

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

FORM #2

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SEP 2 2 23 PM '99

OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

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

RULE TYPE: Interpretive, CITE AUTHORITY W. Va Code §§22-5-4, 12; W. Va Code §29A-1-2(c);
and WV 45CSR30

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 30A

TITLE OF RULE BEING AMENDED: "Deferral of Nonmajor Area Sources from
Permitting Requirements"

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

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES THIS COMMENT PERIOD WILL END ON November 8, 1999 AT 5:00 PM

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS

Edward L. Kropp, Chief

Office of Air Quality

1558 Washington Street, East

Charleston, WV 25311-2599

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Farrie J. Chambers
Executive Assistant

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL



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



West Virginia Bureau of Environment

Cecil H. Underwood
Governor

Michael C. Castle
Commissioner

October 6, 1999

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

RE: 45CSR30A - "Deferral of Nonmajor and Area Sources
From Permitting Requirements"

Dear Ms. Cooper:

The purpose of this letter is to give my approval to file the above-referenced Interpretive Rule with your office as notice of a comment period on a proposed rule.

Your cooperation in this request is appreciated. If you should have questions or need additional information, please contact Carrie Chambers in my office at 759-0515.

Sincerely,

Michael C. Castle
Commissioner

MCC:cc

cc: Karen Watson
Carrie Chambers

**BUREAU OF ENVIRONMENT
DIVISION OF ENVIRONMENTAL PROTECTION**

BRIEFING DOCUMENT

Rule Title: 45CSR30A - "Deferral of Nonmajor and Area Sources from Permitting Requirements"

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

B. SUMMARY OF RULE:

Revisions will permit the Director to defer area and nonmajor sources from the obligation to obtain a Title V permit consistent with EPA rulemaking.

C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:

Proposed revisions are necessary to permit the Director to defer area and nonmajor sources from the obligation to obtain a Title V permit for periods beyond the five-year limit now contained in 45CSR30A.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title. 45CSR30A - "Deferral of Nonmajor and Area Sources from Permitting Requirements"

Type of Rule. _____ Legislative Interpretive _____ Procedural

Agency: Office of Air Quality

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

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

2. Explanation of above estimates:

No fiscal impact on state government is expected, since the effect of the revisions is to defer permit obligations and associated agency review until some time in the future.

3. Objectives of these rules:

Revisions will permit the Director to defer area and nonmajor sources from the obligation to obtain a Title V permit consistent with EPA rulemaking

4. Explanation of Overall Economic Impact of Proposed Rule
A. Economic Impact on State Government.

See paragraph #2

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

There may be a beneficial economic impact on regulated sources insofar as the rule will allow the State to further defer the requirement to obtain a Title V permit for area and nonmajor sources.

- C. Economic Impact on Citizens/Public at Large.

None.

Date: 10/6/99

Signature of Agency Head or Authorized Representative

Barrie J. Chambers
Executive Assistant

45CSR30A

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

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DIVISION OF ENVIRONMENTAL PROTECTION
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DIVISION OF ENVIRONMENTAL PROTECTION

SERIES 30A
DEFERRAL OF NONMAJOR AND AREA SOURCES FROM PERMITTING
REQUIREMENTS

§45-30A-1. General.

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

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

1.3. Filing Date. -- ~~December 22, 1998~~

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

§45-30A-2. Definitions.

2.1. The definitions set forth in WVCSR §45-30-2 shall apply to this rule as though set forth herein with the exception of the following definition:

2.1.a. "Area source" means any nonmajor source subject to a standard or other requirement under 40 CFR Part 63.

§45-30A-3. Deferral of Nonmajor and Area Sources.

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

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

3.1.b. 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 Director may not defer a an area 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.

3.3. Any sources deferred by the U.S. EPA from the obligation to obtain a Title V permit which

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are subsequently exempted from the requirement to obtain a permit shall not be required to obtain a permit under WV 45CSR30

§45-30A-4. Deferral Period.

4.1 ~~Unless the Director specifies otherwise, 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 Director 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~~ until any rulemaking is promulgated by U.S. EPA relating to nonmajor and area sources and the obligation to obtain a permit under Title V of the Clean Air Act or any individual standard requires any nonmajor or area sources to obtain a Title V permit.

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 nonmajor and area sources. Unless the Director 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.