

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #6

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: WV Air Pollution Control Commission TITLE NUMBER: 45

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

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

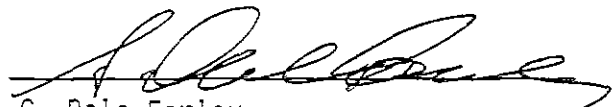
TITLE OF RULE BEING PROPOSED: To Prevent and Control the Emissions  
of Toxic Air Pollutants

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill No. 243

SECTION 64-3-1(o), PASSED ON 03/10/90

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: June 30, 1990

  
G. Dale Farley  
Secretary

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		FISCAL YEAR		
	Increase	Decrease	Current	Next	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.

DATE: October 16, 1989

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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

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

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

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.

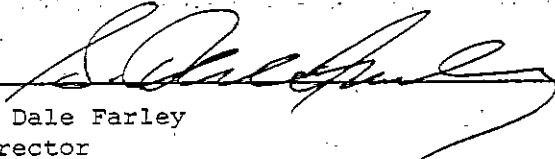
The actual cost of compliance with this regulation is uncertain due to the case-by-case control determination and the costs and effects of voluntary emission reduction efforts and process changes completed or on-going. It is estimated that additional capital costs to the regulated industry may be on 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

AMENDMENTS  
January 10, 1990

ERRATA

CHANGES TO REGULATION 27  
(45CSR27)

"To Prevent and Control the Emissions of Toxic Air Pollutants"

- Page 3, Line 14: STRIKE: "shall"  
ADD: "s" to include
- Page 3, Line 15: Change "~~shall~~" to "does"
- Page 4, Line 16: STRIKE: "shall"  
ADD: "s" to mean
- Page 4, Line 18: ADD: "of this regulation"
- Page 4, Line 22: Change "~~pollutant, provided, however, that~~" to "pollutant: Provided, that"
- Page 6, Line 17: ADD: ", by application of BAT,"
- Page 6, Line 20: STRIKE: "~~by application of BAT,~~"  
Change: comma to a period after "flanges"
- Page 6, Line 22: Change "~~emissions--provided~~" to "emissions: Provided"
- Page 10, Line 12: Change "~~evaporation provided, however, that~~" to "evaporation: Provided, that"
- Page 11, Line 14, 15: Change "~~Section 2, Chapter 16, Article 20, paragraph 11b of the Code of West Virginia~~" to "WV Code 16-20-11b"
- Page 14, Line 3: Change "~~shall not be~~" to "is not"
- Page 14, Line 4: Change "~~observed, provided, however that~~" to "observed: Provided, that"
- Page 15, Line 5: ADD: "the resolution of"

\*Regulation was amended as suggested by Legislative Rulemaking Review Committee.

[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.

- §45-27-1. General.
- §45-27-2. Definitions.
  - 2.1. "Air Pollution"
  - 2.2. "Air Pollution Control Device"
  - 2.3. "BAT" 'Best Available Technology'
  - 2.4. "Chemical Processing Unit"
  - 2.5. "Commission"
  - 2.6. "Director"
  - 2.7. "Plant" 'Facility'
  - 2.8. "Person"
  - 2.9. "Stack"
  - 2.10. "Toxic Air Pollutant"
  - 2.11. "Toxic Air Pollutant Service"
  - 2.12. "Modification"
- §45-27-3. Chemical Processing Units.
- §45-27-4. Fugitive Emissions of Toxic Air Pollutants.
- §45-27-5. Tanks.
- §45-27-6. Wastewater from Chemical Processing Units.
- §45-27-7. Loading and Unloading Railcars and Tank Trucks.
- §45-27-8. Registration.

- §45-27-9. Permits. . .
- §45-27-10. Reports, Records and Testing.
- §45-27-11. Compliance Programs and Schedules.
- §45-27-12. Variance.
- §45-27-13. Inconsistency Between Regulations.

[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 includes surface coating equipment or similar equipment utilizing a toxic air pollutant as a solvent or for other purposes but does 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.

2.89. "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.

2.910. "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.

2.101. "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" means 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 of this regulation, 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, 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

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

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, by application of BAT, 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. 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, 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 seat 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 constructed 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.~~

~~§45-27-65. 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.

§45-27-76. Wastewater from Chemical Processing Units.

76.1. 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, 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.

§45-27-87. Loading and Unloading Barges, Railcars and Truck Tanks Trucks.

87.1. 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 tank 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.~~

**§45-27-98. Registration.**

98.1. 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 ~~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.

**§45-27-109. Permits.**

109.1. 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 11b of the Code of West Virginia~~ WV Code 16-20-11b, 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.

**§45-27-110. Reports, Records and Testing.**

110.1. 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.

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

110.3. 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.

110.4. ~~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-offeredsubmitted 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, 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.

§45-27-132. Variance.

132.1. 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, the resolution of 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