

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

DIVISION OF ENVIRONMENTAL PROTECTION
AGENCY: OFFICE OF AIR QUALITY TITLE NUMBER: 45CSR30B
RULE TYPE: INTERPRETIVE; CITE AUTHORITY WV CODE §§22-5-1 et seq.
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: 45CSR30B
TITLE OF RULE BEING PROPOSED: "IDENTIFICATION AND COUNTING OF
FUGITIVE EMISSIONS IN MAJOR SOURCE DETERMINATIONS UNDER WV 45CSR30"

DATE OF PUBLIC HEARING: JULY 19, 1995 TIME: 6:00 P.M.
LOCATION OF PUBLIC HEARING: WV OFFICE OF AIR QUALITY
CONFERENCE ROOM
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
CHIEF

3.80

45CSR30B

**IDENTIFICATION AND COUNTING OF FUGITIVE EMISSIONS IN
DETERMINATIONS UNDER WV 45CSR30**

STATEMENT OF CIRCUMSTANCES

The agency is proposing 45CSR30B 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, 45CSR30B is the mechanism the Chief is proposing to use to explain how and when to include fugitive emissions to determine whether a source is a major source subject to the requirements of WV 45CSR30.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR30B - Identification and Counting of Fugitive Emissions in Major Source Determinations Under WV 45CSR30

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
	\$	\$	\$	\$	\$
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:

- This rule should not substantially affect currently projected and funded manpower requirements.
- Total fees collected will remain unchanged since any sources which became non-Title V will still pay Reg. 22 fees.

3. Objectives of these rules:

- Follow federal guidance and make regionally consistent policy on when/when not to count fugitive emissions in determining permit applicability requirements.

Appendix B
Fiscal Note For Proposed Rules
Page Two

- Provide detailed information and guidance to enable sources to determine their status under WV 45CSR30.
4. Explanation of overall economic impact of proposed rule.
- A. Economic impact on state government.

The effect of the rule may be to reduce the number of facilities requiring early Title V permits and may reduce the pressure for higher fees and more manpower to implement the Title V program.

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

Some small sources may be removed from the operating permit program requirements under WV 45CSR30 as a result of this rule.

- 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

45CSR30B

IDENTIFICATION AND COUNTING OF FUGITIVE EMISSIONS IN DETERMINATIONS UNDER WV 45CSR30

SUMMARY

The purpose of 45CSR30B, a proposed new interpretive rule, is to provide guidance and information to the public regarding how and when to include fugitive emissions to determine whether a source is a major source subject to the requirements of WV 45CSR30. This rule is consistent with the United States Environmental Protection Agency's interpretation of the Title V program under the Clean Air Act Amendments of 1990.

This rule will permit the agency to direct its efforts and resources towards 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.

45CSR30B
Title 45
INTERPRETIVE RULE
BUREAU OF ENVIRONMENT
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

SERIES 30B
IDENTIFICATION AND COUNTING OF FUGITIVE EMISSIONS IN
MAJOR SOURCE DETERMINATIONS UNDER WV 45CSR30

§45-30B-1. General.

1.1. Scope. -- Series 30B provides guidance with respect to which stationary sources are required to count fugitive emissions, and the proper method of identifying such emissions, in making major source determinations for the purpose of determining applicability of the permitting program 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. --

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

§45-30B-3. Sources Required To Count Fugitive Emissions In Making Major Source Determinations.

3.1. Any source which belongs to a source category regulated by a standard promulgated under §111 or §112 of the Clean Air Act on or before August 7, 1980, including, but not limited to, those source categories listed in subparagraphs A through Z of WV CSR §45-30-2.26.b., shall include fugitive emissions from all "affected facilities" at the source in order to determine whether the source is a major source subject to the requirements of WV 45CSR30, provided that such sources shall count fugitives only with respect to those air pollutants regulated for that category.

3.2. The provisions of subparagraph 3.1 apply to a source whether or not the source commenced construction or modification before the applicable date in the regulation promulgated under §111 or §112 of the Clean Air Act.

3.3. In addition to those facilities covered under subparagraphs 3.1 and 3.2, all coal preparation plants as defined under 40 C.F.R. §60.251(a) which process more than 200 tons per

day shall count fugitives from all "affected facilities" at the source, i.e., from all thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems, and coal transfer and loading systems.

3.4. Fugitive emissions of hazardous air pollutants listed in §112(b) of the Clean Air Act shall be counted in determining whether a source is a major source subject to the requirements of WV 45CSR30, regardless of whether the source is included in a source category listed pursuant to §112(c) of the Clean Air Act.

3.5. For the purpose of this section, the term "affected facilities" means those facilities which are listed or identified as "affected facilities" in the applicable standard promulgated under §111 or §112 of the Clean Air Act.

§45-30B-4. Sources Not Required To Count Fugitive Emissions In Making Major Source Determinations.

4.1. Any source which belongs to a stationary source category regulated by a standard promulgated under §111 or §112 of the Clean Air Act after August 7, 1980, including, but not limited to, those source categories listed in subparagraphs AA through QQ of WV CSR §45-30-2.26.b., shall not be required to count fugitive emissions in order to determine whether the source is a major source subject to the requirements of WV 45CSR30; provided however, that any such source shall still be required to count fugitives for hazardous air pollutants as provided under subsection 3.4 of this rule; provided further, that all such sources shall be required to count fugitive emissions at such time as U.S. EPA promulgates rulemaking pursuant to §302(j) of the Clean Air Act applicable to such sources.

4.2. For purposes of determining whether a source is a major source as defined in Part D of Title I of the Clean Air Act (nonattainment areas), fugitive emissions shall not be required to be counted; provided however, that all such sources shall be required to count fugitive emissions at such time as U.S. EPA promulgates rulemaking pursuant to §302(j) of the Clean Air Act applicable to such sources.



BUREAU OF ENVIRONMENT
10 McJunkin Road
Nitro, WV 25143-2506

GASTON CAPERTON
GOVERNOR

LAIDLEY ELI MCCOY, PH.D.
COMMISSIONER

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 30B - "Identification and Counting of Fugitive
Emissions on Major Source Determinations
Under WV 45CSR30"

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,

A handwritten signature in cursive script, appearing to read "Laidley Eli McCoy".

Laidley Eli McCoy, Ph.D.
Director

LEM;RTH:cc

Attachment