildred Holt, Co-chairman
People Concerned About MIC

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

WEST VIRGINIA DIVISION

722 Chappell Road
Charleston, WV 25304
June 9, 1989

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

Dear Mr. Farley:

As a member of this organization which is concerned about pollution and as a private citizen, I urge you and the Commissioners to adopt Regulation 27 in its original form.

When I moved to Charleston in 1967, I could not see the sun at noon through the smog, haze, smoke, and pollution. Thank God I had the opportunity to move to Point Pleasant for two years; there I brought my older child into the world where we could see and breath blue sky or gray clouds, stars or black night. The only questionable odor came from the "natural" fertilizer of nearby fields.

West Virginia has the opportunity--YES, CHALLENGE!!--to become progressive and to lead the way regarding air pollution standards. Civilization has reached its high noon: it must value human and earthly resources above profit. What good is economic growth if it debilitates or annihilates the local population--or contributes to the demise of flora and fauna hundreds of miles away?

I implore the West Virginia Air Pollution Control Commission to establish the Best Available Technology (BAT) toward limitation and control of air emmissions. Adopt Regulation 27.

Sincerely,

Shirley Randolph

Shirley Randolph
President-elect West Virginia Division
American Association of University Women

People Concerned About MIC

P. O. Box 423, Institute, WV 25112

STATEMENT RE: Regulation 27 - "To Prevent and Control the Emissions of Toxic Air Pollutants"

As a thirty-year resident of Institute, West Virginia and as co-chairman of People Concerned About MIC, I wish to register unequivocal support for the use of Best Available Technology to prevent and control the emissions of toxic air pollutants.

Given the recent results from SARA Title III reporting requirements showing that "unacceptably high" (EPA quote) airborne toxic waste pollutes the national air and given the results of local studies which indicate that Kanawha Valley plants produce air emissions which cause relatively high long-time health risks, it is both morally and pragmatically proper for the Commission to support Best Available Technology.

Although the chemical industry insists there is no proof that chemicals are a serious threat to health, there is substantial research which indicates that persons who live in rural or "clean air" areas are less sick than those who live in chemically polluted areas.

In specific reference to the proposed regulation--

1. The APCC cut-off levels of toxic air pollutants (3.1) should be maintained in lieu of the higher cut-off levels proposed by manufacturers.

2. Every chemical/industrial company must be held equally accountable for using Best Available Technology. The risk of allowing a prolonged period for some to "correct the problem" is unacceptable when the protection of life is a priority. Across-the-board accountability will signal that the environment can no longer afford a "free lunch" for industry.

3. BAT provides the chemical/industrial world a rich opportunity to stop the gross degradation of the environment and thus try to undo some of the ecological harm that has been done.

As we learn more and more of the consequences of environmental degradation, the more urgent is the public's will to work toward a clean life-supporting environment and a healthier workplace.

Further, the public is aware that EPA approves of the WVAPCC's proposal to regulate more stringently toxic air emissions. In the absence of equivalent EPA protection, the State has a responsibility to approve a regulation(s) which will provide protection of human health and welfare, plant and animal life and property as set forth in West Virginia Code 16-20-1.

Therefore, on behalf of West Virginia citizens, born and unborn, the APCC is urged to carry out its responsibility of protecting, through regulations, their health and safety from chemical toxicants which enter the air routinely and/or furitively from both large and small industries. APCC approval of Regulation 27 will demonstrate its accountability not only to West Virginians but also to citizens of the world.

Mildred Holt

Mildred Holt, Co-chairman
People Concerned About MIC

Mary Louise Palmer
653 SIXTH STREET • NEW MARTINSVILLE, WEST VIRGINIA 26155

June 10, 1989

G. Dale Farley
The W.Va. Air Pollution
Control Commission
1558 Washington Street, E
Charleston, WV. 25311

Dear Sir:

In this Ohio Valley area, the pollution is so bad one can barely see the hill across the Ohio River.

Surrounded by Ormet-Omal, PPG and Mobay Chemical Industrial complexes, New Martinsville is located just 5 miles South of these sites. I have quit the Jackson-Perkins Test Rose Research Program, since after each foggy night the rose petals look black as if burned.

The incidence of Cancer among our young friends and neighbors is astronomical. Please help contain this creeping death that attacks us. As one former employee of Mobay Chemical stated: "It is not what one sees coming from the plant stacks, it is the unseen."

Please instigate the Best Available Technology for pollution control. Thank you.

Sincerely

Mary Louise Palmer

Mary Louise (Mrs. J.Carl)Palmer
WVGCI Litter-Con/Consumer-ed,Ch

Martha Huffman
1136 - 4th St
New Martinsville, WV 26155
(304) 455-5206

West Virginia Air Pollution Control Commission
1558 Washington Street, E.
Charleston, WV 25311
Attn: G. Dale Farley

June 10, 1989

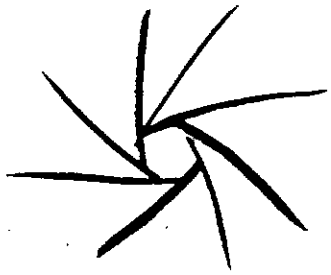
Dear Mr Farley:

I'm writing to urge you to adopt Regulation 27 in its original form. Since admittedly both the state of West Virginia and the EPA have neither the manpower nor funding to adequately monitor industry, the only way to protect the health and safety of the public is to require the best available technology be used by industry.

I realize that industry will claim that to adopt such technology will present an economic hardship. The potential liability expenses these same companies could incur must also be factored in. Pollution prevention is always less expensive than pollution clean up. When the cost is measured in human lives, the urgent need for industry using the best available technology is only underscored. Please adopt regulation 27 in its original form. Thank you.

Sincerely,
Martha Huffman

Chuck Wyrostok



Clay Rt. Box 89-C
Spencer, WV 25276
304-927-3237

June 10, 1989

G. Dale Farley
West Virginia Air Pollution
Control Commission
1558 Washington St. E.
Charleston, WV 25311

Dear Mr. Farley and Fellow Commissioners:

I'm writing to you on behalf of my family and many of my friends in Roane County to urge you to adopt Regulation 27 (in its original form) requiring the application of Best Available Technology to limit emissions of toxins by chemical companies. We believe these companies, with few exceptions, have shown disregard for citizens' health in the past and that we as present stewards of our land, air and water would do well to make sure that our children and their children will inherit a West Virginia that is even more habitable than it is now.

You are all in a unique position to set the tone of environmental standards both here and in other states. I know we don't want to scare industry off, but what good is a healthy economy if you can't drink the water or breathe the air?

Sincerely,

Chuck Wyrostok

4406 Venable Ave SE
Charleston, WV 25304
June 10, 1989

G. Dale Farley
Air Pollution Control Commission
1558 Washington St. E
Charleston, WV 25311

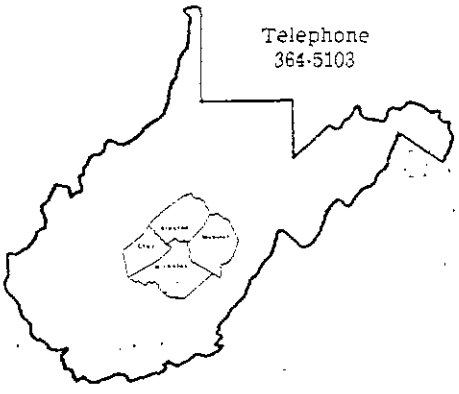
Dear Mr. Farley;

I am writing to urge the Commission to approve Regulation 27 in its current form, without any weakening amendments. It provides an excellent opportunity for West Virginia to assert its responsibility to regulate toxic chemical emmissions in the face of EPA inaction. Further, this proposed regulation elevates standards for all chemical companies, not just those (such as Dupont) acting on their own initiative.

There is an additional benefit accruing from this regulation beyond protecting the health of West Virginians. It will set an example for other states to emulate. As a state, we don't have many opportunities to set the pace for the nation. Regulation 27 gives us that chance.

Sincerely,

Conni Lewis



Telephone
364-5103

ELK
SOIL CONSERVATION DISTRICT

Monongahela Power Co. Bldg.
Elk River Route
Gassaway, West Virginia 26624

June 12, 1989

G. Dale Farley
WV Air Pollution Control Commission
1558 Washington Street E
Charleston, WV 25311

Dear Mr. Farley:

The Board of Supervisors of the Elk Soil Conservation District voted at today's meeting to support state regulations requiring the application of Best Available Technology, by adopting Regulation 27 in its original form.

An announcement by President Bush today stressed the application of Best Available Technology. The EPA has encouraged states to adopt regulations limiting emissions of toxic chemicals.

We feel it is very important to environmental control in West Virginia to require the application of Best Available Technology.

Please consider what is best for West Virginia. We urge your commissioners to adopt Regulation 27 in its original form.

Sincerely,

Bayward Butler

Bayward Butler
Chairman
Board of Supervisors

sh

cc: Com. Cleve Benedict

To: C. Dale Fieler

I am writing to express support for the APCC's consideration of implementing regulations with regards to industry using Best Available Technology for limiting emissions of hazardous chemicals.

If the current lack of regulation of many hazardous chemicals continues, our health and the health of our children will surely suffer. How long can we continue poisoning the environment? How many Bhopals must we see before we institute some controls to limit hazardous emissions.

BAT can be expensive, but if more of the profits of chemical and power industries were put to researching emission control technologies instead of lobbying against control regulations, certainly more progress could be made preserving our environment.

As a resident of this state and a publisher of a journal dedicated to covering environmental issues I urge you to work to pass Regulation 27 and other regulations relating to implementing BAT's.

Sincerely,

Doug Morris

Doug Morris
Publisher, Mountain Pathways

P.S. I will be adding the APCC on Mtn. Pathway's mailing list. Mtn. Pathways is a quarterly journal covering personal well being and social responsibility in WV.

93 DEC 13 AM 8:51

June 12, 1989

COMMIS PM 2:22

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

Dear Mr. Farley:

West Virginia needs the protection of Best Available Technology regulations for limiting carcinogenic emissions. I urge the commissioners of the West Virginia Air Pollution Control Commission to adopt Regulation 27 in its original form.

For years West Virginia industries have placed profit maximization above environmental safety and responsibility. For years federal and state regulatory agencies have been unwilling or unable to properly enforce existing environmental protection statutes. This dismal situation needs to change.

The people of West Virginia deserve to have clean air and water. The generations of West Virginians yet to be born deserve to inherit a state that can offer a high quality of life. Non-adoption or dilution of Regulation 27 is a statement that West Virginians deserve less than the best.

You are in a position to give us the best available protection. You are in a position to demonstrate environmental leadership to other states. You are in a position to help West Virginia evolve into an environmentally progressive state. Please take advantage of this opportunity and adopt Regulation 27 in its original form.

Sincerely,

Jim Tatterson

Jim Tatterson
Green Creek
Roane County

RHÔNE-POULENC AG COMPANY

June 14, 1989
HAND DELIVERY

L. Newton Thomas, Jr., Chairman
Cleve Benedict, Commissioner
Crede D. Douglass, Jr., Commissioner
David K. Heydinger, M.D., Commissioner
Samuel Kusic, Commissioner
Air Pollution Control Commission
1558 Washington Street, East
Charleston, West Virginia 25311

Gentlemen:

Enclosed for your consideration is Rhône-Poulenc Ag Company's Comments on Proposed Rule Series 27, Title 45 "TO PREVENT AND CONTROL THE EMISSIONS OF TOXIC AIR POLLUTANTS". For your convenience, we have enclosed eight copies of said comments.

Sincerely,

F. L. Boggs
Environmental Manager
Rhône-Poulenc Ag Company
Institute Plant

Enclosures

DRF:FLB/blh
1839H

INSTITUTE PLANT
P.O. BOX 2831
CHARLESTON, WV 25330

BEFORE THE AIR POLLUTION CONTROL COMMISSION

Rhone-Poulenc Ag Company's
Comments on
Proposed Rule Series 27, Title 45
"TO PREVENT AND CONTROL THE EMISSIONS OF
TOXIC AIR POLLUTANTS"

June 13, 1989
Charleston, West Virginia

Rhone-Poulenc Ag Company's Comments on
Proposed Rule Series 27, Title 45

"TO PREVENT AND CONTROL THE EMISSION OF
TOXIC AIR POLLUTANTS"

I. INTRODUCTION

A. The Institute Plant

Rhone-Poulenc Ag Company's ("Rhone-Poulenc") Institute Plant is a large chemical production facility located in Institute, Kanawha County, West Virginia. The Institute Plant manufactures a wide variety of agricultural and specialty chemicals in over twenty individual production units. These production units employ over 1500 persons and represent a huge capital investment. Rhone-Poulenc thus has a significant interest and stake in regulatory programs which will substantially affect operations at the Institute Plant such as the Commission's recently proposed rule "To Prevent and Control the Emissions of Toxic Air Pollutants."

The Institute Plant takes pride in having worked with the Commission to voluntarily reduce air emissions. Indeed, as at least some of the Commissioners are aware, Rhone-Poulenc recently became the first company in West Virginia to agree to install Best Available Technology ("BAT") control devices on one of its production units. This agreement alone will require capital expenditures in the amount of $3.5 million and result in removal of greater than 99% of the chloroform formerly emitted from this unit. Rhone-Poulenc has also recently cooperated with the West Virginia Manufacturers Association (WVMA) in developing a proposed voluntary emissions reduction program for chemicals of concern identified by the Commission's Director.

In April 1988, the WVMA submitted to the APCC a position paper summarizing suggestions for a voluntary emission reduction program. Again, in October of 1988, the WVMA submitted to former Director Beard and to the Commission a comprehensive program for utilizing BAT to reduce emissions of these specified chemicals. To Rhone-Poulenc's knowledge, though, the WVMA has never received a response to this proposal.

Rhone-Poulenc is disappointed that the WVMA's proposal was rejected without comment. Instead, a proposed Rule Series 27 was filed with the Secretary of State's Office on October 28, 1988. Thereafter, the Commission declined to adopt the regulation after it held hearings and accepted comments. The Director has since rewritten the regulations. Commendably, the Director appears to have responded to many of the technical suggestions offered by the manufacturing community.

Nonetheless, the newly proposed regulations still contain many confusing and unworkable concepts as Rhone-Poulenc notes below. More importantly, though, the fact that these regulations have been re-proposed at all is disappointing in light of the WVMA's offer to voluntarily reduce emissions.

Rhone-Poulenc continues strongly to endorse the voluntary program proposed by the WVMA. The WVMA members spent much time developing this program and in obtaining the agreement of all facilities which emit the chemicals listed in the proposed regulation to agree to commit to the program. Rhone-Poulenc believes that the Commission should meet with members of both the WVMA and the Director's staff to explore this concept before any further regulatory initiatives are advanced. A history of both this proposal and concerns with air toxics in the Kanawha Valley serves to place this novel effort in perspective.

B. History of Air Toxics Studies and Initiatives

Since 1984, major reductions in air emissions have been accomplished through voluntary cooperation with the APCC. The philosophy driving these reductions was primarily one of reducing the maximum volume of emissions per dollar spent in reduction equipment.

Effort now needs to be directed toward reducing emissions of specific chemicals that have known or suspected health risks. The EPA has targeted 14 chemicals that it feels would fit into this category, and have completed a study on those chemicals in the Kanawha Valley.

The EPA Air Toxics study attempted to predict additional cancer risk associated with predicted emissions of these 14 chemicals. EPA used a computer model to predict the concentrations of these chemicals in the air adjacent to the plants assuming wind velocity and direction and utilizing the 1984 air emissions inventory supplied by the plants to the APCC. The computer model predicted "hot spots" where the concentration was predicted to be the highest. They then assumed that an individual was exposed to this "hot spot" concentration for 70 years continuously and then predicted from lab animal exposure data what the added risk might be to humans. In the written and oral reports, the EPA emphasized that the results were questionable due to the new, unproven methodology used, the liberal assumptions made, and that in fact the added risk could be zero.

Of the 14 chemicals studied only six indicated additional risk associated with these emissions. They were butadiene, ethylene oxide, chloroform, acrylonitrile, methylene chloride, carbon tetrachloride.

Following the EPA study, Harvard University (under contract to NICS), completed a similar study except that the methodology used was modified to use actual measured levels of the targeted chemicals in the air surrounding the plants. This study predicted that the incremental risk associated with these actual concentrations was small compared to the total cancer risk for known causes.

In 1979, NIOSH undertook a comprehensive epidemiology study of 30,000 chemical workers employed from January 1, 1940 through December 31, 1978. Exposure levels in this worker group were grossly higher than today's levels. After 10 years of careful study of death certificates and correcting for all known variables, only one type of cancer associated with vinyl chloride exposure was identified as a potential problem. Vinyl chloride is no longer present in the Kanawha Valley.

Even though the information available to us today does not indicate a major concern, Rhone-Poulenc agrees that the reliability and accuracy of the methods at our disposal to do this kind of investigation has limitations and we therefore agree that it would be prudent to reduce those suspect chemicals to the lowest practical levels.

We should be concerned about reductions in the total amount of air toxic emissions -- not in how industry goes about making those reductions. The industry has offered a plan which Rhone-Poulenc feels meets the goal of reduced emissions of toxic air pollutants more effectively, more quickly, and in a way which is least costly to industry.

The chemical industry is completely committed to going ahead now to reduce toxic air pollutants. Significant reductions can be achieved through voluntary controls at reasonable costs. Again, reduction of overall emissions should be the goal, targeting the most effective means as a priority. Trying to control very small releases rather than dealing with the plant as an entity is contrary to good environmental practices in our view. We want to be able to make the greatest positive impact possible with our environmental dollars. To get the best results for investments made, managers should be allowed to evaluate and develop control strategies on a plant-wide basis. This methodology is termed the "bubble" concept.

Implementation of the WVMV's program would quickly bring about reductions in a cost effective manner, while giving full attention to the protection of health and the environment.

Below are some of the highlights of the plan:

1. We should consider economic, energy, environmental and non-air quality related impacts in deciding

what the best available control technology (BACT) should be in a given situation. For existing sources, we also should consider the remaining useful life of the facility and the technological difficulties and economic impacts associated with retrofitting.

2. Control technology should be applied on a plant-wide "bubble" basis to allow flexibility in addressing practical control problems, yet providing significant overall emissions control.

3. A program would be developed by each industrial participant and submitted to the APCC as part of its BACT plan that would insure continued compliance with this program.

4. An advisory council called the Scientific Advisory Board should be appointed to advise and consult with the APCC, and to recommend additions to or deletions from the covered pollutants list.

5. Within 12 months of the effective date of the program, participating facilities would delineate a reduction program and an implementation schedule to the agency.

6. A 10-year protection period would apply within which further controls or retrofit would not be required after implementation of the agreed upon program.

7. In the case of control malfunctions resulting in excess emissions, operators would be required to report the circumstances to the APCC.

8. Minimum quantities of emissions should be established and all facilities with emission rates greater than these minimums would be subject to the program.

9. Specific guidelines for determining best available control technology should be part of the program.

The Environmental Control Committee and the Chemical Industry Committee of the West Virginia Manufacturers Association (WVMA) have been actively participating in the deliberations of the Air Pollution Control Commission and its staff in the consideration of appropriate controls on toxic air pollutants. We are pleased to note that the APCC's revised Proposed Regulation 27 has incorporated several of our suggestions. We are gratified that the Commission is engaging in ongoing dialogue with the public and industry on these issues. However, we continue to believe that implementation of a full-scale voluntary program is the best and fastest solution to this problem, and we encourage the Commission to pursue such a program, in lieu of Regulation 27.

II. REVIEW OF SPECIFIC PROPOSED REGULATORY SECTIONS

Rhone-Poulenc generally supports the comments that the WVMA is offering on the APCC's latest proposal, and in addition offers the following specific comments.

Section 2 Definitions

§2.3 Definition of Best Available Technology ("BAT")

Rhone-Poulenc believes that this definition is an improvement over the previous draft because it provides appropriate recognition of the types of criteria which should be applied to existing processing units. Nonetheless, Rhone-Poulenc believes that the definition would be further improved by adoption of the definition as contained in the WVMA's most recent proposal.

Rhone-Poulenc is troubled by the requirement that BAT for new units will apply also to "modified" units because no definition of "modification" exists in the proposed regulations. Rhone-Poulenc believes that if Regulation 27 is to protect the investment that the chemical industry has in existing facilities then the "modifications" to units which would trigger application of the BAT emissions limitations for new (as opposed to existing) facilities must be defined quite narrowly. Otherwise, minor modifications to existing units will trigger BAT for new facilities and either greatly increase costs and/or cause shutdowns of existing facilities.

§2.4 Definition of Chemical Processing Unit

Is this definition intended to include drums, plant laboratories and lab sample bottles? If so, then it is unnecessarily broad.

Section 3 Chemical Processing Units

§3.1 Prohibition on Operations of Units Without BAT

This section imposes a requirement that except as provided in §3.3 no one may discharge more than certain levels of toxic air pollutants from a unit unless the unit is "equipped and operated with BAT to control emissions . . . ." This requirement is confusing in light of §2.3 which defines BAT in terms of an <u>emissions limitation</u>. It is unclear whether the APCC intends either to require that units comply with <u>emissions limitations</u> that are derived from an examination of the limitations achievable by application of certain technology <u>or</u> to require that dischargers install certain technology.

Section 3.1 also sets certain de minimis emissions rates for the 14 chemicals of concern below which the proposed regulations would not apply. These de minimis levels, though, are extremely low. The Manufacturers' Association previously has supplied the Director with proposed de minimis levels for 13 of the 14 chemicals of concern (excludes allyl chloride) as part of its Program for the Voluntary Control of Potentially Harmful Pollutants. Rhone-Poulenc understands that the levels previously proposed by the WVMA were supplied by the Chemical Manufacturers Association ("CMA"), a national trade group, based upon its extensive air modelling data. The WVMA has since, in its most recent comments, suggested alternate de minimus levels. Rhone-Poulenc strongly supports use of one of the WVMA's proposed levels.

§§3.2 and 3.3 Application of De Minimis Levels and Exemptions for "Very Small Sources"

These sections provide that if any single unit emits more than the levels listed in §3.1 or if a plant emits an aggregate of 10,000 lbs/yr or more even if no single unit exceeds the listed amounts then all units emitting one of the 14 chemicals are subject to BAT even if these other units emit less than the levels listed in §3.1. The only exception is for "very small sources" which emit less than 50% of the amounts listed in §3.1. This exemption is only available upon a showing that the small sources do not have an adverse affect on public health.

Rhone-Poulenc maintains that the de minimis levels advanced by the WVMA are already protective of public health and that no additional showing should be required for units discharging less than such levels.

§3.4 Instrumentation and Recordkeeping

This section requires proper instrumentation "to alert the operator of process upsets, leaks, and other discharges of toxic air pollutants into the air . . . ." Rhone-Poulenc believes that the intent of this section is to track episodic releases of toxic air pollutants, but on its face the language of this section would require constant monitoring for all, including normal and anticipated, emissions. Additionally, the language would appear to require constant monitoring of fugitive as well as of stack releases. This is entirely infeasible as in many cases instruments will be neither possible nor economically justifiable. Rhone-Poulenc supports the revision of this section offered by the WVMA.

Section 4 Fugitive Emissions of Toxic Air Pollutants

§4.1 Application of BAT to Fugitive Emissions

Rhone-Poulenc appreciates that the Director has re-written an earlier proposal which imposed even more stringent limitations on pump, compressor valve and flange design. Nonetheless, the newly proposed regulation is unclear, and can be read to impose the National Emissions Standard for Equipment leaks (Fugitive Emission Sources) to equipment leaks of all 14 chemicals addressed by the proposed rule-making even though the federal NESHAP for equipment leaks applies only to equipment in volatile hazardous air pollutant ("VHAP") service. Most of the 14 chemicals in the proposed rule are not considered VHAPs under 40 C.F.R. §61.241 and therefore not subject to the NESHAP for equipment levels. The NESHAP standards which the APCC intends to apply to chemicals to which the NESHAPs do not apply at the federal level do prescribe specific methods of compliance (such as particular equipment). Therefore, the proposed rule will violate the provision of the state law that prohibits the APCC from prescribing a "particular method of compliance except as specifically required by the Federal Clean Air Act" (W.Va. Code §16-20-5(4)).

In addition, federal regulations at 40 C.F.R. Part 60 Subpart VV establish performance standards for equipment leaks of volatile organic chemicals in the synthetic organic chemicals manufacturing industry. To the extent that the federal VOC regulations are applicable to the 14 chemicals and the proposed state regulations are more stringent than the federal VOC regulations, the proposed state regulations violate the state prohibition on measures which are more stringent than applicable federal measures.

Additionally, it is unclear whether this section would be limited to equipment which might contain 10% or more by weight of the toxic air pollutants in the same manner as is the NESHAP for equipment leaks (See 40 C.F.R. §§60.485(d)(1) and 61.241 (1988)).

Section 5 Tanks

§5.1 Working and Filling Losses from Tanks to be Routed To BAT Control Devices

Again, this regulation appears to require the use of specific devices in contravention of W.Va. Code §16-20-5(4) rather than to require that certain emission limitations be achieved. More importantly, though, the exemption process for "very small sources" will be particularly cumbersome as it relates to tanks.

Section 6 Wastewater from Chemical Processing Units

§6.1 Process Units and/or Wastewater Treatment Systems Shall Employ BAT

This section requires use of BAT at the source of wastewater from production units and/or at wastewater treatment plants to prevent air stripping of toxic air pollutants. This section apparently is intended to allow a facility the opportunity to achieve BAT emission levels for emissions from wastewaters at various places in the facility. However, the regulation is somewhat vague and could be read to require use of BAT at both a process unit and a wastewater treatment unit even if BAT at the process unit removed a percentage of toxic air pollutants from wastewaters exceeding BAT levels.

§6.2 Quantification of Facility Emissions Includes Air Stripping at Wastewater Treatment Units

The wording of this section is unclear. If it is intended to provide that air stripping and evaporation of air toxics should be included in quantifying emissions, then it should say so in the same language as used in §6.1. Additionally, this section provides no objective guidance for calculating emissions from air stripping except to say that calculations shall be by "a method approved by the Director" or shall be based on an assumption that all amounts of the listed chemicals which are present in wastewater are emitted to the air. The second alternative is not based on good science or common sense.

§6.3 Exemptions

Rhone-Poulenc wholeheartedly endorses the allowance of exemptions as set forth in this section.

Section 7 Loading and Unloading Barges, Railcars and Tank Trucks

This section requires BAT to prevent discharges during loading/unloading. Suppose a facility brings 98% of its material in by barge and only 2% by truck. Is a waiver then available under §3.3 from BAT requirements for trucks provided that this source emits less than 50% of the levels listed in §3.1? Rhone-Poulenc endorses revision of this section as proposed by the WVMA.

Section 8 Registration

§8.1 Registration Required of All Units

The Director should already have this information in his 1987 air emissions inventory.

Section 9 Permits

§9.1 Requirement of Permits for Construction, Modification and Relocation

As discussed above in response to §2.3, there is no definition of "modification" in these regulations. The definition used to trigger both the permitting and BAT requirements for "new" facilities must be substantially more narrow than the definition which exists in Regulation 13. Otherwise, almost all modifications will not only require a permit but also, and more importantly, trigger the BAT levels applicable to new facilities.

Section 10 Reports, Records and Testing

§10.3 Requirement of Written Records

The requirement to keep records for all pumps, compressors, relief valves, sampling connections and flanges will be enormously time consuming. There appears to be little purpose for this requirement.

§10.4 Release Reporting

This section would require reporting of any "accidental release, spill or emission of one (1) pound or more" of the regulated chemicals. This requirement is not on its face limited to releases to the air, but certainly should be. More importantly, though, even if this requirement is limited to air releases, it is more stringent than specifically applicable federal statutes and regulations under both the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") and the "Community Right to Know" provisions of the Superfund Amendments and Reauthorizations Act ("SARA").

The federal release reporting provisions require reporting of releases of a large list of substances whenever the amount released exceeds certain prescribed quantities. In some cases the "reportable quantity" is much larger than the one (1) pound prescribed in the proposed regulations. For example, the reportable quantity for methylene chloride is 1,000 pounds. In these cases the proposed state regulation

would be more stringent that a specifically applicable federal regulation and thereby violate state law. See W.Va. Code §16-20-5(4). The APCC's regulations should, therefore, simply track the federal reporting requirements and provide that the APCC receive the same notification(s) concerning air releases as does the National Response Center.

Section 11 Compliance Programs and Schedules

§11.1 Noncomplying Existing Facilities

This section requires that existing facilities which do not meet the requirements of "this regulation" must develop a compliance program for submission to the APCC (as opposed to the Director). This compliance program must justify the infeasibility of any technology that is less effective than the most stringent measures achieved by other similar processes. Rhone-Poulenc is confused as to the circumstances when this provision would apply. With respect to existing facilities the definition of BAT under §2.3 does not require application of the most stringent measures achieved by other similar processes but rather the emissions reduction achievable taking into consideration the cost, health and environmental impacts. The most stringent measures achieved by similar processes are imposed only on new or modified facilities. Is §11.1 to apply only where Director has determined that the existing facility has not achieved BAT emissions limitations for existing facilities or when the Director and the affected facility have a dispute over BAT for an existing facility? If so, what is the difference in the showings that are required to establish BAT for existing facilities (which under § 2.3 takes into consideration economical feasibility) and for establishing a compliance program (which under §11.1 likewise takes into account both technical and economic feasibility)? Rhone-Poulenc believes that this section needs to be completely rewritten to accurately reflect whatever the drafter intended.

As currently written, this section would require that compliance plans be submitted within 180 days. This is too short a time frame for designing and proposing unit-specific BAT plans. Rhone-Poulenc believes that at least one year will be required for development of such plans. More importantly, Rhone-Poulenc believes that all parties concerned would be better served not by a unit-by-unit approach but rather by a plant-wide approach as suggested by the WVMA.

Finally, §11.1 also appears to exempt existing facilities from BAT emission levels developed in the future for a period of seven (7) years. Rhone-Poulenc supports the ten (10) years earlier proposed by the WVMA as a more reasonable period.

CONTROL COMMISSION

JUNE 9, 1989

G. DALE FARLEY
THE WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION.
1558 WASHINGTON ST., E.
CHARLESTON, WV 25311

DEAR MR. FARLEY

THIS LETTER IS TO URGE YOU AND YOUR COMMISSIONERS TO ADOPT REGULATION 17 IN IT'S ORIGINAL FORM.

WE CANNOT, AT THIS CRITICAL TIME IN OUR STATE'S ENVIRONMENTAL HISTORY, AFFORD TO DILUTE THIS REGULATION. PLEASE DO YOUR BEST FOR YOUR STATE AND HER PEOPLE ON THIS MATTER.

SINCERELY

Steve Weaver

STEVE WEAVER
SAVE THE TYGART COALITION
PHILIPPI, WEST VIRGINIA

Rt. 5, Box 228A
Morgantown, WV 26505
June 9, 1989

Mr. G. Dale Farley
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION
1558 Washington Street, E.
Charleston, WV 25311

Dear Mr. Farley:

I have been informed of your impending action on Regulation 27 and to encourage you to do all you can to see that it is adopted in its original form.

This resolution is most important to the protection of air quality and natural resources in West Virginia. It is consistent with wise economic growth and will benefit West Virginia and residents of other states ~~in~~ significantly in terms of their health and well-being.

Thank you for your attention to this matter and please know that it is of great importance and interest to many West Virginians. Please pass Regulation 27 as soon as possible and in its original form.

Sincerely yours,

Linda Cooper Elkinton

5440 Longview Drive
Charleston, West Virginia
25313

June 12, 1989

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

Hand Delivered

Dear Mr. Farley:

I have reviewed your proposed changes to proposed Regulation 27 and it would appear to me that the regulation has been weakened to the point that a new public hearing is called for.

The Commission does not and never will have the staff to do economic evaluations of control equipment or to determine "public health" impacts.

I am also concerned about exemptions from control of a great number of sources and particularly those found in 3.1. If there has to be an exemption, make it on a pounds per hour, not pounds per year basis.

Please give these thoughts to the Commission at or before the Commission meeting.

Sincerely yours

Carl G. Beard II

Before the West Virginia
Air Pollution Control Commission

Comments of Ashland Petroleum Company, a Division of Ashland Oil, Inc., on Revised Proposed Rule Series 27 "To Prevent and Control the Emissions of Toxic Air Pollutants"

Submitted June 14, 1989
Charleston, West Virginia

Ashland

Ashland Petroleum Company

DIVISION OF ASHLAND OIL, INC.

P. O. BOX 391 • ASHLAND, KENTUCKY 41114 • (606) 329-3333

June 14, 1989

G. Dale Farley, Director
West Virginia Air Pollution
Control Commission
1558 Washington St. East
Charleston, WV 25305

RE: Proposed Regulation 27
on Toxic Air Pollutants

Dear Director Farley:

Please be advised that Ashland Petroleum Company, a division of Ashland Oil, Inc., endorses and adopts the June 14, 1989, comments filed by the West Virginia Manufacturers Association regarding proposed Regulation 27 on toxic air pollutants.

Additionally, we wish to submit that our understanding of the West Virginia Manufacturers' comments, Section X, Loading and Unloading of Barges, Railcars, and Tank Trucks, is that toxic substance service refers to concentrations of toxic air pollutants at 10% or greater.

If the revised proposed rule is pursued, Ashland believes that the revisions offered by the Manufacturers are both appropriate and essential.

Very truly yours,

Terry Nichols

Terry Nichols
Air & Water Manager
Environmental Affairs
Ashland Petroleum Company

TLN/sr

WEST VIRGINIA
MANUFACTURERS ASSOCIATION

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

June 14, 1989

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

Re: Proposed Regulation 27 - Toxic Air Pollutants.

Gentlemen:

On behalf of the West Virginia Manufacturers Association and its members and associate members, I am submitting our comments with respect to the revised proposed Regulation 27 regarding toxic air pollutants. We appreciate this opportunity to make our concerns known to you and to your staff. Should you have any questions, please contact me.

Very truly yours,

R. L. Foster

Robert L. Foster
Chairman, Environmental Control
Committee

BEFORE THE WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

COMMENTS OF THE WEST VIRGINIA MANUFACTURERS ASSOCIATION ON REVISED PROPOSED RULE SERIES 27 "TO PREVENT AND CONTROL THE EMISSIONS OF TOXIC AIR POLLUTANTS"

Submitted
June 14, 1989
Charleston, West Virginia

BEFORE THE AIR POLLUTION CONTROL COMMISSION

COMMENTS OF THE
WEST VIRGINIA MANUFACTURERS ASSOCIATION
ON REVISED PROPOSED RULE SERIES 27
"TO PREVENT AND CONTROL THE EMISSIONS OF
TOXIC AIR POLLUTANTS"

I. Introduction

The Environmental Control Committee and the Chemical Industry Committee of the West Virginia Manufacturers Association (WVMA) have been actively participating in the deliberations of the Air Pollution Control Commission (Commission) and its staff in the consideration of appropriate controls for what are commonly referred to as toxic air pollutants. We are pleased to note that the revised proposed regulation, Series 27, has incorporated several of our suggestions. We are gratified that the Commission is engaging in ongoing dialogue with the public and industry on these issues. However, we continue to believe that implementation of a full-scale voluntary program is the best and fastest solution to this problem, and we urgently encourage the Commission to pursue such a program, as we proposed, in lieu of a rule.

We believe that a voluntary program implemented quickly is the most preferable approach for the following reasons:

A. The voluntary program has already been very successful and has resulted in significant emissions

reductions with even more already committed to in agreements by the Kanawha Valley and other chemical manufacturers.

B. Immediate steps can be taken to further reduce emissions and any associated health risks.

C. All of the major affected plants identified by the APCC have already agreed to participate in the program submitted by the WVMA.

D. This will allow time for the national debate on this issue to resolve since legislation on air toxics is expected to be part of the federal Clean Air Act reauthorization in 1990. West Virginia will then be required to conform to the federal program. In addition, a voluntary program would recognize that the cancer risk assessment guidelines used by EPA in evaluating West Virginia's emissions are extremely conservative, controversial, and are currently undergoing review and change. Proposed changes in the EPA guidelines are expected to be out by the end of this year. We believe the new guidelines will reflect that the perceived risks here are less than now thought.

Our specific comments on the revised proposed rule nonetheless follow since the revised rule still contains provisions which are unclear or inappropriate in application.

II. Definition of "Best Available Technology"

The reproposed definition, while somewhat improved, is still not adequately clear, does not conform with EPA's definition, nor does it allow implementation of controls on a plant-wide basis in order to determine the best way in which to achieve the most reduction for the least cost. Neither does the proposed definition adequately contemplate chemical processes which employ multiple use facilities. Because the definition is a technology one, we believe

it is also inappropriate for it to refer to it as an "emission limitation."

The sentence which now reads "No BAT proposal shall be approvable that represents a level of control less stringent than any requirement for a chemical processing unit under 40 C.F.R. 61 or 40 C.F.R 60 is rather confusing in its wording and in its location within the definition.

Accordingly, we would suggest that this definition be revised to read as follows, consistent with the similar definition in Regulation 14:

> 2.3. "BACT", 'Best Available Control Technology' means an emissions level based on a maximum degree of reduction for each regulated pollutant which would be emitted from a chemical processing unit which the Director, on a case-by-case basis, taking into account energy, environmental, technical and economic impacts, and other costs, determines is achievable for such unit or modification through application of such measures as production process changes or available technology, methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques and collection and destruction of toxic air pollutants, as well as design, equipment work practice, operational standard or combination thereof, which may be prescribed to satisfy the requirement for the application of best available control technology. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any federally enforceable emissions standards.

Conforming changes throughout the proposed rule should also be made to change "BAT to "BACT."

III. Definition of "Chemical Processing Unit"

This proposed definition remains unclear. Since none of the presumably affected units "use" toxic air pollutants, the more proper reference in this definition would be to devices or equipment which emit toxic air pollutants. The WVMA recommends that this definition be revised to read as follows:

> 2.4. "Chemical Processing Unit" means an assembly of reactors, tanks, distillation columns, associated heat exchangers, vaporizers, compressors, dryers, decanters, and/or other equipment used to treat, store, manufacture or convey any of the toxic substances listed in section 2.10. For purposes of this regulation, the term chemical processing unit shall include surface coating equipment or similar equipment utilizing any such substance as a solvent or for other purposes but shall not include equipment used in the production, storage and distribution of petroleum liquids provided that such equipment does not contain or contact materials containing more than 5% benzene by weight.

IV. Definition of "Toxic Air Pollutant"

To clarify the use of terminology, we suggest that the words "when emitted to the air" be inserted at the end of the proposed definition. This change will help to distinguish between emissions to the air and the chemicals themselves. In addition, as suggested below, where the regulation refers to a chemical substance, as opposed to an emission of or from that substance, we urge that the phrase "a toxic air pollutant" be replaced with the phrase "any of the toxic chemicals listed in section 2.10."

Conforming amendments throughout the rule should similarly be made.

V. Definition of "Toxic Air Pollutant Service"

Again to clarify use of terminology, we would suggest that this definition be changed to describe "Toxic Substance Service" and that the term "toxic air pollutant" be replaced with the phrase suggested in Section IV, above.

VI. Application of the Rules

Section 3.1 is, perhaps, the most critical section in the proposed regulations since it addresses which facilities will be governed by the rule and to what extent. As currently drafted, the section appears to require application of BACT to all sources of toxic air pollutants if any source of a regulated pollutant is above the de minimus values listed in the table. This means that any plant which trips the BACT requirement for any pollutant will be required to install control equipment on all units, no matter how small, at great expense to control emissions that other plants emitting similar quantities will not be required to control. The WVMA believes that this result was not intended and that the rule should be reworded so that for each of the chemicals listed in Section 2.10., a plant owner or operator will be required to measure/estimate all emissions of a given pollutant from all chemical processing units emitting that chemical, then compare that total against the de minimus value (see comments below on this issue) to determine whether a BACT program will be required for the plant to address that chemical. This would be done for

each listed chemical. Accordingly, we recommend that the introductory paragraph in Section 3.1. be revised as follows:

> Except as provided in Section 3.3, no person shall operate any plant or facility at which there are chemical processing units which discharge any toxic air pollutants in excess of the amount(s) shown in the following table unless such emission sources at the plant or facility are equipped and operated under a control program, including application of BACT where necessary, to control emissions of any such toxic air pollutants; provided, however, that sources specifically subject to a federal air emissions regulation or standard for such a source shall not be required to comply with provisions more stringent than such regulation or standard. In determining the applicability of this rule, the owner/operator shall measure or estimate all emissions of each pollutant listed in Section 2.10 from all chemical processing units emitting that pollutant within the plant or facility. If the aggregate emissions to the air of any chemical listed in Section 2.10 exceeds the level for that pollutant in the following table, then a BACT program must be developed and implemented pursuant to Section 11 for the control of that pollutant and for each pollutant for which the aggregate emissions exceed the value listed in the following table. If BACT programs are required for more than one pollutant, an integrated BACT plan may be utilized.

We note that the proposed de mimimus values in the chart in Section 3.1 are extremely small. It is our understanding that these reflect some back calculation based upon the highest risk factors estimated at any location by EPA in its Kanawha Valley Toxics Screening Study Report (1987).* EPA was very careful to note in that report that:

> The numerical health risk estimates presented herein are based on conservative assumptions which tend to produce upperbound, or maximum, values. Actual risks are not likely to be any higher; however, they could be significantly lower, and may even approach zero. Because of the many uncertainties and limitations in the methods used to calculate risks, the risk estimates should not be considered definitive predictions of actual health risk. The proper function of the estimates is to help responsible officials select issues and set priorities for future study. *pg. viii

The cancer risk assessment guidelines rely heavily on animal test data and extrapolation from that data based on massive doses in test animals. These methods are controversial and are undergoing serious scientific review by EPA's Office of Health and Environmental Assessment to change toward a more biologically-based characterization of human cancer risk. The WVMA believes that these new cancer risk assessment guidelines will show risks to be much less than now thought. There is, however, no question that current risk assessment is extremely conservative and is used to suggest controls of potential carcinogens at very low estimated risk levels (10-5 or 10-6) despite the fact that epidemiology studies show that the general risk of cancer is approximately one in five for the public at large. These relative risks must be viewed objectively to dispel unjustified fears and avoid unnecessarily stringent and costly controls for perceived health hazards.

In view of the real conservancy of the EPA study, we believe that the proposed numbers can easily and safely be raised to ten times the amounts shown on the chart without health risk. We are also mindful of the fact that there are as many as five bills pending in Congress on air toxics, some of which propose de minimus values significantly higher than the APCC figures (as much as 10 tons for individual chemicals and 25 tons in aggregate).

In accordance with our previous comment, we are concerned about the provisions of Section 3.2 which would require all chemical processing units at any plant emitting any quantity of toxic air pollutants to be equipped and operated with BACT if the plant in aggregate discharges more than 10,000 pounds per year of any combination of any of the toxic chemicals listed in the table. As we have previously stated, we disagree with this approach and believe that the BACT control requirement should apply only to those sources within a plant which emit pollutants in excess of the de minimus quantities listed for each pollutant. In view of our suggested change to Section 3.1, we believe that no combined aggregate concept is necessary since each chemical will be evaluated and controlled under the language we have offered. Section 3.2 should, therefore, be deleted. If any aggregate "trigger" is retained, it can also be safely adjusted significantly upward to 50,000 pounds per year to cull out small sources and focus controls on major ones.

VII. Small Source Exemption

We endorse the concept in this regulation of allowing the director to exempt very small sources from the BACT requirement. However, we are not confident that we understand the last sentence in Section 3.3. We therefore request clarification of the meaning of this last sentence. If this sentence is meant to be used to eliminate the application of controls to an individual emission point within a plant that otherwise triggers BACT so long as that emission does not discharge more than fifty percent of any amount shown for a pollutant on the chart, then we would respond that no such provision is necessary if our foregoing comments are adopted since such sources would not necessarily be required to be controlled under any BACT plan and could be adequately accounted for by use of a plant-wide "bubble" approach to controls.

VIII. Discharge Detection

We continue to be concerned about the provisions in Section 3.4 which require chemical processing units to be properly instrumented to detect discharges. In many cases, instrumentation will not be possible or economically justified as a method of detection. Accordingly, we suggest that Section 3.4 be revised to read as follows:

> All regulated chemical processing units shall be instrumented or monitored to alert the operator to process upsets, leaks, and other non-routine discharges of toxic air pollutants into the air, and the operator shall record such incidents

and the associated emissions estimated from direct measurements of pollutant concentrations and/or calculations using other process measurements or estimating techniques.

IX. Fugitive Emissions of Toxic Air Pollutants

Section 4 addresses fugitive emissions of toxic air pollutants. In Section 4.1 owners and operators of emission sources are mandated to "prevent and control" emissions of toxic air pollutants from equipment leaks. This objective is to be accomplished through the application of a BACT standard. The regulation makes no allowance for situations where, even with the application of BACT, some de minimus leakage occurs. To avoid setting a standard which is infeasible, we urge the Commission to use the term "minimize" rather than "prevent" wherever that term appears in Section 4.1. While we do not object to setting BACT at a level at least as stringent as would be required in 40 C.F.R. Part 61, Subpart V, we note that requiring more than is required under the referenced federal regulation wold be contrary to the prohibition in W.Va. Code §16-20-5.

X. Wastewater Treatment Systems

The provisions in Section 6.2 regarding quantification of toxic air pollutant emissions from wastewater treatment systems may present practical problems. While we could be comfortable using methods approved by the director for estimating air emissions from such systems, we do not agree with the alternative for calculating emissions by assuming that all of the toxic mass

discharged to wastewater is emitted to the air. This assumption is not scientifically valid because it ignores the effects of biodegradation in reducing such emissions. Accordingly, we urge that the words "proposed by the owner or operator and" be inserted after the word "method" in the second sentence, and that a period be inserted after the word "Director," with the remainder of that sentence being deleted.

XI. Loading and Unloading of Barges, Railcars and Tank Trucks

To clarify and appropriately limit the application of this section, we urge that the first sentence of Section 7.1 be revised to read as follows:

> Owners and operators of chemical processing units subject to the requirements of this regulation shall employ BACT to minimize toxic air pollutant discharges in the loading and unloading of barges, railcars and tank trucks in toxic substance service.

XII. Registration

Consistent with the comments set forth elsewhere in this document, we urge that the first sentence of Section 8.1 be revised to read as follows:

> Not later than ninety (90) days after the effective date of this regulation, all persons owning and/or operating an existing chemical processing unit(s) which discharges toxic air pollutants in excess of the levels set forth in Section 3.1 shall register such units with the Commission.

The second sentence of Section 8.1 should be deleted and replaced with the following:

> The registration shall contain the name, address, and telephone number of the owner and/or operator of the regulated plant or facility, its location by county and magisterial district, and shall contain a listing of those sources within the plant or facility which discharge toxic air pollutants above the quantities set forth in Section 3.1. The registration shall also identify the type of regulated toxic pollutant emitted from each such source.

XIII. Permits

The WVMA continues to believe that this permit requirement is overly stringent since it would require a permit to be obtained when virtually any modification to a chemical processing unit is undertaken. While it is presumably arguable that Regulation 13 is an "applicable" regulation which limits this section, that is not clear. Since Regulation 13 already establishes when a permit is required, Section 9 should be deleted to avoid confusion or revised to simply cross-reference Regulation 13:

> No person shall construct, modify or relocate a chemical processing unit subject to this regulation without first obtaining a permit for such activity from the Commission if such modification will result in an increase in emissions of any regulated toxic air pollutant in accordance with the provisions of Regulation 13 and Regulation 19.

XIV. Recordkeeping Requirements

Section 10.3 requires the maintenance of written records identifying, among other items, all "flanges" in any chemical processing unit that is in toxic air pollutant service. An average-size chemical plant can have thousands of such flanges and keeping individual records on them could be an administrative nightmare. We urge a revision to Section 10.3 which would eliminate this requirement as it would apply to individual flanges.

XV. Reporting

While the provisions of Section 10.4 regarding the reporting of accidental releases have been improved, the WVMA continues to believe that the reporting responsibility should be triggered from the time of knowledge of the occurrence. Furthermore, if such incidences occur on weekends or holidays there is no provision in this regulation as to how such reporting will be achieved. A telephone number for the reporting of such events should be included in the regulation with 24-hour access.

Most importantly, we believe that a general reporting requirement of one pound is unreasonably low and does not represent any actual health risk, especially in view of the recordkeeping requirements in Section 3.4. We strongly advocate the adoption of a fifty (50) pound reporting trigger for each of the regulated pollutants except for vinyl chloride and ethylene oxide for which

a one (1) pound reportable quantity (as used in CERCLA) would apply.

It is important to note that except for vinyl chloride and ethylene oxide, the CERCLA Reportable Quantities (RQs) for reporting are much higher than those we are suggesting; however, we are prepared to comply with this alternative RQ requirement. Accordingly, Section 10.4 should be revised to read as follows:

> 10.4 The abnormal or accidental release, spill or emission to the open air of fifty (50) pounds or more of any pollutant listed in Section 2.10, with the exception of vinyl chloride and ethylene oxide for which the quantity shall be one (1) pound, and any period of failure or inoperability of air pollution control equipment required by this regulation shall be reported verbally to the Commission as soon as possible after the owner or operator has knowledge of such a release, failure or inoperability by telephoning the Commission at (304) _____. The owner or operator shall file a written report with the Director, if requested, stating the details of any such incident within seven (7) days of such a request.

XVI. Compliance Programs and Schedules

As currently drafted, the rule would require submission of a BACT compliance program within 180 days of the effective date of this regulation. If this requirement is intended to mean submission of a fully developed plan within that time, then it is much too short a time frame. Due to the complexity of many of the affected facilities, it is expected that as much as a year may be needed to assess, identify and/or develop a proper BACT program to

deal with multiple sources in a given plant. This fact underscores our position that it is essential to approach BACT plans on a plant-wide basis, not for each vent, pump or valve. Only by approaching the problem this way can the most reduction for the least cost be achieved. This concept is vital to the WVMA's support of a reduction program.

To address these concerns, we recommend that the following phrase be inserted after the word "program" in the first sentence of section 11.1.:

> which describes the BACT to be employed or details a plan and time-table by which such BACT will be identified and implemented

We would also urge the addition of the following sentences on page 12 after the second sentence in section 11.1.:

> In proposing a BACT plan, the owner or operator may develop a plant-wide control program for regulated sources of toxic air pollutants to permit a greater burden of control where the cost of controls are low, and a lesser burden where the cost are high; provided, however, that no "bubble" concept design shall be approved or allowed to vary or alter applicable New Source Performance Standards (40 C.F.R. Part 60) or National Emission Standards for Hazardous Air Pollutants (40 C.F.R. Part 61). The owner or operator has the burden to demonstrate to the Director or the Commission that the proposed bubble concept plan is equivalent in emission reduction and environmental impact.

From an administrative efficiency standpoint, we continue to believe that the most efficient method of reviewing

and approving compliance programs is for approval to be vested in the Director in the first instance. Only in cases of disagreement should a compliance program need to be formally reviewed and approved by the Commission as a whole. The WVMA also believes that the language in Section 11 implies that until a compliance program is approved that a source would be deemed to be in violation of this regulation. Accordingly, we urge that first sentence of this section on page 13 of the revised rule be deleted and replaced with the following:

> Proposed BACT plans shall be submitted to and approved by the Director; provided, however, that any disagreement as to the program will be reviewed and resolved by the Commission upon the written petition of the owner or operator. Modifications to any approved BACT plan can be made upon request and agreement by the Director and the owner and/or operator. Regulated owners and operators shall be deemed to be in compliance with this regulation so long as the approved or amended BACT program is observed; provided, however, that the Commission may re-evaluate toxic air pollutant emissions, control technologies employed, and risks to public health at the end of the seven (7) year period following completion of each compliance program and may require additional or improved control measures.

As we have indicated on previous occasions, the WVMA is very concerned about the application of this regulation to existing sources which have entered into voluntary emission reduction programs in the last few years. Unfortunately, the provisions in this Section do not clearly address these concerns. In fact, the last sentence in Section 11 implies that previous

activities approved by the Commission would be superseded by any requirement under this regulation for more stringent control measures. The WVMA specifically requests that in making BACT determinations that steps taken and reductions achieved since January 1, 1985 under the previous voluntary reduction program be fully and specifically taken into account. To achieve this, the seven (7) year protection period should not be shortened by any such previous reduction programs. Any BACT program approved should be permitted the full seven (7) year protection, even though it may include control measures completed since 1985 but before approval of this rule.

XVII. Variance

No changes have been proposed by the Commission for Section 12 dealing with variances. However, it has been the experience of the WVMA members that this provision, which is modeled on similar provisions in other APCC regulations, is not adequate and does not take into account circumstances which are routinely encountered. We believe that helpful language for dealing with such events is found in the federal New Source Performance Standards. Accordingly, we urge that this provision be modified to read as follows:

> 12.1. Due to unavoidable malfunction of equipment, emissions exceeding those provided for in this regulation may be permitted by the Director for periods not to exceed ten (10) days upon specific application to the Director. Such application shall be made within twenty-four (24) hours of the malfunction. When

such malfunctions cannot be corrected within ten (10) days, additional time periods may be granted by the Director provided a corrective action program has been submitted by the owner or operator and approved by the Director. At such times, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determinations as to whether acceptable operating and maintenance procedures are being used will be based on information available to the Director which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

12.2. In order to undertake maintenance and repair of air pollution control equipment which cannot be scheduled during planned shutdowns or process turnarounds, etc., upon specific application to the Director by the owner or operator, emissions different from or exceeding those provided for in otherwise applicable regulations of this Commission may be permitted by the Director as a temporary variance for periods not to exceed fifteen (15) days under such reasonable conditions calculated to minimize emissions as the Director deems appropriate. The Director shall act to approve or deny the variance application within five (5) working days from the submission of the application. If within the initial 15-day period the owner or operator files a request to do so, the Director may extend such temporary variance for a period not to exceed an additional fifteen (15) days, upon the same or different reasonable conditions as the Director deems appropriate for good cause shown.

12.3. To permit experimental product or process changes which may be at variance with otherwise applicable regulations,

the Director may issue temporary authorizations for periods not to exceed six (6) months upon the submission of a written application to the Director by the owner or operator. The Director may impose any reasonable conditions as part of a temporary authorization which may include, but not be limited to, the submission of periodic progress or operation reports, the provision of suitable sampling sites, and the installation of pollutant control and/or monitoring devices.

The Director shall maintain for public review a list of all pending applications for temporary authorizations containing the name of the applicant, the type and location of the source, and the nature of the request. At the same time that an application for a temporary authorization is filed with the Director, the applicant shall also place a one-time legal advertisement in the paper of general circulation where the source is located. The advertisement shall contain the name of the applicant, the type and location of the source and the nature of the authorization sought as well as notice that written comments may be sent to the Director regarding the application. No temporary authorization may be issued by the Director until at least fifteen (15) consecutive days after publication of the required legal advertisement. During this time, the Director will receive and evaluate written comments regarding the application. The Director shall act to approve or deny the authorization request within thirty (30) consecutive days of the publication of the required legal advertisement.

The Director may terminate the temporary authorization upon twenty-four hours oral notice to the owner or operator if he determines that termination is appropriate to protect human health or the environment or if he obtains information that the terms or conditions of the authorization have been violated.

XVIII. Summary

The WVMA appreciates this opportunity to bring our suggestions and concerns to the attention of the Commission. We hope that our comments are constructive and helpful. While these comments focus largely on how to improve the proposed rule, we wish to underscore our opening comment. The WVMA believes that rapid implementation of an aggressive voluntary program is the best near-term solution to this problem and that such a course of action should be immediately endorsed and adopted by the Commission. Our members stand ready to cooperate fully in meeting that challenge.

If the Commission or the staff have questions about these comments or problems with any of our previous submissions, we are prepared to meet and discuss any such issues in full detail.

We also reiterate that if a State air toxic regulation is to be developed and promulgated the Commission should await federal action in the reauthorization of the federal Clean Air Act.

E. I. DU PONT DE NEMOURS & COMPANY
INCORPORATED
BELLE, WEST VIRGINIA 25015

AGRICULTURAL PRODUCTS DEPARTMENT
BELLE PLANT, 901 W. DU PONT AVENUE

June 13, 1989

TO BE DELIVERED BY HAND

W. Va. Air Pollution Control Commission
1558 Washington Street, East
Charleston, West Virginia 25311

Dear Sirs:

The attached comments are filed on behalf of the Belle Plant, E. I. du Pont de Nemours and Co., Inc., located at Belle, West Virginia, regarding the Proposed Rule, Series 27, Title 45, "To Prevent and Control the Emissions of Toxic Air Pollutants". We request that this letter and the attached comments be considered for this rule-making and be put into the public record.

If you have any questions regarding our comments or wish additional information, please call me or our Environmental Coordinator, R. F. Sherman, on 357-1724.

Sincerely,

Richard N Knowles

RICHARD N. KNOWLES
PLANT MANAGER

RNK/jss
Attachment
3.15

BELLE PLANT
E. I. DU PONT DE NEMOURS & CO., INC.

COMMENTS ON REVISED PROPOSED RULE 27, TITLE 45

TO PREVENT AND CONTROL THE EMISSIONS OF TOXIC AIR POLLUTANTS

We appreciate the opportunity to comment on the APCC revisions to the proposed Regulation 27.

The revisions have greatly improved the proposed regulations. The APCC has considered prior comments.

We believe that some additional changes are needed, considering:

- The risk basis for level of control.
- Current EPA reassessment of the basis for determining unit risk values for cancer.
- Current proposed Federal legislation for control of Air Toxics.
- The appropriate level of response, considering the indicated level of risk and total community welfare.

These points are discussed in more detail later in these comments.

Changes Needed In Proposed Regulation 27

We believe that the revised proposed Regulation 27 is too stringent. The additional changes that should be made are:

- Allow some economic consideration of control technology applied for new facilities. The revised proposal does not allow the APCC sufficient discretion in technology application - "BAT shall not be less stringent than the most stringent emission level that is achieved in practice by similar sources or processes". While in general this will assure applying effective, reasonable technology, it could require, in some cases, applying technology to quite small emission points that would have little impact on risk but would have major impact on the economic viability of a new operation. Information can be provided on a specific situation if you wish. It is important that the APCC have some discretion in application of controls. This does not prevent the APCC from assuring a high level of safety for the community. We believe the existing widely used BACT is the appropriate basis for technology application.

- Use the risk values from the Kanawha Valley Toxic Screening Study for what they are - conservative upper-bound estimates of risk that are likely to be much lower, to be used to help set priorities for future study and in taking steps to reduce significant risks. As discussed in another section of these comments, the unit risk factors used to estimate risk in the Kanawha Valley Toxic Screening study are deliberately made conservative in how animal test data is used and in safety factors applied, thus multiplying indicated risk by 10 to 1000 times. These methods are now being reassessed by the EPA. Our assessment is that the unit risk factors, and thus the indicated risks, are greatly over stated. Considering this, and the Federal legislation activity, it does not seem necessary at this time to go to great extremes. It is appropriate to continue to apply reasonable controls to reduce emissions of these chemicals. The deminimus levels indicated in Section 3.1 of the revised proposal should be increased significantly.

Considerations In Application of Risks Indicated In The Kanawha Valley Toxics Screening Study

EPA Qualification Of Indicated Risks

Quoting from the report:

- "The purpose of this methodology was to permit a comparison of one risk with another and to provide a general sense of the risk a given chemical substance may present. This methodology does not permit a definitive statement concerning the absolute risk posed by a particular pollutant, source or exposure pathway." (Page -v-)

- "In general the uncertainties introduced by the exposure data are much smaller than those associated with the dose response information used to estimate human health risk." (Page -vi-)

- "The cancer unit risk factors used in this study are consistently conservative in the direction of over-estimating risk for the particular pollutants and exposure pathways assessed." (Page 4-71)

- "The results from this risk assessment are based primarily on existing knowledge. As new scientific data and techniques become available, these results may change." (Page 4-71)

- "Note: The numerical health risk estimates presented herein are based on conservative assumptions which tend to produce an upperbound, or maximum, value. Actual risks are not likely to be any higher; however, they could be significantly lower, and may even approach zero. Because of the many uncertainties and limitations in the methods used to calculate risks, the risk estimates should not be considered definitive predictions of actual health risk. The proper function of the estimates is to help responsible officials select issues and set priorities for future study." (Page -viii-)

In addition, EPA points out that up to 85% of the indicated risk is due to fugitive emissions. As we have commented previously on this study, the reported fugitive emission rates are higher than actual, and in some cases may be less than 10% of the reported fugitive emission rate. Chemical Manufacturers Association (CMA) has been working with EPA on how to get more accurate measurement of fugitive emissions. EPA has agreed that some industry proposed methods, which show much lower emission rate, are more accurate than the methods used for this study. CMA and EPA are now in the process of resolving the procedures that can be used. Thus the EPA "Kanawha Valley Toxic Screening Study" also overestimates risks because the fugitive emissions are overestimated.

EPA Changes In Cancer Risk Assessment Guidelines

EPA has established internal issues groups to assess changes in the guides for determining cancer risk from chemical substances, unit risk factors. New guidelines are likely to include two key changes:

- Rely less on animal test data.
- Rely less on the traditional mathematical multi-stage liner model for extrapolating evidence of cancer at high dose in test animals to low-dose response in humans.

The agency will likely recognize that there is a threshold exposure level below which there is zero risk of cancer.

It is expected that EPA will make some guideline changes this year, which could result in significant changes in unit risk factors and their use.

Federal Legislation For Control of Air Toxics

There are currently proposed bills in U.S. Congress for control of Air Toxics, and more proposals are expected. It is generally expected that there will be legislation late this year or early next year that will affect West Virginia. Thus, whatever we do with West Virginia Air Toxic regulations now will be revised in the future. Considering this, and the high probability that the indicated risk of the chemicals proposed to be regulated is appreciably overestimated, the proposed Regulation 27 is probably over-regulation at this time.

Significance Of Indicated Risks

There have been concerns expressed by some of the community that imply that exposure to the chemicals to be controlled by Regulation 27 are major causes of cancer in this Area. This is not so. The best information available indicates that the occurrence rate of cancer in Kanawha County and in West Virginia is very close to the rest of the United States. The occurrence rate from all causes here and throughout the United States is that over a "life-time-period" (70 years) there will be about 30,000 cancer cases for every 100,000 people.

The proposed Regulation 27 uses the risk estimates from the "Kanawha Valley Toxics Screening Study" as the basis for requiring controls.

The indicated average risk of additional cancer cases in the Kanawha Valley from the chemicals to be controlled, is about $4.4(10)^{-4}$ or about 4.4 cancer cases in 70 years for 100,000 people. The population covered in this study is about 100,000 people so this equates to about 0.6 of a cancer case out of about 430 cancer cases per year.

Thus, this conservative study indicates the upper range possibility of 0.15% increase in cancer cases over other causes. As the EPA "Kanawha Valley Toxics Screening Study" indicates, the probability is that the cancer caused by these sources is much lower.

We agree that all causes of cancer should be considered seriously, and the chemical industry, in cooperation with APCC, has made significant reductions in emissions to reduce this risk and is continuing to make reductions.

Also we need to be realistic in response to the level of these risks and consider the economic welfare of the community and the effect community economics has on the health of the people in the community.

RFS/jss
6/13/89
3.15

West Virginia-Citizen Action Group
1324 Virginia Street, East
Charleston, West Virginia 25301
304/346-5891

a statewide nonprofit organization for research, lobbying and citizen action

ACTION FOR A CHANGE!

RECEIVED

'93 JUN 16 AM 8:12

To the Air Pollution Control Commission:

I join and support the West Virginia-Citizen Action Group (WV-CAG) in its campaign for new and stronger air quality regulations in our state.

More specifically, I request that the commission adopt proposed regulations #27 which would require chemical plants to prove that they are using the most effective methods -- Best Available Technology -- for reducing emissions of 14 cancer-causing chemicals.

I note with alarm that a recent EPA study indicates "significant cancer risks" for those 14 toxic chemicals. Best Available Technology must be applied to protect the air we breathe.

	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1	Charlotte Webb	CHARLOTTE WEBB	2007 LAKEWOOD DR.	727-6897
2	Jeff George	JEFF GEORGE	198 MONTEREY DR.	727-6769
3	Teresa Conley	Teresa Conley	196 Monterey Dr.	727-4651
4	Randy L Conley	Randy L Conley	" " "	" "
5	Steve McGrath	Steve McGrath	192 " "	722-6425
6	Garry C. Kibler	GARRY KIBLER	190 MONTEREY DR.	722-6095
7	Vicki Cunningham	Vicki Cunningham	204 Valencia Pl.	722-2192
8	Dora Betts	DORA BETTS	208 Valencia "	727-4016
9	Peg Shelton	Peg Shelton	401 Sun Valley Dr	727-5689
10	Michael D. Mannone	Mike Mannone	405 Sun Valley Dr.	722-6343
11	Vickie McCauley	Vickie McCauley	421 Sun Valley Dr	
12	Rheada Webb	Rheada Webb	404 Wistful Vista	722-9923
13	Doug Baxter	DOUG BAXTER	401 WISTFUL VISTA	727-7187
14	Norma Ash	Norma Ash	312 Sun Valley	722-2240
15	Sharon L Smith	Sharon Smith	304 Sun Valley	722-3740

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	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1	Eric McKown	Eric McKown	Eleanor circle	586-3000
2	Jerry D. Jividen	JERRY D. JIVIDEN	232 ELEANOR CIRCLE W.V.	586-3943
3	Frank Belcher		246 Eleanor Circle	586-9800
4	Oma McLane	OMA McLANE	132 Eleanor Cr.	586-2472
5	Velma Christy	Velma Christy	120 Eleanor Cr Eleanor	586-8791
6	Kelly McGranahan	Kelly McGranahan	118 Eleanor Cir Eleanor	586-2164
7	James F. Jeremias	JAMES F. JEREMIAS	112 Eleanor Cir. Eleanor	586-2253
8	Stephen E. Browning	STEPHEN E. BROWNING	106 ELEANOR CIR ELEANOR	586-4366
9	Loudland Jividen	Slater Slater	205 ~~Eleanor~~ Roosevelt Ave.	586 ~~4622~~
10	Lisa Arthur	LISA ARTHUR	1033 13 St.	586-9254 4622
11	Karen Raynes	Karen Raynes	107 Beech St. Eleanor	586-2799
12	Dennis Rhodes	Dennis Rhodes	107 Chestnut ST.	586-3131
13	Carol Withrow	Carol Withrow	203 W. Chestnut St.	586 9623
14	Tim Wyson	Tim WYSONG	207 W Chestnut STR	586-3692
15	Terry A Hutchinson	Terry A. Hutchinson	209 W. Chestnut St.	586-4655

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	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1	Suzette Pate	Suzette Pate	2509 Lakeview Dr.	727-3515
2	Patricia Martin	Patricia Martin	2514 Lakeview Dr.	722-5162
3	William Lewis	William Lewis	2510 LAKEVIEW DR.	722-6221
4	[illegible]		2546 Lakeview	727-2072
5	Kathleen Edwards	KATHLEEN EDWARDS	2601 LAKEVIEW DR.	722-5331
6	Hazel Arbaugh	HAZEL ARBAUGH	2613 LAKEVIEW DR	727-8310
7	David Given	David Given	2617 Lakeview Dr.	727-5718
8	Harry Grandon	HARRY GRANDON	2637 " "	727-3685
9	Sharon Westover	Sharon Westover	2649 Lakeview Dr.	727-5309
10	Dennis Westover	DENNIS WESTOVER	2649 LAKEVIEW DR.	727-5309
11	Marydane Knopf	Marydane Knopf	2657 Lakeview Dr.	727-7672
12	Alma R. Bailey	Alma R. Bailey	2661 Lakeview Drive	722-3584
13	Mary L. Wiseman	MARY L WISEMAN	109 Parkview W. Dr	727-7663
14	Donna J. Terrell	DONNA J TERRELL	2731 Riverside Dr.	727-2639
15	Kathy Henshaw	Kathy & Bob	2749 " "	727-9995

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	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1	Maria M. Thomas	MARIA M. THOMAS	1218 Washington Ave N.	766-6887
2	Lauretha Kellum	Lauretha Kellum	1695 Academy Dr	768 4422
3	E.M. Henderson	E.M. HENDERSON	1233 WASHINGTON AVE W.J	768 6432
4	M.L. Henderson	M.L. Henderson	" "	" "
5	Lillian Davis	Lillian Davis	Wash. Ave	768-0269
6	James E Williams	James E. Williams	1701 Academy Drive WV Institute	768-0497
7	Marva Y. Williams	Marva Y Williams	" " " "	" "
8	Kevin Harris	KEVIN HARRIS		768-0334
9	Ferguson Meadows	Ferguson Meadows	1009 Washington Ave	768-1469
10	Brenda Howard	Brenda Howard	1004 Washington Ave	768-5333
11	Eugenia G. Mitchell	E.G.C.M.	908 Washington Ave.	768-2509
12	Newman Goldston	Newman M. Goldston	901½ Washington Ave.	768-3668
13	Emogene Harris	Emogene Harris	900 Washington Ave.	——
14	Lynn Davis	LYNN DAVIS	902 Wash Ave	766-8569
15	Jennie M. Buckner	JENNIE M. BUCKNER	304 DuBois St	768 0449

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	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1	Nadine Adkins	Nadine Adkins	193 Monterey Dr St Albans	727-0226
2	Don Wolfe	Don Wolfe	187 Monterey Dr St Albans	727-2086
3	Nicole Kelley	Nicole Kelley	179 Monterey Dr St Albans	727-337
4	Ruth Galloway	RUTH GALLOWAY	177 Monterey Drive	St Albans 727-455-
5	Carole Beals	Carole Beals	169 Monterey Dr.	St. Albans 727-6517
6	Ken Hughurst	Ken Hughurst	203 Valencia Pl	St Albans 727-322
7	Fatienna Wilson	Fatienna Wilson	209 Valencia Pl	St. albans 727-575
8	Ethel R. Rivett	Ethel R. Rivett	211 Valencia Pl.	St. Albans 727-6
9	Linda Johnson	315 Sun Valley Dr	St. Albans, WV 25177	722-6467
10	R T Thornton	301 Sun Valley DR	ST. ALBANS	722-6602
11	Geri Samples	304 Delray Dr.	St. Albans	727-0329
12	Juanita Whitaker	Juanita Whitaker	312 Delray DR. SA.	727-7644
13	Shirley Ellis	Billy Crowley	311 Delray Dr	
14	Lonnie [illegible]		225 Sun Valley DR	
15	Vera King	Vera King	223 Sun Valley Dr	

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I join and support the West Virginia-Citizen Action Group (WV-CAG) in its campaign for new and stronger air quality regulations in our state.

More specifically, I request that the commission adopt proposed regulations #27 which would require chemical plants to prove that they are using the most effective methods -- Best Available Technology -- for reducing emissions of 14 cancer-causing chemicals.

I note with alarm that a recent EPA study indicates "significant cancer risks" for those 14 toxic chemicals. Best Available Technology must be applied to protect the air we breathe.

	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1		Johnny Jarrett	2545 Lakeview Dr St. Albans, W.Va. 25177	727-5725
2		John Parr	2602 Lakeview Dr SE	722-6996
3		Brenda Whittington	2618 Lakeview Dr.	720-4470
4		John Whittington	2618 Lakeview Dr.	722-4470
5		Toni Sayre	2626 Lakeview Dr	727-6895
6		Pam Lingafelter	2634 Lakeview Dr.	727-8102
7		Frances Cunningham	2650 Lakeview Dr	727-9756
8		Margaret Anderson	2603 Riverside Dr.	727-7537
9		DAVID A TURNER JR	105 Park View Dr St. Albans, WV	727-2662
10		GARY R CUNNINGHAM	2749 RIVERSIDE DR ST. ALBANS WV 25177	727-4929
11		KIM GIBSON	2725 RIVERSIDE DR	727-3525
12		Monica A Watkins	2721 Riverside Dr.	727-0234
13		Sharon Farley	2662 Riverside Dr.	727-3929
14		G.W. ROSE	2657 RIVERSIDE DR	727-1262
15		M K Rose	"	

West Virginia-Citizen Action Group
1324 Virginia Street, East
Charleston, West Virginia 25301
304/346-5891

a statewide nonprofit organization for research, lobbying and citizen action

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	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1	R Charles Byers	R. Charles Byers	1100 Pinewood Dr Dunbar	768-3175
2	Mary Cyrus	Mary Cyrus	1110 Pinewood Dr.	766-7640
3	[illegible]	Dalhousie Gordon	1107 Pinewood Dr	768-0971
4	Sylvester Clark	Sylvester Clark	1516 Pinewood Dr	766-7838
5	C L Swain	C L Swain	1510 Pinewood Pk	768-6653
6	Sharon Powell	Sharon Powell	1536 Pinewood Park	768-5354
7	Orlando Powell	Orlando Powell	1536 Pinewood Park	76853354
8	Emma Hairston	Emma Hairston	1019 Pinewood Dr.	768-2048
9	Donald E. Grooms	Donald E Grooms	Box 42 Lowdon WV	442-9192
10	Paula M. Grooms	Paula M. Grooms	Box 42 London WV 25136	442-9192
11	Janice Young	Janice D. Young	826 Elvira Rd-Dunb	768-4586
12	Marcel A Washington	Marcel A. Washington	911 Pinewood Dr	768-4481
13	Tony Morris	Tony Morris	804 Elvira Rd.	—
14	Selika Henderson	Selika Henderson	823 Elvira Rd	—
15	Julius McLeod	Julius McLeod	810 Elvira Rd	—

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	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1	James R. Pittard	JAMES R. PITTARD	2612 Winter St.	727-5356
2	Joyce H. Pittard	JOYCE H. PITTARD	2612 WINTER ST	727-5356
3	M/M W.H. Nellis	M/M W.H. NELLIS	2604 WINTER ST.	722-5686
4	Bruce W. Dickson	BRUCE W. DICKSON	258 Winter ST	727-4492
5	Marie Mullins	MARIE MULLINS	2505 MT. VIEW DR	727-8041
6	Gaylene Rose	Gaylene Rose	2509 MT. VIEW DR.	722-4426
7	Emily Humphreys	Emily Humphreys	2513 Mountainview Drive	727-9985
8	D.J. Humphreys	D.J. Humphreys	2513 "	"
9	R.E. Bailey	R.E. Bailey	2517 " "	727-5790
10	K.M. Bryson	K.M. BRYSON	2533 " "	727-2533
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	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1	Clarence Chandler	CLARENCE CHANDLER	820 ELYRIA	766-7730
2	Jesse Boling	Jesse Boling	125 Dunbar	766-7739
3	Benny Nowell	Benny Nowell	802 Dunbar	768-8006
4	Nellie Kydd	Nellie Kydd	801 Dunbar	768-1463
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	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1	Tim Lepley	Tim Lepley	217 Sun Valley Dr	727-7289
2	Donette Coleman	Donette Coleman	2019 Lakewood Dr.	722-5480
3	Jo Anna Rhoads	Jo Anna Rhoads	2011 Lakewood Dr	727-6718
4	Lynn Fenimore	Lynn Fenimore	2005 Lakewood Dr.	722-6581
5	Phyllis Gander	Phyllis Gander	199 Monterey Dr.	727-4117
6	Donna Shortt	Donna Shortt	202 Monterey Dr	722-2686
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	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1	Linda Field	LINDA FIELD	218 SUN VALLEY DR	7278246
2	Joel Conner	Joel Conner	105 Sunny Brook Dr	727-0815
3	John D. Dunlap	John D. Dunlap	214 Sun Valley Dr.	727-3935
4	Donald Prather	Donald D. Prather	208 Sun Valley Dr.	727-0327
5	Joy Phillips	Joy Phillips	203 Sun Valley Dr.	722-2142
6	Sandra Hager	Sandra HAGER	2021 Lakewood Dr	727-8576
7	Richard Cornwell	Richard Cornwell	2001 Lakewood Dr	727-6578
8	Roger L Helmick	ROGER L HELMICK	197 MONTEREY DR	727-2321
9	A.B. Cason	A.B. CASON	105 REYNOLDS PLACE	727-4530
10	Gloria J Arthur	Gloria J Arthur	205 Monterey Dr	722-6259
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	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1	Suzette Dunn	Suzette Dunn	2646 Riverside Drive	727-6206
2	Eulas Nicholson	Eulas Nicholson	2642 Riverside Drive	727-0751
3	Lillian Bradley	LILLIAN BRADLEY	2603 WINTER ST	722-3412
4	Wilma Hall	WILMA HALL	2515 Winter St.	727-4797
5	Phyllis Bodkins	Phyllis Bodkins	2501 Winter St	727-1[illegible]
6	Mrs C.H. Lively	Mrs C.H. Lively	2506 Mountain View	727-9532
7	D.P. DeLuca	D.P. DeLuca	2510 Mt View Dr	722-2231
8	Eileen Bott	Eileen Bott	2526 Mt. View Dr	727-9992
9	Stella Dvorak	STELLA DVORAK	2604 Mtn View	727-0407
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	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1	Ethel Andrews	ETHEL ANDREWS	208 DUBOIS	768-5360
2	Naomi Barrett	Naomi Barrett	926 Dubois	768-6108
3	Geraldine Burris	Geraldine Burris	200 Dubois St	768-3200
4	Calvin F Banks	Calvin F Banks	100 DuBois St	768-1378
5	Thomas Boling	Thomas Boling	908 Washington Ave	766-6285
6	Josephine Morris Rayford	Josephine Morris Rayford	208 Dunbar Dr. 25312	768-0759
7	Clarence Light Rayford	Clarence Light	119 Dunbar St	768 2518
8	Diane L. Carter	Diane L. Carter	609 Washington Ave	———
9	Mary E Stevenson	Mary E Stevenson	607 Wash Ave	———
10	Armelia Pannell	Armelia Pannell	Bruce St.	———
11	April Harris	April Harris	Bruce St	
12	Robert Lipscomb	ROBERT LIPSCOMB	ONE BRUCE STREET	341-7788
13	P. Amos Williams	P. A. Williams	Dubois ST	768-0980
14				
15				

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	SIGN NAME	PRINT NAME	STREET ADDRESS	PHONE
1	Suzanne Reed	Suzanne Reed	PO Box 97 Eleanor	586-4025
2	Phyllis Lanham	Phyllis Lanham	PO Box 815 Eleanor	586-8580
3	D K Jordan	D K JORDAN	P.O. BOX 133 ELEANOR	586-4640
4	Lucinda Burns	Lucinda Burns	P.O. Box 583 Eleanor	586-3023
5	Don Burns	Don Burns	PO Box 583 Eleanor	586-3023
6	B.R. Bayless	B.R. BAYLESS	PO Box 226, ELEANOR	586-7066
7	Evelyn Smith	Evelyn Smith	P.O. Box 616 ELEANOR	5862413
8	Oren Smith	OREN SMITH	" " "	" "
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JUNE 12, 1989

G. DALE FARLEY
THE WEST VIRGINIA AIR
POLLUTION CONTROL COMMISSION
1558 WASHINGTON STREET, EAST
CHARLESTON, WV 25311

DEAR MR. FARLEY,

OUR ORGANIZATION STRONGLY FEELS THAT IT WOULD BE IN THE BEST INTERESTS OF ALL WEST VIRGINIANS THAT REGULATION 27 BE ADOPTED IN ITS ORIGINAL FORM. IN THE LAST FEW DAYS PRESIDENT BUSH HAS TAKEN POSITIVE STEPS TO TAKE THE "OFFENSIVE" TO NOT ONLY PROTECT WHAT CLEAN AIR WE HAVE LEFT, BUT TO REVERSE THE NEGATIVE TRENDS OF THE PAST DECADES.

THIS COULD BE A BIG STEP FOR CLEANER AIR FOR DECADES TO COME. LET'S NOT SLIP NOW.

SINCERELY,

John Saltron
PRESIDENT
HOMEPLACE, INC.
LINCOLN COUNTY,

American Cyanamid Company
Willow Island, WV 26190
(304) 665-2422

June 13, 1989

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

Dear Commissioners:

Enclosed for your consideration are comments of the American Cyanamid Company on the Revised Proposed Rule Series 27 "To Prevent and Control the Emissions of Toxic Air Pollutants".

Very truly yours,

AMERICAN CYANAMID COMPANY

D. C. Chatfield
Plant Manager

/nm

Enc.

COMMENTS OF THE

AMERICAN CYANAMID COMPANY

ON REVISED PROPOSED RULE SERIES 27

"TO PREVENT AND CONTROL THE EMISSIONS OF

TOXIC AIR POLLUTANTS"

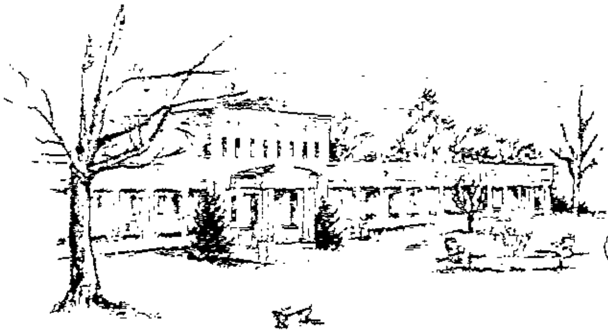
The American Cyanamid Company has reviewed the proposed rule on toxic air pollutants and, as a member of the Environmental Control Committee of the West Virginia Manufacturers Association, has participated in the development of appropriate comments and supports these comments as submitted today by the Manufacturers Association.

Nevertheless, American Cyanamid would like to take this opportunity to reemphasize several issues concerning this rule. First, American Cyanamid has participated in the development of the voluntary air toxics reduction program, has supported this program and believes that this program is the preferred approach for addressing the reduction of air toxics.

Secondly, if the regulatory route is to be pursued, American Cyanamid supports the position that the State delay promulgating these regulations until the Federal regulations are issued. This avoids the problem of State regulations being less stringent, in which case industry would be required to follow the Federal regulations, or the problem of State regulations being more stringent, a situation prohibited by State law.

Thirdly, American Cyanamid believes that the promulgation of this rule follows the normal rule-making procedure and not be issued as an emergency rule.

In summary, American Cyanamid supports the comments of the Manufacturers Association, is committed to reducing toxic air pollutants and continues to believe that a voluntary program is the most preferred approch to control toxic air pollutants.



Capon Springs and Farms

CAPON SPRINGS, WEST VIRGINIA 26823
(304) 874-3695 or 874-3901

June 12, 1989

G. Dale Farley
West Virginia Air Pollution Control Commission
1558 Washington St. E.
Charleston, WV 25311

Dear Mr. Farley:

I understand that the APCC is considering Regulation 27. I would urge you to adopt this in its original form. I think that companies which pollute the air will not be harmed if they are forced to examine all the current pollution control technologies and use the best available one. Rather, they would just be incurring a cost of doing business. They, not the public and the ecosystem of this state and the world, should be bearing this cost.

We are a summer resort in eastern Hampshire County. People come here to escape the dirty air and traffic of the Washington, D.C. area and other cities. We depend on clean air as a vital part of our business. If some other industry comes into this area and pollutes the air, we have no defense other than your government regulations. So I hope you adopt and enforce strict air quality rules.

Thank you for your consideration.

Yours truly,

Bonni V. McKeown
Land Manager

5000 SCENIC ACRES
in the great North Mountains of West Virginia

G. Dale Farley
WV Air Pollution Control Commission
1558 Washington Street, E.
Charleston, WV 25311

June 12, 1989

Dear Mr. Farley:

I am writing to request that the WV APCC adopt regulations requiring the use of Best Available Technology for limiting toxic air pollution. I would like your support of "Regulation 27" in its original form.

I beleive that West Virginia is particularly vulnerable to serious negative impacts from air pollutants released by the chemical industry. The federal government is not regulating these pollutants and has left this matter up to the states. West Virginia has a large and diverse chemical industry which generates a large variety of highly toxic pollutants. The topography of West Virginia lends itself to temperature inversions which concentrate pollutants near high population density residential areas. Some companies are making good faith efforts, however, because of greed , financial difficulties, or deliberate negligence, arrogance, and/or incompetence, some companies are continuing to spew emissions that lead to long term chronic illness.

For these and numerous other reasons, I urge you to require the Best Available Technology for air pollutant control.

Sincerely,

James Kotcon

James Kotcon

P. S. A riddle for our times:

Q. When is it appropriate to bite the hand that feeds you?
A. When that hand is feeding you poison.

June 10, 1989

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

Re: Regulation 27

Dear Mr. Farley:

I want to urge you and each of the Commissioners to support Regulation 27 in its strongest form. Let West Virginia take the lead in bringing toxic air emissions under control.

I can't help but notice the difference in the air quality here in Braxton county and of that in the Charleston area. We occasionally sell produce at the Farmers' Market in Charleston but have opted to use the Weston Market instead due in large part to the air pollution that permeates the area.

There is little doubt that the people in each county are becoming more aware of the hazards presented by chemical and other industries that create health problems. We can only depend on our state government to alleviate these dangers through their adoption of strict standards and enforcement of these standards. Certainly the higher number of people in the Kanawha Valley with cancer, as opposed to other areas of the state, should indicate that the emissions from the chemical plants are largely responsible.

You can count on my support to keep for this great state a healthy environment and good clean air.

Sincerely yours,

Virginia C. Padgett

Virginia C. Padgett

296 Little Buffalo Road
Gassaway, WV 26624

Phone: 364-5734

June 15, 1989

Dear Sir:

Please let me express my strong support for Regulation 17 in its original form. We need this regulation (and enforcement behind it) to represent the needs of each of us for healthy, clean air.

The chemical industry is filled with many fine people, some of whom I know, but they have been taught values of success in monetary terms that sometimes preclude the real success of a thriving community. We are fortunate to live in a system with checks and balances and this regulation is an important balancing factor!

I would like to know of any hearings at which I can show support for clean air in this area.

Sincerely,

Elizabeth F. Kent
201 18th Street
Dunbar, WV 25064

AG-6 REV. 4/86

E. I. DU PONT DE NEMOURS & COMPANY
INCORPORATED
BELLE, WEST VIRGINIA 25015

AGRICULTURAL PRODUCTS DEPARTMENT
BELLE PLANT, 901 W. DU PONT AVENUE

June 19, 1989

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

Dear Mr. Farley:

In the written statement on the Proposed Regulation 27 submittal to the Commission on June 13 by E. I. du Pont de Nemours & Co., Inc., Belle Plant, there is a typographical error on page 5, line 3. The number 4.4 cancer cases should be 44.

Please attach the revised page to our submittal statement.

Sincerely,

R. F. SHERMAN
ENVIRONMENTAL COORDINATOR

RFS/jss
Attachment
3.21

The indicated average risk of additional cancer cases in the Kanawha Valley from the chemicals to be controlled, is about $4.4(10)^{-4}$ or about 44 cancer cases in 70 years for 100,000 people. The population covered in this study is about 100,000 people so this equates to about 0.6 of a cancer case out of about 430 cancer cases per year.

Thus, this conservative study indicates the upper range possibility of 0.15% increase in cancer cases over other causes. As the EPA "Kanawha Valley Toxics Screening Study" indicates, the probability is that the cancer caused by these sources is much lower.

We agree that all causes of cancer should be considered seriously, and the chemical industry, in cooperation with APCC, has made significant reductions in emissions to reduce this risk and is continuing to make reductions.

Also we need to be realistic in response to the level of these risks and consider the economic welfare of the community and the effect community economics has on the health of the people in the community.

RFS/jss
6/13/89
3.15

URGENT FAX!

Please deliver at once to

Name Dale Farley Phone 304-348-4029 Mail Code 5

This page is followed by a 3 page transmission
Time Sent 1:15 Day/Date Sent 6/22

Please call Roy Chalmers at 215-697-9844
to acknowledge receipt of this Fax
☐ check here if original will be mailed

U.S. Environmental Protection Agency
Region III, 841 Chestnut Bldg., Phila., PA. 19107

For return Fax, dial 215-697-7906
Use 215-597-9800 for voice confirmation

EPA

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

RECEIVED
89 JUN 22 PM 1:46
WEST VIRGINIA
AIR POLLUTION
CONTROL COMMISSION

SUBJECT: West Virginia's Proposed Regulation 27 - "To Prevent and Control the Emissions of Toxic Air Pollutants."

DATE: JUN 20 1989

FROM: Bernard E. Turlinski, Chief
Air Enforcement Branch (3AM20)

TO: Jesse Baskerville, Chief
Air Programs Branch (3AM10)

Per request of Iz Milner of your staff, Air Enforcement Branch has reviewed the West Virginia Air Pollution Control Commission's (WVAPCC's) re-draft of its proposed Regulation 27 - "To Prevent and Control the Emissions of Toxic Air Pollutants." The WVAPCC submitted this re-draft of Regulation 27 to us on May 22, 1989.

Air Enforcement Branch believes this re-draft of Regulation 27 is not likely to be as effective in reducing air toxics as the original draft. The new draft requires best available control (BAT) only for plants and/or chemical processing units which emit substantial quantities of toxic air pollutants. The original draft required BAT for all plants and/or units, regardless of their emission levels. In addition, Air Enforcement Branch finds the new draft to be less enforceable in two respects. First, there may be substantial difficulty in determining whether a plant and/or unit emits toxics in amounts greater than the applicability levels. Second, BAT is not specifically described.

Air Enforcement Branch's comments on the Regulation's specific provisions follow:

Section 3. Chemical Processing Units

This section states, in subsection 3.1, that "no person shall operate a chemical processing unit that discharges or may discharge a toxic air pollutant into the open air at any plant or facility in excess of the amount shown in the following table unless all such chemical processing units at the plant or facility emitting toxic air pollutants are equipped and operated with BAT..."

Air Enforcement Branch has several questions and/or concerns regarding this requirement. First, if a plant and/or chemical processing unit emits sufficient toxic air pollutants to trigger applicability, must the entire plant and/or unit then be equipped with BAT, or must the plant and/or unit be equipped with BAT only to the extent required to bring emissions below the applicability level?

Another concern is use of the term "chemical processing unit," which makes this section difficult to enforce. What is to prevent a company from claiming that its plant is comprised of numerous small "chemical processing units" each of which emits toxic air pollutants in quantities less than the specified applicability level?

An additional concern is with the concept of having regulatory applicability depend upon a plant's and/or unit's toxic emission levels. It appears that WVAPCC/Company disputes regarding whether a source is subject to the regulation may arise as a result of this provision, since air toxics emissions are often fugitive in nature, and can be difficult to quantify.

A final concern pertains to a provision, in subsection 3.3, allowing the WVAPCC to exempt from control very small sources that have an insignificant impact upon public health. This exemption provision is not sufficiently specific. The WVAPCC should define "very small" and "insignificant impact upon public health."

Section 4. Fugitive Emissions of Toxic Air Pollutants

Section 4, Subsection 4.2, states that "In quantifying plant or facility emissions of a toxic air pollutant pursuant to determining the applicability of this regulation under Section 3.1, emissions from potentially leaking equipment components which handle streams containing the toxic air pollutant shall be included. Such quantification shall be in accordance with estimation methods approved by the Director." We suggest that the WVAPCC publish a separate document including all approved estimation methods.

Section 5. Tanks

This section gives the WVAPCC authority to exempt very small process or storage tanks or tanks storing material mixtures containing low mass fractions of toxic air pollutants from the BAT requirement. We suggest that the WVAPCC define "very small" and "low mass fractions."

Section 6. Wastewater from Chemical Processing Units

Section 6, Subsection 6.3, gives the WVAPCC authority to exempt wastewater treatment units, tanks, or equipment from the requirement for BAT if the owner or operator can demonstrate that air stripping or volatilization and emission to the air of toxic air pollutants from such sources does not occur or is insignificant from the standpoint of emissions and/or impact upon public health. We recommend that the WVAPCC define insignificant emissions and insignificant impact upon public health.

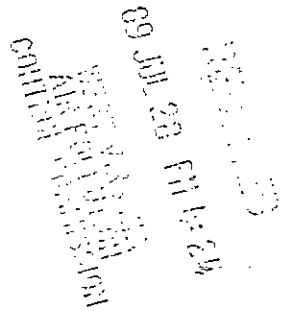
Section 11. Compliance Programs and Schedules

This section does not set a final compliance deadline, requiring only that companies develop compliance plans and submit them to the WVAPCC for approval within 180 days of the effective date of the regulation. We recommend that the WVAPCC specify a final deadline for compliance, and that the WVAPCC require all company compliance plans to demonstrate compliance by that deadline. The WVAPCC should also require the plans to include interim compliance steps and deadlines.

WEST VIRGINIA
MANUFACTURERS ASSOCIATION

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

July 28, 1989



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

Re: Regulation 27.

Dear Director Farley:

In the past several months in meetings and conversations with representatives of our member companies, you have raised some questions and concerns regarding the committed program for reductions which has been advocated by the Manufacturers in lieu of the formal regulation. Apart from the written comments we submitted, and the statement we will give at the hearing on Monday, we wanted to take this opportunity to address those questions and concerns.

1. We agree that some near-term action is needed. We believe that the Commission should immediately endorse and adopt a cooperative, committed reduction program along with lines detailed in our proposal.

2. New sources, as well as existing sources, can be controlled under this program. To the extent that all issues cannot be resolved within the 90-day permit issuance period, the Director can toll that period formally in lieu of permit denial. In fact, a permit could be denied on its merits if the Director determines that it would cause a "statutory air pollution" as that term is defined in W.Va. Code §16-20-2. Furthermore, the issuance of any new permit could be conditioned with appropriate terms to adequately address protection of health and the environment.

3. While it may well be some time before new federal rules are promulgated, the Manufacturers believe that this interim gap can be closed by the immediate adoption of our proposed program. All of the sources identified to us by former Director Beard have agreed, in writing, to participate in that program. This would allow and encourage immediate implementation of reduction programs.

4. We share your concern about "image." That is why we have vigorously pursued and drafted our voluntary program protocol. We reaffirm to you our willingness to discuss with you any changes in that program which might be appropriate. In addition, we would be glad to work with the Commission to help publicize continuing improvements and to promote better understanding in the public of relative and real risk.

5. As we have discussed before, we believe that the concept of Best Available Control Technology should incorporate an economic factor. We have tried to articulate this concept in the most favorable light in the written comments which we submitted to you on June 14, 1989. We hope that this may well resolve any continuing concern you may have. The Clean Air Act itself recognizes economics as an element of defining Best Available Control Technology.

6. While the Manufacturers believe that the threshold levels for regulatory control for the fourteen listed substances are unrealisticly low in the proposed rule, we certainly believe that there is room for appropriate compromise on this issue which would strike the proper balance so as to eliminate small sources from the program and focus on areas where the most reduction can be achieved.

7. While we cannot, of course, tell you whether all existing sources are truly committed to this program, we have obtained written commitments from those existing sources which were identified by Director Beard, eighteen in number. We could certainly supply copies of those documents to you if you so desire, or in some other format you would prefer.

8. As part of the proposal we submitted for a committed program of reductions, we suggested a form agreement which could be used for all participating companies. We further believe that a general use consent order which does not purport to be an enforcement agreement might be fashioned which all subscribing parties could be comfortable with and willing to execute. We would be happy to work with you to develop such an order.

9. We agree with you that the use of a Scientific Advisory Board would be very helpful in dealing with issues of appropriate control of potentially hazardous air pollutants. As we have previously noted, the Commission presently has the power under W.Va. Code §16-20-5(13) to appoint advisory councils as it may determine. Such a council may advise and consult with the

WEST VIRGINIA
MANUFACTURERS ASSOCIATION

Commission about these matters on a state-wide basis. In this way, members of the technical and scientific community in this state can lend valuable insight to the Commission on these highly complex issues.

As we hope to point out in some greater detail on Monday, we believe that the voluntary reductions which have been undertaken by companies to date reflect a genuine commitment to respond to the concerns of the Commission and the public for the reduction of potentially harmful air pollutants. We hope that you and the Commission will decide to officially join with us to institute an aggressive program now, while we await the completion of the federal legislative and regulatory process so as not to inequitably impact West Virginia businesses and industries and yet to undertake a highly visible and effective reduction program.

I hope that this letter serves to alleviate some of your concerns and to address your questions. We would be pleased to discuss these and any other matters with you and the Commissioners at your convenience.

Sincerely,

R. L. Foster

Robert L. Foster
Chairman
Environmental Control Committee

RLF:dls

cc: Mr. Jack White

ADMIX
BROADCAST
SERVICE

1 August 1989

West Virginia Air Pollution
Control Commission
1558 Washington Street East
Charleston WV 25305

Dear Commissioners:

Permit me to comment on the proposed Regulation 27, requiring chemical plants to use the "best available technology" in controlling carcinogenic emissions.

In a time of rapidly developing technology, the "best available" may often be the least commercially-developed and therefore the most expensive technology.

The Federal Clean Air Act will be amended soon. If the Federal government adopts "best available technology" as a standard, the United States shoots itself in the foot in competition with the global chemical industry. But if West Virginia adopts more stringent standards that the rest of the country, we will be in even worse shape. The recent departure of the South Charleston Silicones II plant shows dramatically that we cannot count on large installations to be permanent fixtures.

I live and work in North Charleston, in the shadow of chemical plants. I don't work in the chemical industry, but I want my neighbors and my economy to have jobs.

As more substances are tested in more sophisticated ways, it appears that nearly everything is carcinogenic in sufficient concentrations. This unfortunate overzealousness of classification must be moderated before burdensome regulations are promulgated.

West Virginia needs to be realistic about the balance between our desires for clean air and our economic realities. It is to be hoped that the Air Pollution Control Commission will stand with the pragmatists, and not with the idealists who demand absolute safety at any cost.

Very truly yours,

Howard Russell

960 Woodward Drive • P.O. Box 10271 • Charleston, WV 25312 • (304)744-0022

Sirs:

I read with mixed feelings about the proposed regulations by the West Virginia Air Pollution Control Commission. Yes, we must be concerned about the air and water pollutants that threaten our State. But, ours is a state that can't afford right now, to lose industry because of overly strict controls.

I feel that, with the voluntary effort that manufacturers are doing toward reducing emissions, and the fact that pending federal legislation might cover the areas that our Commission is concerned about, then the APCC should not persue the new regulations.

Sincerely,

Robert E. Enoch
2103 Gihon Rd
Parkersburg WV
26101

RECEIVED
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WEST VIRGINIA
AIR POLLUTION
CONTROL COMMISSION

West Virginia Chamber of Commerce

"Creating the Opportunity"

August 2, 1989

Mr. Crede R. Douglass, Jr.
Chairman
Air Pollution Control Commission
122 Northgate Drive
New Martinsville, WV 26155

Dear Chairman Douglass:

I regret that because of another long-standing meeting (on taxation), I was not available to personally attend the July 31 meeting of the Air Pollution Control Commission and to comment on proposed regulations regarding toxic emissions. However, I want to offer these comments.

Indeed, the Commission should give serious consideration to Mr. Jack White's comments that the voluntary reduction schedule of certain West Virginia chemical companies has been an exceptional example of industry concern for reducing dangerous emissions. Former Director, Carl Beard, often commented favorably about the voluntary arrangement. You should not interpret my remarks to this point as denying the reality of your responsibility to respond to a health crisis if indeed that is what has to be addressed.

The Commission in its considerations should not subordinate the significance of the ongoing global dialogue on environmental strategies, especially the current deliberations of the Congress on the Clean Air Act. While West Virginia may have a problem with toxic emissions, the solution to the problem--the method and timing--must be put in perspective, with close attention and study given to the actions of the Congress and the personal visibility of President Bush on this issue.

The actions of our Commission, also, should heed this country's renewed interest in regaining preeminence in world wide economic competition. However remote and "worldly" that may seem, it nevertheless must be given reasonable weight when we are trying to put West Virginia's competitiveness in perspective.

We sincerely believe that adoption of new toxic regulations should be withheld, pending federal actions. If the Commission should postpone its final decision until after the federal Clean Air Act revisions are completed, it would not place West Virginia "out of step."

P. O. Box 2789 Charleston, West Virginia 25330 (304) 342-1115

You may be aware that after due deliberation, the Sate of Kentucky Division for Air Quality has decided to defer further revision of its toxic air pollutant regulations until Congress acts on clean air legislation.

It is of utmost concern to us that this critical decision may be made when the Commission is not at full strength because of two members not being reappointed and a third member sitting beyond the expiration of his term.

I respectfully urge the West Virginia Air Pollution Control Commission to follow the lead of our neighboring state and thereby permit West Virginia to see all the cards on the table before making its bet.

Sincerely,

John D. Hurd
President

/cpg

cc: G. Dale Farley
Len Harvey
Governor Caperton
L. Newton Thomas, Jr.
Cleve Benedict
George W. Lilly, Jr.
Samuel Kusic

963 Washington Ave - Apt 12
Huntington WV 25704

O.V.E.C.

Ohio Valley Environmental Coalition

August 6, 1989

Box 212
Wheelersburg, OH
45694-0212

Dear Mr. Farley,

I want to express the fullest support of our Steering Committee for your efforts to get strong air pollution regulations passed for our state.

At present, the Ohio Valley Environmental Coalition has been studying the Aamco coke plant's huge emissions of the carcinogen, Benzene; the PCB pollution at Pinkton; and the devastating situation in the Charleston area.

It seems to us inconceivable that any sane person would want to continue this destructive — no, self-destructive — behavior. Yet, in the Huntington paper, an industry person spoke against you and need for stronger regulations. He said, "no compelling emergency exists."

Medically, you are most certainly in the right. But being "right" isn't enough. It takes real moral courage to voice yourself as you are doing. Mr Farley, you have our support, but more than that, you have earned our admiration. May God bless you.

Respectfully,
Ronald Goodman

P.S. although I teach at Shawnee State University my permanent residence is 963 Washington Ave #12 Huntington 25704

UNION CARBIDE CORPORATION P.O. BOX 180, SISTERSVILLE, WEST VIRGINIA 26175
Specialty Chemicals Division
SILICONES PLANT

August 15, 1989

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

Dear Mr. Farley:

The purpose of this letter is to urge the Commission to delay promulgation of Regulation XXVII until the Federal Clean Air Act Amendment has been passed by Congress.

The reason for this suggestion is not to delay the work necessary to reduce air emissions. In fact at Union Carbide, Sistersville, we have several million dollars of environmental projects under way. My purpose is to avoid the confusion and lost effort that occurs if the federal and state regulations are substantially different.

Union Carbide is committed to a clean environment. It supports a more stringent and comprehensive Clean Air Act. Since the new act should be passed prior to the end of 1989 I believe it is in the best interest of all the citizens of this state to delay promulgation of Regulation XXVII until that time.

Very truly yours,

Lynn W. Phair

LWP/bjh
3573A

MOBAY CORPORATION
NEW MARTINSVILLE PLANT
NEW MARTINSVILLE, WEST VIRGINIA 26155

D. C. OWENS
GENERAL PLANT MANAGER

TELEPHONE
304-455-4400

August 23, 1989

Mr. Dale Farley
WVAPCC
1558 Washington Street, East
Charleston, WV 25311

Dear Mr. Farley:

Subject: WV Air Toxics Regulations Hearing Record 8-29

Mobay Corporation operates a chemical manufacturing plant in Marshall County. We support effective environmental regulations and are committed to improving the environment.

In light of the imminent enactment of Federal Legislation on Clean Air on four (4) issues, we urge the state to forestall new state regulations until the federal ones are made clear.

This does not mean that Mobay Corporation will cease efforts since we are committed to waste reduction in general and have committed with the other manufacturers voluntary reduction of the 14 targeted chemicals.

We suggest that the Commission undertake further dialogue with industry in finalizing the voluntary program submitted by the WV Manufacturers Association.

Sincerely,

D. C. Owens

D. C. Owens

DC04140

4406 Venable Ave SE
Charleston, WV 25304
August 29, 1989

Dale Farley, Commissioner
West Virginia Air Pollution Control Commission
1558 Washington St E.
Charleston, WV 25311

Dear Commissioner Farley;

Mindful that the creation is a gift from God, and that to treat it with respect is to respect the Creator, the Charleston meeting of the Religious Society of Friends urges the Commission to adopt Regulation 27 as written. Weunderstand that this regulation , while challenging to some companies, is a responsible approach to the problem of toxic air pollution. To live lightly upon the earth is a goal for many Friends. While this is not an appropriate goal for a private firm, it is appropppriate to expect that companies put as little pollution in the air as is technically feasible.

Sincerely,

Conni Gratop Lewis

Conni Gratop Lewis,
Clerk