

45CSR30A

DEFERRAL OF AREA SOURCES FROM PERMITTING REQUIREMENTS

SUMMARY

The purpose of 45CSR30A, a proposed new interpretive rule, is to provide guidance and information to the public regarding the deferral of certain sources from the obligation to obtain a permit under 45CSR30 "Requirements for Operating Permits." Such a deferral is authorized by WVCSR §45-30-3.2 and is consistent with the United States Environmental Protection Agency's interpretation of the Title V program under the Clean Air Act Amendments of 1990.

The provisions of 45CSR30A will defer certain sources from the obligation to obtain a permit under 45CSR30 for a period of three (3) years from the effective date of the rule, with a possible extension of 2 (two) additional years. The sources which will be deferred consist of area sources (non-major sources) in a source category subject to requirements under §111 or §112 of the Clean Air Act, provided that an affected source or solid waste incineration unit required to obtain a permit pursuant to §129(e) of the Clean Air Act may not be deferred under the rule.

The deferral of sources under this rule will permit the agency to direct its efforts and resources toward the larger sources of air pollutants during the initial stages of the State's implementation of the Title V operating permits program, while ensuring that the smaller sources of air pollutants are monitored and controlled under other currently existing State regulatory programs.

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STATEMENT OF CIRCUMSTANCES

The agency is proposing 45CSR30A as a new interpretive rule to provide guidance and information to the public regarding the provisions of 45CSR30 "Requirements for Operating Permits," effective April 27, 1994. Specifically, 45CSR30A is the mechanism the Chief is proposing to use to defer certain sources from the obligation to obtain a permit under the provisions of 45CSR30. This deferral is authorized by the provisions of WVCSR §45-30-3.2.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR30A- Deferral of Area Sources From Permitting Requirements

Type of Rule: _____ Legislative X Interpretive _____ Procedural

Agency: Office of Air Quality

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

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

2. Explanation of above estimates:

Fees will remain unchanged since deferred sources will still pay Title V fees; however, they will not have to apply for an operating permit under WV 45CSR30 for 3 years. Although Title V program costs are projected to neither decrease nor increase overall as a result of this interpretive rule, deferring minor facilities from early permitting requirements should relieve the pressure for future program fee increases to meet permit issuance mandates.

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Fiscal Note For Proposed Rules
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3. Objectives of these rules:

Provide area sources (small sources) with 3-year deferral from permitting and application submittal requirements under WV 45CSR30.

4. Explanation of overall economic impact of proposed rule.

A. Economic impact on state government.

The effect of this interpretive rule is to spread the Title V permitting workload over a 5 year period instead of a 3 year period which should reduce the demands upon and long-term operating costs of the DEP permit-writing group.

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

This rule provides small sources at least 3 years of relief from Title V application submittal requirements and will accordingly reduce or eliminate near-term costs to these sources in preparing permit applications.

C. Economic impact on citizens/public at large.

None.

Date: June 14, 1995

Signature of agency head or authorized representative:



G. Dale Farley
Chief, Office of Air Quality

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45CSR30A

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TITLE 45
INTERPRETIVE RULE
BUREAU OF ENVIRONMENT
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 30A
DEFERRAL OF AREA SOURCES FROM PERMITTING REQUIREMENTS

§45-30A-1. General.

1.1. Scope. -- Series 30A provides for the deferral of area sources from the obligation to obtain a permit under WV 45CSR30 "Requirements for Operating Permits."

1.2. Authority. -- W.Va. Code §22-5-4; W.Va. Code §22-5-12; W.Va. Code §29A-1-2(c); and WV 45CSR30.

1.3. Filing Date. --

1.4. Effective Date. --

§45-30A-2. Definitions. -- The definitions set forth in WVCSR §45-30-2 shall apply to this rule as though set forth herein.

§45-30A-3. Deferral of Area Sources.

3.1. Pursuant to the authority granted in WVCSR §45-30-3.2, the Chief of the Office of Air Quality hereby defers from the obligation to obtain a permit under WV 45CSR30 each source that:

3.1.1. Is subject to a standard or other requirement promulgated under §111 or §112 of the Clean Air Act; and

3.1.2. Is not a major source, an affected source, or a solid waste incineration unit required to obtain a permit pursuant to §129(e) of the Clean Air Act.

3.2 Notwithstanding the provisions of subsection 3.1. of this rule, the Chief may not defer a source from the obligation to obtain a permit if the source is included in a source category for which U.S. EPA has promulgated rules since July 21, 1992, which rules do not authorize the deferral of such source from the obligation to obtain a permit under Title V of the Clean Air Act.

§45-30A-4. Deferral Period.

4.1 The deferral of sources pursuant to this rule shall remain in effect for a period of three (3) years from the effective date of the operating permit program; provided, that the Chief may grant an extension of this period, which extension may last for an additional period, not to exceed two (2) years from the expiration of the initial three-year period; provided further, that the expiration date of any deferral provided pursuant to this rule shall be consistent with any rulemaking promulgated by U.S. EPA relating to area sources and the obligation to obtain a permit under Title V of the Clean Air Act.

4.2. Upon expiration of the deferral period, including any extension granted under subsection 4.1., sources deferred under this rule shall apply for permits in accordance with the requirements of WV 45CSR30 and the requirements of any rule promulgated by U.S. EPA relating to such area sources. Unless the Chief specifies otherwise, due dates for WV 45CSR30 permit applications from deferred sources shall be calculated in accordance with the application schedule under WVCSR §45-30-4.1.a. or any schedule promulgated by U.S. EPA, whichever is more stringent. Such application schedule shall commence at the expiration of the deferral period.

4.3. Notwithstanding the provisions of subsection 3.1 of this rule, sources that are deferred by operation of this rule may elect to apply for a permit under WV 45CSR30. In such an event, the source shall apply for a permit in accordance with the time schedule specified under WVCSR §45-30-4.1.a., which time schedule shall commence upon the effective date of the operating permit program.

§45-30A-5. Effect of Deferral.

5.1. Sources that are deferred by operation of this rule shall not be relieved from the requirements of any applicable statutes, rules, or permits, other than the requirement to obtain a permit under WV 45CSR30; provided, however, that such sources shall not be relieved from the obligation to pay any and all permit fees required under WV 45CSR30.



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GASTON CAPERTON
GOVERNOR

BUREAU OF ENVIRONMENT
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LAIDLEY ELI MCCOY, PH.D.
OFFICE OF WEST VIRGINIA COMMISSIONER
SECRETARY OF STATE

June 19, 1995

Ms. Judy Cooper
Director, Administrative Law Division
Secretary of State's Office
Building 1, Suite 157K
Charleston, West Virginia 25305

RE: 45 CSR 30A - "Deferral of Area Sources From
Permitting Requirements"

Dear Ms. Cooper:

This is to advise you that I am giving approval for the filing of the above-captioned rule as a proposed new interpretive rule.

Your cooperation in this regard is very much appreciated. If you have any questions or require additional information, please feel free to contact Roger T. Hall at 759-0515.

Sincerely yours,

Laidley Eli McCoy, Ph.D.
Director

LEM;RTH:cc

Attachment