

WEST VIRGINIA
SECRETARY OF STATE
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ADMINISTRATIVE LAW DIVISION

Form #1

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: WV Air Pollution Control Commission TITLE NUMBER: 45CSR29
RULE TYPE: Legislative; CITE AUTHORITY Chapter 16, Article 20, Section 5
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: 45CSR29

TITLE OF RULE BEING PROPOSED: "Regulation Requiring the Submission of
Emission Statements for Volatile Organic Compound Emissions and Oxides
of Nitrogen Emissions"

DATE OF PUBLIC HEARING: June 23, 1992 TIME: 9:00 a.m.

LOCATION OF PUBLIC HEARING: Conference Room
WV Air Pollution Control Commission
1558 Washington Street, East
Charleston, WV 25311

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Same as above.

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL


G. Dale Farley, Director

3-20

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[PROPOSED]
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TITLE 45
LEGISLATIVE RULE
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

SERIES 29
REGULATION REQUIRING THE SUBMISSION OF EMISSION
STATEMENTS FOR VOLATILE ORGANIC COMPOUND
EMISSIONS AND OXIDES OF NITROGEN EMISSIONS

SUMMARY

Section 182(a)(3)(B) of the 1990 Clean Air Act Amendments (CAAA) requires states with ozone nonattainment areas to adopt rules requiring the annual submission of emission statements from stationary sources emitting VOCs or NO_x. This regulation applies only to stationary sources located in the counties of Putnam, Kanawha, Cabell, Wayne, Wood, and Greenbrier.

West Virginia is required to adopt emission statements reporting requirements for the aforementioned counties and to incorporate the rule into the State Implementation Plan (SIP) by November 15, 1992 as mandated by the CAAA.

[PROPOSED]
45CSR29

TITLE 45
LEGISLATIVE RULE
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

SERIES 29
REGULATION REQUIRING THE SUBMISSION OF EMISSION
STATEMENTS FOR VOLATILE ORGANIC COMPOUND
EMISSIONS AND OXIDES OF NITROGEN EMISSIONS

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§45-29-1. General.

1.1. Scope. -- This regulation requires the submission an emission statement from owners and operators of stationary sources with volatile organic compound (VOC) and/or oxides of nitrogen (NO_x) emissions. Facilities with less than 25 tons per year of plant-wide actual VOC or NO_x emissions are exempt from the requirements of this regulation if these sources are included in the commission's base-year and periodic emissions inventories. This regulation applies only to stationary sources located in Putnam, Kanawha, Cabell, Wayne, Wood, and Greenbrier Counties.

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

1.3. Filing Date. --

1.4. Effective Date. --

§45-29-2. Definitions.

For the purpose of this regulation, the following definitions shall apply:

2.1. "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit for the calendar year or seasonal period within the calendar year. Actual emission estimates must include upsets and downtime to parallel the documentation of these events in the emissions inventory and must follow an emission estimation method.

2.2. "AIRS" means the U.S. EPA's Aerometric Information Retrieval System.

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- 2.3. "AFS" means AIRS Facility Subsystem.
- 2.4. "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.
- 2.5. "Annual fuel process rate" means the actual or estimated annual fuel, process or solid waste operating rate. The AIRS facility subsystem source classification code table prescribes the units to be used with source classification code.
- 2.6. "Certifying individual" means the individual responsible for the completion and certification of the emission statement (e.g. officer of the company) and who will take legal responsibility for the emission statement's accuracy.
- 2.7. "Commission" means the West Virginia Air Pollution Control Commission.
- 2.8. "Control efficiency" means the actual control efficiency achieved by the control device. The actual efficiency shall reflect control equipment downtime and maintenance degradation. If the actual control efficiency is unknown, the design efficiency (reduced by 10%) may be used. However, it should be clearly indicated that the design and not the actual efficiency is being reported.
- 2.9. "Control equipment identification code" means the AIRS/AFS code which defines the equipment (such as an incinerator or carbon adsorber) used to reduce, by destruction or removal, the amount of air pollutant(s) in an air stream prior to discharge to the ambient air.
- 2.10 "Director" means the director of the West Virginia Air Pollution Control Commission or his or her designated representative.
- 2.11. "Emission estimation method code" means a one-position code which identifies the estimation technique used in the calculation of estimated emissions.
- 2.12. "Estimated emissions units" means a two-position code which identifies the units associated with an estimated emissions.
- 2.13. "Facility" means all of the pollutant-emitting activities that are located

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on one or more contiguous or adjacent properties, and are under the control of the same person (or person under common control).

2.14. "Measured emissions method code" means a one-position code which identifies the test method used to ascertain measured emissions.

2.15. "Measured emissions units" means a two-position code which identifies the units associated with a measured emissions value.

2.16. "Owner or operator" means any person who owns, leases, controls, operates, or supervises a facility, a source, or air pollution control or monitoring equipment.

2.17. "Oxides of nitrogen" (also denoted as NO_x) means, in air pollution usage, a compound comprised of nitric oxide (NO) and nitrogen dioxide (NO_2), expressed as molecular weight of NO_2 .

2.18. "Ozone season" means that period of the year during which conditions for photochemical ozone formation are most favorable. Generally, sustained periods of direct sunlight (i.e., long days, small cloud cover) and warm temperatures.

2.19. "Percent seasonal throughput" means the weighted percent of yearly activity for the following periods:

- a. December-February;
- b. March-May;
- c. June-August; and
- d. September-November.

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

2.21. "Point" means a physical emission point or process within a plant that results in pollutant emissions.

2.22. "Potential to emit" means the capability of a source to emit a pollutant at a maximum design capacity, except as constrained by the commission or U.S. EPA enforceable conditions which include the effect of installed air pollution control equipment, restrictions on the hours of operation, and the type and amount of material combusted, stored, or processed.

2.23. "Source" means any building, structure, equipment, or installation that directly or indirectly releases or discharges, or has the potential to release or discharge, VOCs or NO_x into the ambient air.

2.24. "Stationary Source" means any stationary facility or source of air pollutants which directly emits, or has the potential to emit, 10 tons per year or more of VOC or 100 tons per year or more of NO_x .

2.25. "Typical ozone season day" means a day typical of that period of the year during which conditions for photochemical ozone formation are most favorable, generally, sustained periods of direct sunlight (i.e., long days, small cloud cover) and warm temperatures. For West Virginia, this day is a typical day during the period of June, July, and August until otherwise notified by the director.

2.26. "Volatile Organic Compound" (also denoted as VOC) means any organic compound that participates in atmospheric photochemical reactions. This includes any organic compound other than the following exempt compounds: methane, ethane, methyl chloroform (1,1,1-trichloromethane), CFC-113 (trichlorotrifluoroethane), methylene chloride, CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane), CFC-22 (chlorodifluoromethane), CFC-23 (trifluoromethane), CFC-114 (dichlorotetrafluoroethane), CFC-115, (chloropentafluoroethane), HCFC-123 (dichlorotrifluoroethane), HFC-134a (tetrafluoroethane), HCFC-141b (dichlorofluoroethane), HCFC-142b (chlorodifluoroethane), 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124), pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); and perfluorocarbon compounds which fall into these classes:

- a. Cyclic, branched, or linear, completely fluorinated alkanes;
- b. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- c. Cyclic, branched, or linear, completely fluorinated tertiary

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amines with no unsaturations; and

d. Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

Any organic compounds that the U.S. EPA lists in Federal Register notices as being photochemically nonreactive may also be exempt by the commission. For purposes of determining compliance with emission limits, VOC will be measured by the test methods approved by the U.S. EPA. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emission standard.

§45-29-3. Compliance Schedule.

3.1. The owner or operator of any stationary source subject to the requirements of this regulation shall submit an emission statement to the director on an annual basis beginning April 15, 1993 for the previous calendar year.

3.2. Emission statement reporting forms, guidance, and codes will be provided by the director for applicable sources.

3.3. The director may require the submission of such data in a specified format on magnetic media unless the owner or operator demonstrates an inability to provide required information in such format.

§45-29-4. Requirements.

4.1. The emission statement shall contain, at a minimum, the following information:

a. Certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement. The certification shall include the full name, title, signature, date of signature, and telephone number of the certifying individual.

b. Source identification information:

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1. Full name, physical location, and mailing address of the facility.

c. Operating data:

1. Percentage annual throughput;
2. Days per week for both the normal operating schedule and for a typical ozone season day (if different from the normal operating schedule);
3. Hours per day for both the normal operating schedule and for a typical ozone season day (if different from the normal operating schedule); and
4. Hours per year for both the normal operating schedule and for a typical ozone season day (if different from the normal operating schedule).

d. Emissions information:

1. Actual VOC and/or NO_x emissions at the process level, in tons per year and pounds per day for a typical ozone season day (estimated or measured);
2. Emission method code (estimated or measured);
3. Units code to identify the emissions units (tons per year or pounds per day); and
4. Calendar year for the emissions.

e. Control equipment information:

1. Current primary and secondary control equipment identification codes; and
2. Current control equipment efficiencies (%).

f. Process rate data:

1. Annual fuel process rate (annual throughput if not a fuel process); and
2. Peak ozone season daily process rate.

4.2. The owner or operator submitting an emission statement pursuant to the provisions of this regulation shall maintain records of test methods, procedures, calculations or other information used to determine emission estimates for a period of five (5) years following the date of submittal.

4.3. The director may require the submittal of records, test methods, or other data upon which the information in section 4.2 is based to verify emission estimates.

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4.4. All emission statement data will be submitted to U.S. EPA by updating AIRS/AFS on an annual basis.

§45-29-5. Enforceability.

For the purpose of federal enforceability of the provisions of this regulation, reference to the commission and/or director shall also mean the Administrator of the U.S. EPA.

§45-29-6. Severability.

The provisions of this regulation are severable and if any provision or part thereof shall be held invalid, unconstitutional, or inapplicable to any person or circumstance, such invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sections, or parts of this regulation or their application to any persons and circumstances.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Chapter 16, Article 20, Series 29 - "Regulation Requiring the Submission of Emission Statements for Volatile Organic Compound Emissions and Oxides of Nitrogen"

Type of Rule: X Legislative Interpretive Procedural

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

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 42,000	\$ -----	+\$ 7,300	+\$85,000	+\$42,000
Personal Services	40,000	-----	7,300	80,000	40,000
Current Expense	2,000	----		5,000	2,000
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

FY'92 includes \$7,300 in administration staff time to review EPA guidance and develop regulation. FY'93 includes identification of affected facilities, develop reporting forms and printing, mailings, and processing data. Thereafter, annual includes tracking submitted statements, processing data and follow-ups.

3. Objectives of these rules:

Pursuant to the 1990 Clean Air Act Amendments (CAAA), WV is required to develop a regulation requiring the annual submittal of emission statements from sources emitting VOC/NO_x in ozone non-attainment areas. The CAAA further requires states to track VOC/NO_x emissions to determine the progress in achieving the mandatory reductions required under the Act. This regulation requires the annual submission of emission statements and the data format and reporting requirements.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Estimated increase of 1 full-time staff person after start-up of program.

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

This regulation affects stationary point sources in the ozone non-attainment counties of Cabell, Wayne, Kanawha, Putnam, Wood and Greenbrier. Stationary sources in these counties must determine their actual emissions of VOC/NO_x and submit this data to the WVAPCC. Economic impacts would include gathering, summarizing and formatting the data for submission to the WVAPCC

C. Economic Impact on Citizens/Public at Large.

NONE.

Date: May 7, 1992

Signature of Agency Head or Authorized Representative



G. Dale Farley
Director

*West
Virginia*



DEPARTMENT OF COMMERCE,
LABOR & ENVIRONMENTAL RESOURCES
OFFICE OF THE SECRETARY

State Capitol

Charleston, West Virginia 25305

304/348-3255

April 27, 1992

G. Dale Farley, Director
1558 Washington Street, E.
Charleston, West Virginia 25305

RE: Air Pollution Control Commission - Procedural Rules,
Title 45, Series 29

Dear Dale:

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

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

Sincerely yours,

John M. Ranson
John M. Ranson
Cabinet Secretary

JMR:cjb

B:RUL-APC2.CJB