

**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: 45CSR33  
RULE TYPE: LEGISLATIVE; CITE AUTHORITY WV CODE §§22-5-1 et seq.  
AMENDMENT TO AN EXISTING RULE: YES X NO     
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR33

TITLE OF RULE BEING AMENDED: "ACID RAIN PROVISIONS AND PERMITS"

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:                                 

TITLE OF RULE BEING PROPOSED:   

DATE OF PUBLIC HEARING: JULY 19, 1995 TIME: 6:00 P.M.

LOCATION OF PUBLIC HEARING: WV OFFICE OF AIR QUALITY

**RECEIVED**

CONFERENCE ROOM

**JUN 14 1995**

1558 WASHINGTON STREET, EAST

**Legislative Rule Making  
Review Committee**

CHARLESTON, WV 25311

COMMENTS LIMITED TO: ORAL   , WRITTEN   , BOTH X

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

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #2

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

DIVISION OF ENVIRONMENTAL PROTECTION  
AGENCY: OFFICE OF AIR QUALITY TITLE NUMBER: 45CSR33

RULE TYPE: LEGISLATIVE ; CITE AUTHORITY WV CODE §§22-5-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR33

TITLE OF RULE BEING AMENDED: "ACID RAIN PROVISIONS AND PERMITS"

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 JULY 19, 1995 AT 5:00 P.M. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

G. DALE FARLEY, CHIEF

OFFICE OF AIR QUALITY

1558 WASHINGTON STREET, EAST

CHARLESTON, WV 25311

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

  
G. DALE FARLEY, CHIEF

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

STATE OF WEST VIRGINIA  
DIVISION OF ENVIRONMENTAL PROTECTION  
OFFICE OF AIR QUALITY

The following is a transcript of proceedings had when a public hearing was held on the 19th day of July, 1995, beginning at 6:00 p.m., in the conference room of the Office of Air Quality, 1558 Washington Street, East, Charleston, Kanawha County, West Virginia, with Moderator Jeanne Chandler presiding, before Penny L. Kerns, Notary Public and Certified Court Reporter.

45CSR33

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I N D E X

1

2

Speaker

Page

3

Introduction by the Moderator..... 3

4

Reporter's certificate, 6

1 MS. CHANDLER: 45CSR33, Acid rain provisions  
2 and permits.

3 Title IV of the federal Clean Air Act, as  
4 amended, November 15th, 1990, requires each state to  
5 implement an operating permit system conforming to Title IV  
6 and Title V. West Virginia complied by enacting Rule  
7 45CSR33 "Acid Rain Provisions and Permits" effective May  
8 1st, 1995. The US EPA is committed to approve West  
9 Virginia's Acid Rain Program contingent on a commitment by  
10 the State to change specific language in 45CSR33. These  
11 revisions meet that commitment and are in accordance with  
12 EPA's guidance. The following summarizes the changes:

13 Section 45-33-5, The entire section should  
14 be deleted. All authorities that can be delegated to West  
15 Virginia are denoted in 40 CFR Part 72 by the term  
16 "permitting authority." All authorities that cannot be  
17 delegated to West Virginia are denoted by the term  
18 "Administrator." Therefore, the term "Administrator" can  
19 never mean the "Director" or the West Virginia Division of  
20 Environmental Protection; it always means the Administrator  
21 of the United States Environmental Protection Agency.

22 Section 45-33-6 Permits, and 45-33-7  
23 Inconsistency Between Rules. 40 CFR 72.70 (b) states that

1 40 CFR Part 72 takes precedence in the event of a conflict  
2 between a state's operating permits rule and 40 CFR 72.  
3 For example, in matters pertaining to the issuance, denial,  
4 revision, reopening, renewal, and appeal of the acid rain  
5 portion of an operating permit. Other sections in Part 72  
6 address specific points of potential conflict between Part  
7 72 and a state's rules. For example, 72.9 (h) (1) states  
8 that the Acid Rain Program does not exempt an affected  
9 source from complying with any other requirement of the  
10 Clean Air Act. For example, Title I state implementation  
11 plan requirements. Conflicts between 40 CFR Part 72 and  
12 West Virginia's other rules are therefore resolved by the  
13 regulatory language in 40 CFR Part 72, and not by "the  
14 determination of the Director." The language in previous  
15 45-33-7 has been modified accordingly. Section 45-33-6  
16 should be deleted since it states that the requirements of  
17 other rules apply in full despite any conflicts with the  
18 requirements of the West Virginia acid rain rule. This  
19 contradicts the new language of 45-33-7.

20 These revisions also incorporate all the  
21 rules promulgated under 40 CFR Part 72 since July 1, 1994,  
22 through June 1, 1995.

23 Upon authorization and promulgation of

1 revisions to 45CSR33, the rule will be submitted to the US  
2 Environmental Protection Agency for its approval of the  
3 Acid Rain Permit Program under Title IV of the Clean Air  
4 Act.

5 The floor is now open for any comments on  
6 Regulation 33.

7 (No response.)

8 MS. CHANDLER: There being no comments, the  
9 hearing for 45CSR33 is now concluded.

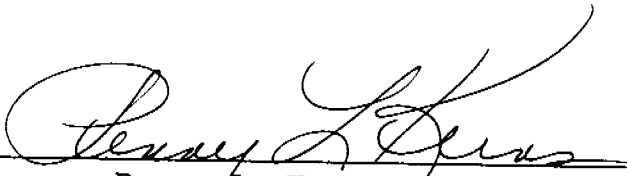
10 (WHEREUPON, the hearing  
11 was adjourned.)

REPORTER'S CERTIFICATE

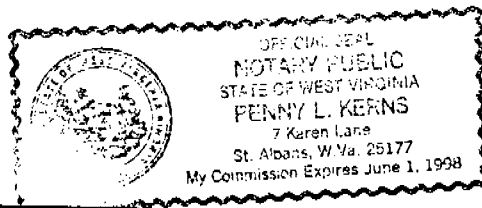
STATE OF WEST VIRGINIA,  
COUNTY OF KANAWHA, To-wit:

I, Penny L. Kerns, Certified Court Reporter,  
do hereby certify that the foregoing is a correct verbatim  
record of the proceedings had and testimony taken at the  
time and place set forth herein.

Given under my hand this 21st day of July,  
1995.

  
Penny L. Kerns, CCR  
Notary Public

My commission expires June 1, 1998.





PUBLIC HEARING

JULY 19, 1995

| NAME             | COMPANY AFFILIATION     | ADDRESS     |
|------------------|-------------------------|-------------|
| Kim Brown Poland | Robinson + McElwee      | Charleston  |
| Catherine Peck   | Robinson + McElwee      | Charleston  |
| SARE BRADLEY     | Rhone Toulenc           | Institute   |
| KARYN SCHMIDT    | ROBINSON + MCELWEE      | Charleston  |
| Jack Pascoli     | WV DOT                  | Charleston  |
| CLAUDIA BANNER   | AEP - APPALACHIAN POWER | ROANOKE, VA |
| PERRY KELLER     | WV DOT                  | CHARLESTON  |
| Robert Foster    | WV Mfg Assoc.           | Charleston  |
| BOB PARSONS      | JACKSON & KEELY         | ettw,       |
| Wendy Rascliff   | WV DEP                  | NITRO       |
| JOHN BRADLEY     | WV DEP - OHS            | Charleston  |
| Fred Durham      | WV DEP - OHS            | Charleston  |

# PUBLIC HEARING

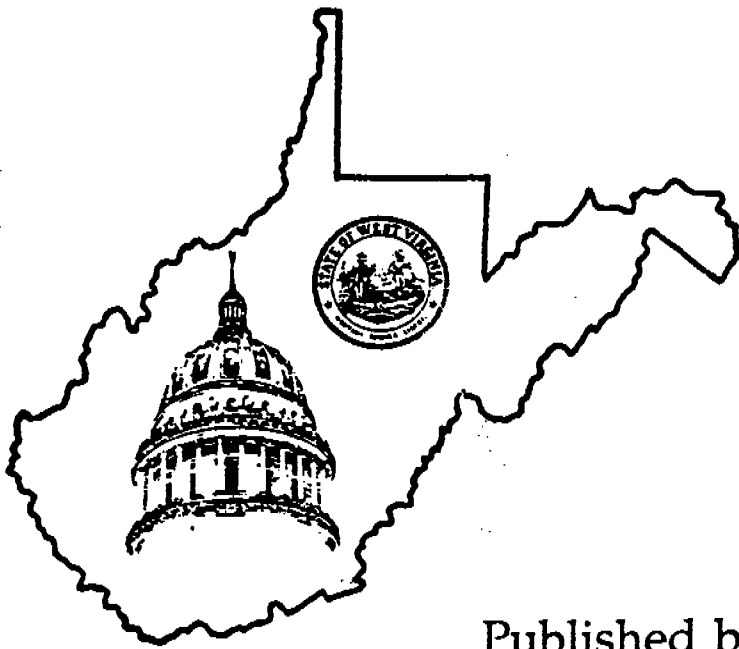
JULY 19, 1995

| NAME            | COMPANY AFFILIATION                     | ADDRESS                 |
|-----------------|---|-------------------------|
| Soborn Sabornie | Kyova Interstate Planning<br>Commission | HUNTINGTON, WV<br>25701 |
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# SPEAKER'S LIST FOR PUBLIC HEARING

JULY 19, 1995

| NAME          | COMPANY AFFILIATION                | ADDRESS                         |
|---------------|------------------------------------|---------------------------------|
| Kear Sharr    | Small Business Ombudsman<br>WV-DEP | WV-CBA<br>1558 Washington St. E |
| Bob Foster    | WV Mfg Assoc                       | Ches                            |
| Wendy Raschke | Office Env. Advocate               | Nitro                           |
| Karya Schmidt | Robinson + McElwee                 | Charleston.                     |
|               |                                    |                                 |
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# WEST VIRGINIA REGISTER

Published by Ken Hechler, Secretary of State

## CONTENTS

*Volume XII*

*Issue 24*

*June 16, 1995*

*Pages 904 - 955*

*A Weekly Publication*

*Administrative Law Division*

*Judy Cooper  
Director*

*Missy Phalen  
Pam Reece  
Administrative Assistants*

*Secretary of State  
Administrative Law Division  
Bldg. 1, Suite 157K  
190 Kanawha Blvd. E.  
Charleston, WV 25305-0770*

*(304)558-6000*

- I. Chronological Index*
- II. Open Government Meetings Listing*
- III. Price List*
- IV. Rule Monitor*
- V. Notices*
  - a. Legislative Rules*
  - b. Interpretive Rules*
  - c. Procedural Rules*
  - d. Emergency Rules*
  - e. Legislative Rule-Making Review Committee*
- VI. Legislative Interims*
- VII. Orders*
- LX. Ethics Commission Opinions*
- X. Attorney General Opinions*
- XI. Other Documents or Information Filed*
- XII. Publication Deadlines and Publication Dates*

OTHER

**NOTICE OF PUBLIC HEARING**

On Monday, July 24, 1995 beginning at 6:00 p.m., the Office of Air Quality of the Division of Environmental Protection will hold a public hearing on a proposed revision to the State Implementation Plan (SIP) to attain and maintain attainment with the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide. The proposed plan revision primarily affects Ohio Power Company's Kammer Plant located near Moundsville in Marshall County, West Virginia and may also affect sulfur dioxide emission requirements for other facilities located in Marshall County and surrounding areas.

The purpose of this SIP revision is to demonstrate the attainment and maintenance of the 3-hour, 24-hour and annual National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO<sub>2</sub>) for the Kammer Plant. This proposed SIP revision shows the approvable emission limit for the Kammer Plant is 6.5 lbs/mm1btu with a Good Engineering Practice (GEP) stack height of 900 ft. The proposed plan will allow the Kammer Plant to continue to burn locally available coal.

The Division of Environmental Protection proposes to enter into a Consent Order with Ohio Power Company's Kammer Plant to establish the new federal sulfur dioxide emission limits and other requirements as above noted. The proposed Consent Order in conjunction with supporting documentation and analyses will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the federal Clean Air Act.

The hearing will be held in the auditorium of the Delf Norona Museum, Grave Creek Mound State Park, 801 Jefferson Ave., Moundsville, West Virginia. Written and oral testimony by all interested parties will be accepted and made part of the record which will be closed at the conclusion of the public hearing.

Copies of the proposed SIP revision and the draft Consent Order for the Kammer Plant, and supporting documentation will be available for public review at the following locations on and after June 23, 1995:

Office of Air Quality  
1558 Washington Street, East  
Charleston, WV 25311

Office of Air Quality  
Northern Panhandle Regional Office  
1911 Warwood Avenue  
Wheeling, WV 26003

If you have any questions or comments concerning the proposed rule please contact:

G. Dale Farley  
Chief, Office of Air Quality  
Division of Environmental Protection  
1558 Washington Street, East  
Charleston, WV 25311

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NOTICE OF PUBLIC HEARING  
JUN 14 3 51 PM '95

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

On Wednesday, July 19, 1995 beginning at 6:00 p.m., the West Virginia Division of Environmental Protection, Office of Air Quality will hold a public hearing on the following proposed legislative and interpretive rules:

45CSR21 "Regulation to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds"

45CSR25 "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"

45CSR33 "Acid Rain Provisions and Permits"

45CSR34 "Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 63"

45CSR30A "Deferral of Area Sources from Permitting Requirements" (Interpretive Rule)

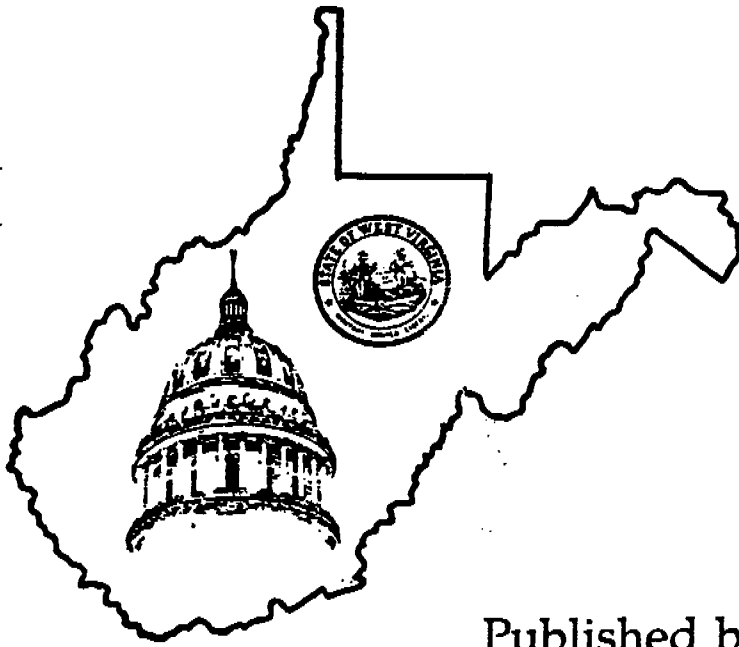
45CSR30B "Identification and Counting of Fugitive Emissions in Major Source Determinations Under WV 45CSR30" (Interpretive Rule)

Upon authorization and promulgation of revisions to 45CSR21, the rule will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the federal Clean Air Act.

Upon authorization and promulgation of revisions to 45CSR25, the rules will be submitted to the U. S. Environmental Protection Agency as part of the State Hazardous Waste Management Program.

Upon authorization and promulgation of revisions to 45CSR33, the rule will be submitted to the U. S. Environmental Protection Agency for its approval of the Acid Rain Permit Program under Title IV of the Clean Air Act.

Upon authorization and promulgation of revisions to 45CSR34, the Office of Air Quality will seek federal delegation from the U. S. Environmental Protection Agency to implement the revised standards.



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*Pages 904 - 955*

*A Weekly Publication*

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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

DIVISION OF ENVIRONMENTAL PROTECTION  
AGENCY: OFFICE OF AIR QUALITY TITLE NUMBER: 45CSR25  
RULE TYPE: LEGISLATIVE ; CITE AUTHORITY WV CODE §§22-5-1 et seq. & §§22-18-1  
AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR25

TITLE OF RULE BEING AMENDED: "TO PREVENT AND CONTROL AIR POLLUTION  
FROM HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES"

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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*  
G. DALE FARLEY  
CHIEF

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: 45CSR833  
RULE TYPE: LEGISLATIVE ; CITE AUTHORITY WV CODE §§22-5-1 et seq.  
AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR833

TITLE OF RULE BEING AMENDED: "ACID RAIN PROVISIONS AND PERMITS"

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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*  
G. DALE FARLEY, CHIEF

## AGENDA

**WV DIVISION OF ENVIRONMENTAL PROTECTION  
OFFICE OF AIR QUALITY  
CONFERENCE ROOM  
1558 WASHINGTON STREET, EAST  
CHARLESTON, WEST VIRGINIA**

**JULY 19, 1995  
6:00 P.M.**

I. PUBLIC HEARING ON PROPOSED LEGISLATIVE RULES

1. 45CSR21 "Regulation to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds"
2. 45CSR25 "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"
3. 45CSR33 "Acid Rain Provisions and Permits"
4. 45CSR34 "Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 63"

II. HEARING ON PROPOSED INTERPRETIVE RULES

1. 45CSR30A "Deferral of Area Sources from Permitting Requirements" (Interpretive Rule)
2. 45CSR30B "Identification and Counting of Fugitive Emissions in Major Source Determinations Under WV 45CSR30" (Interpretive Rule)



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NOTICE OF PUBLIC HEARING

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

On Wednesday, July 19, 1995 beginning at 6:00 p.m., the West Virginia Division of Environmental Protection, Office of Air Quality will hold a public hearing on the following proposed legislative and interpretive rules:

- 45CSR21 "Regulation to Prevent and Control Air Pollution From the Emission of Volatile Organic Compounds"
- 45CSR25 "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"
- 45CSR33 "Acid Rain Provisions and Permits"
- 45CSR34 "Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 63"
- 45CSR30A "Deferral of Area Sources from Permitting Requirements" (Interpretive Rule)
- 45CSR30B "Identification and Counting of Fugitive Emissions in Major Source Determinations Under WV 45CSR30" (Interpretive Rule)

Upon authorization and promulgation of revisions to 45CSR21, the rule will be submitted to the U. S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the federal Clean Air Act.

Upon authorization and promulgation of revisions to 45CSR25, the rules will be submitted to the U. S. Environmental Protection Agency as part of the State Hazardous Waste Management Program.

Upon authorization and promulgation of revisions to 45CSR33, the rule will be submitted to the U. S. Environmental Protection Agency for its approval of the Acid Rain Permit Program under Title IV of the Clean Air Act.

Upon authorization and promulgation of revisions to 45CSR34, the Office of Air Quality will seek federal delegation from the U. S. Environmental Protection Agency to implement the revised standards.

The hearing will be held in the Office of Air Quality's Conference Room located at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony by all interested parties will be accepted and made part of the record. All questions and comments concerning the proposed rules should be directed to G. Dale Farley, Chief of the Office of Air Quality at the address below:

G. Dale Farley, Chief  
Office of Air Quality  
1558 Washington Street East  
Charleston, WV 25311-2599

Copies of the proposed legislative and interpretive rules will be available for public review on or before June 16, 1995 at the Office of Air Quality's Charleston office. The proposed legislative and interpretive rules, except for 45CSR21, will be available for public review on or before June 19, 1995 at the Office of Air Quality's regional offices located at 109 Adams Street, Room M-2, Fairmont; 1911 Warwood Avenue, Wheeling; and New Creek, WV.



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State of West Virginia,

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I, Sarana Keys

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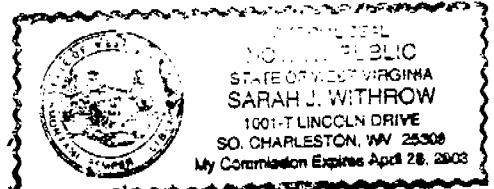
published in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the attached notice of

### PUBLIC HEARING

was duly published in said paper(s) during the dates listed below, and was posted at the front door of the court house of said Kanawha County, West Virginia, on the 19TH day of JUNE 1995. Published during the following dates: 06/17/95-06/17/95

Subscribed and sworn to before me this 20 day of June

Printers fee \$ 92.14



*Sarah J. Withrow*  
 Notary Public of Kanawha County, West Virginia

Copies of the proposed legislative and interpretive rules will be available for public review on or before June 16, 1995 at the Office of Air Quality's Charleston office. The proposed legislative and interpretive rules, except for 45CSR21, will be available for public review on or before June 19, 1995 at the Office of Air Quality's regional offices located at 109 Adams Street, Room M-2, Fairmont; 1911 Warwood Avenue, Wheeling; and New Creek, WV. (249380)

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| <p><b>NOTICE OF PUBLIC HEARING</b><br/>         On Wednesday, July 19, 1995 beginning at 6:00 p.m., the West Virginia Division of Environmental Protection, Office of Air Quality will hold a public hearing on the following proposed legislative and interpretive rules:</p> <p>45CSR21 "Regulation to Prevent and Control Air Pollution: From the Emission of Volatile Organic Compounds"</p> <p>45CSR25 "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities"</p> <p>45CSR33 "Acid Rain Provisions and Permits"</p> <p>45CSR34 "Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 63"</p> <p>45CSR30A "Deferral of Area Sources from Permitting Requirements" (Interpretive Rule)</p> <p>45CSR30B "Identification and Counting of Fugitive Emissions in Major Source Determinations Under WV 45CSR30" (Interpretive Rule)</p> <p>Upon authorization and promulgation of revisions to 45CSR21, the rule will be submitted to the U.S. Environmental Protection Agency for incorporation into the West Virginia Implementation Plan under the federal Clean Air Act.</p> <p>Upon authorization and promulgation of revisions to 45CSR25, the rules will be submitted to the U.S. Environmental Protection Agency as part of the State Hazardous Waste Management Program.</p> <p>Upon authorization and promulgation of revisions to 45CSR33, the rule will be submitted to the U.S. Environmental Protection Agency for its approval of the Acid Rain Permit Program under Title IV of the Clean Air Act.</p> <p>Upon authorization and promulgation of revisions to 45CSR34, the Office of Air Quality will seek federal delimitation from the U.S. Environmental Protection Agency to implement the revised standards.</p> <p>The hearing will be held in the Office of Air Quality's Conference Room located at 1558 Washington Street East, Charleston, West Virginia. The hearing is open to the public. Written and oral testimony will be accepted and many by all interested parties will be accepted and made part of the record. All questions and comments concerning the proposed rules should be directed to G. Dale Farley, Chief of the Office of Air Quality at the address below:</p> <p>G. Dale Farley, Chief<br/>         Office of Air Quality<br/>         1558 Washington Street East<br/>         Charleston, WV 25311-7999</p> |
|--|

OAQ MAILING LIST FOR PUBLIC HEARINGS/MEETINGS

Mr. Larry Myers  
Allegheny Power Service Corp.  
800 Cabin Hill Drive  
Greensburg, Pennsylvania 15601

Mr. Brian Broderick  
BNA PLUS  
Bureau of National Affairs  
1231 25th Street, N.W.  
Washington, D.C. 20037

Mr. Greg Scandrett  
ERM Midwest  
5088 West Washington Street  
Charleston, WV 25313

Ms. Becky Fleming  
Charleston Daily Mail  
1001 Virginia Street, East  
Charleston, WV 25301

Mr. Norm Steenstra  
Environmental Coordinator  
West Virginia Citizen Action Group  
1324 Virginia Street, East  
Charleston, West Virginia 25301

Mr. Eric Niiler  
Charleston Gazette  
1002 Virginia Street, East  
Charleston, WV 25301

Ms. Joline Brady  
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Scott Depot, WV 25560

Ms. Mildred Holt  
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Institute, WV 25112

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Nitro, WV 25143

Ms. Suzanne Tenkhoff  
National Institute for Chemical Studies  
Nitro/St. Albans Committee  
31 Bailes Drive  
Nitro, West Virginia 25143

Mr. Ray de Bolt  
Fire Chief  
Charleston Fire Department  
808 Virginia Street, West  
Charleston, WV 25302

The Honorable William Croye  
Mayor, City of Belle  
National Institute for Chemical Studies  
Upper Kanawha Valley Committee  
110 East DuPont Avenue  
Belle, West Virginia 25015

Dr. Paul Hill, President  
National Institute for Chemical Studies  
University of Charleston  
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Charleston, West Virginia 25304

Mr. Tim Carroll  
Regional Office Supervisor  
Northern Panhandle Regional Office  
WV Office of Air Quality  
1911 Warwood Avenue  
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Mr. William Taylor  
Regional Engineer  
North Central Regional Office  
WV Office of Air Quality  
109 Adams Street, Room M-2  
Fairmont, WV 26554-2800

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Jackson & Kelly  
1600 Laidley Tower  
Charleston, WV 25301

Mr. Ira H. Dorfman  
Vice-President, Energy & Environment  
Ryan-McGinn  
2300 Clarendon Blvd., Suite 610  
Arlington, VA 22201

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Charleston, WV 25302

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Ohio Valley Environmental Coalition  
P. O. Box 970  
Proctorville, OH 45669

Ms. Helen Gibbins  
6128 Gideon Road  
Huntington, WV 25705

Ms. Missy Woolverton  
WV Citizen Action Group  
1324 Virginia Street, East  
Charleston, WV 25301

Ms. Rhonda Hooper  
Monsanto  
1 Monsanto Road  
Nitro, WV 25143

Mr. Richard Poling  
Office of Air Quality  
Eastern Panhandle Regional Office  
P. O. Box 99  
New Creek, WV 267143

Ms. Claudia Banner  
Appalachian Power Company  
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Roanoke, Virginia 24022-2121

Mr. Laidley Eli McCoy  
Director, Division of Environmental  
Protection  
10 McJunkin Road  
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Act Foundation  
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Charleston, WV 25302

Ms. Pamela Nixon  
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Dunbar, WV 25064

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Air Program Manager  
Engineering-Science, Inc.  
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Atlanta, Georgia 30329-2265

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Public Information Officer  
WV Division of Environmental  
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Aristech Chemical Company  
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Pittsburgh, PA 15219

Ms. Liz Schiffer  
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Charleston, WV 25311

Nat'l Center for Coal &  
Energy  
P.O. Box 6064  
Morgantown, WV 26506-6064

Mr. Norman Steestra  
Citizens Action Group  
1324 Virginia Street, East  
Charleston, WV 25301

Ms. Mary Wimmer  
Water Quality Advisory  
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251 Laurel Street  
Morgantown, WV 26505

Ms. Cindy Rank  
WV Highland Conservancy  
Route 1, Box 227  
Rock Cave, WV 26234

Coal Outlook  
1616 N. Fort Myer Drive  
Suite 1000  
Arlington, VA 22209

Coal Association  
1301 Laidley Tower  
Charleston, WV 25301

WVMRA  
1624 Kanwaha Blvd.  
Charleston, WV 25311

Mr. Larry George  
Barth, Thompson & George  
P. O. Box 129  
Charleston, WV 25321

Brett Robinson  
Remtech  
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Lewisberry, PA 17339-9537

Gerald P. McCarthy  
VA Environmental Endowment  
Three James Center  
P.O. Box 790  
Richmond, Va 23206

Pete Pitsenbarger  
WVDEP  
Abandoned Mine Lands  
Nitro, WV 25143

Max Robertson  
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Charleston, WV 25301

Office of Water Resources  
1201 Greenbrier Street  
Charleston, WV 25311

Dale Farley  
Office of Air Quality  
1558 Washington Street, E.  
Charleston, WV 25311-2599

Ted Streit  
WVDEP  
Oil & Gas  
Nitro, WV 25143

John Ailes  
WVDEP  
Mining & Reclamation  
Nitro, WV 25143

Jerome Ashton  
Stevens Publishing  
1170 National Press Bldg.  
Washington, D.C. 20045

WVDEP  
Region 1  
109 Adams Street  
Fairmont, WV 26554-2800

WVDEP  
Region 2  
105 South Railroad Street  
Phillippi, WV 26416-9998

WVDEP  
Region 3  
116 Industrial Drive  
Oak Hill, WV 25901-9714

WVDEP  
Region 4  
331 Court Street  
Welch, WV 24801-2311

WVDEP  
Region 5  
525 Tiller Street  
Logan, WV 25601-3438

WVDEP  
District 1  
1304 Goose Run Road  
Fairmont, WV 26554

WVDEP  
District 2  
#1 Depot Street  
Romney, WV 26757

WVDEP  
District 3  
P.O. Box 38  
French Creek, WV 26218

WVDEP  
District 4  
General Delivery  
MacArthur, WV 25873

WVDEP  
District 5  
694 Winfield Road  
St. Albans, WV 25177

Harrison County ECO  
P.O. Box 2113  
Clarksburg, WV 26302

Millie Johnson  
Toyota Motor Sales, USA, Inc.  
1850 M Street, NW  
Suite 600  
Washington, DC 20036

John Wolmack  
IOGA of WV  
410 Washington Street, East  
Charleston, WV 25301-1522

SEP- 6-94 TUE 15:44

DEP NITRO W. VA

FAX NO. 3047590526

P.03

WV Press Association  
3422 Pennsylvania Ave.  
Charleston, WV 25302

The Logan Banner  
437 Stratton Street  
Logan, WV 25601

WVVA-TV  
P. O. Box 1930  
Bluefield, WV 24701

Charleston Gazette  
1001 Virginia Street, E.  
Charleston, WV 25301

Dominion Post  
Rt. 7 Greer Building  
Morgantown, WV 26505

WDTV-TV  
5 TV Drive  
Bridgeport, WV 26330

Charleston Daily Mail  
1001 Virginia Street, E.  
Charleston, WV 25301

Parkersburg News  
519 Juliana Street  
Parkersburg, WV 26101

WOWK - TV  
P. O. Box 13  
Huntington, WV 25706-0013

The Register/Herald  
301 N. Kanawha Street  
Beckley, WV 25801

Parkersburg Sentinel  
519 Juliana Street  
Parkersburg, WV 26101

WSAZ-TV  
Charleston Bureau  
111 Columbia Ave.  
Charleston, WV 25302

Bluefield Daily Telegraph  
928 Bluefield Ave.  
P. O. Box 1599  
Bluefield, WV 24701

Point Pleasant Register  
200 Main Street  
Point Pleasant, WV 25550

WBOY-TV  
P.O. Box 1590  
Clarksburg, WV 26302

Morning Herald  
100 Summitt Avenue  
Hagerstown, MD 21740

Weirton Daily Times  
114 Lee Ave.  
Weirton, WV 26062

WTAP-TV  
#1 Television Plaza  
Parkersburg, WV 26101

Exponent  
324-326 Hewes Ave.  
Clarksburg, WV 26301

Wheeling Intelligencer  
1500 Main Street  
Wheeling, WV 26003

WTRF-TV  
P.O. Box 6667  
Wheeling, WV 26003

Telegram  
324-326 Hewes Ave.  
Clarksburg, WV 26301

Wheeling News Register  
1500 Main Street  
Wheeling, WV 26003

WQBE  
Box 871  
Charleston, WV 25323

Times - West Virginian  
Quincy - Ogden Ave.  
P. O. Box 2530  
Fairmont, WV 26554

Williamson Daily News  
100 Block E. 3rd Ave.  
P. O. Box 1660  
Williamson, WV 25661

WYVN-TV  
P.O. Box 2089  
Martinsburg, WV 25401

The Herald Dispatch  
P. O. Box 2017  
Huntington, WV 25720

The Morning Journal  
207 W. King Street  
Martinsburg, WV 25401

WEPM  
1606 W. King Street  
Martinsburg, WV 25401

Mineral Daily News-Tribune  
P. O. Box 879  
Keyser, WV 26726

The Inter-Mountain  
520 Railroad Ave.  
Elkins, WV 26241

The Morgan Messenger  
104 Merser Street  
P.O. Box 567  
Berkeley Springs, WV 25411

Record-Delta  
7 N. Locust Street  
Buckhannon, WV 26021

The Pendleton Times  
P.O. Box 906  
Franklin, WV 26807

Preston County Journal  
Preston County News  
P.O. Box 587  
Kingwood, WV 26537

Bramwell Aristocrat  
Bank Building  
Bramwell, WV 24715

The Gilbert Times  
P.O. Box 1135  
Gilbert, WV 25621

Post Report  
204 C. W. Washington Street  
Lewisburg, WV 24907

The Glenville Democrat  
The Glenville Pathfinder  
P.O. Box 458  
Glenville, WV 26351-0458

The Greenbrier Valley  
Ranger  
P.O. Box 471  
Lewisburg, WV 24901

Guyandotte Voice  
P.O. Box 4508  
Chapmanville, WV 25508

Coal Valley News  
P.O. Box 508  
Madison, WV 25130

The State Journal  
P.O. Box 28  
Charleston, WV 25321

The Calhoun Chronicle and  
Grantsville News  
P.O. Box 400  
Grantsville, WV 26147

Hometown News  
P.O. Box 597  
Madison, WV 25130

West Virginia Beacon  
P.O. Box 981  
Charleston, WV 25324

The Lincoln Journal  
The Weekly News Sentinel  
P.O. Box 308  
Hamlin, WV 25523

The Pocahontas Times  
P.O. Box 117  
Marlinton, WV 24954

Spirit of Jefferson  
Advocate  
P.O. Box 966  
Charles Town, WV 25414

The Ritchie Gazette  
P.O. Box 215  
Harisville, WV 26362

Hinton News  
P.O. Box 1000  
Hinton, WV 25951

Cabell Record  
911 3rd Avenue, Suite 2  
Huntington, WV 25701

The Clay Herald  
Route 4, Box 5  
Clay, WV 25043

Hurricane Breeze  
P.O. Box 336  
Hurricane, WV 25526

The Montgomery Herald  
P.O. Box 240  
Montgomery, WV 25136

Wirt County Journal  
P.O. Box 309  
Elizabeth, WV 26143

Industrial News  
P.O. Box 180  
Iaeger, WV 24844

The Moorefield Examiner  
P.O. Box 380  
Moorefield, WV 26836

The Mullens Advocate  
217 Moran Avenue  
Mullens, WV 25882

Princeton Times  
1101 Mercer Street  
Princeton, WV 24740

Roane County Reporter  
P.O. Box 647  
Spencer, WV 25276



Hancock County Courier  
P.O. Box 547  
New Cumberland, WV 26047

Times Record  
P.O. Box 647  
Spencer, WV 25276

Wetzel Chronicle  
P.O. Box 289  
New Martinsville, WV 26155

The Jackson Star News  
P.O. Box 10  
Ravenswood, WV 26164

The Nicholas Chronicle  
P.O. Box 503  
Summersville, WV 26651

The Valley Press  
Twin City Press  
P.O. Box 8  
Nitro, WV 25143

The News Leader  
P.O. Box 591  
Richwood, WV 26261

Braxton Citizen's News  
P.O. Box 516  
Sutton, WV 26601

Fayette Tribune  
P.O. Box 139  
Oak Hill, WV 25901

West Virginia Hillbilly  
P.O. Box 430  
Richwood, WV 26261

Braxton Democrat-Central  
P.O. Box 427  
Sutton, WV 26601-1399

Parsons Advocate  
212 Main Street  
Parsons, WV 26287

The Jackson Herald  
P.O. Box 31  
Ripley, WV 25271

The Monroe Watchman  
P.O. Box 179  
Union, WV 24983

Pennsboro News  
P.O. Box 368  
Pennsboro, WV 26415

Hampshire Review  
P.O. Box 1036  
Romney, WV 26757

Wayne County News  
Tri-State Sunday  
310 Central Avenue  
Wayne, WV 25570

Grant County Press  
P.O. Box 39  
Petersburg, WV 26847

St. Albans Community News  
P.O. Box 1000  
St. Albans, WV 25177

The Webster Echo  
P.O. Box 749  
Webster Springs, WV 26288

Barbour Democrat  
P.O. Box 459  
Philippi, WV 26416

St. Marys Oracle  
P.O. Box 27  
St. Marys, WV 26170

The Webster Republican  
P.O. Box 749  
Webster Springs, WV 26288

The Piedmont Herald  
P.O. Box 68  
Piedmont, WV 26750

The Shinnston News  
P.O. Box 7  
Shinnston, WV 26431

The Brooke News  
The Follansbee Reiview  
P.O. Box 591  
Wellsburg, WV 26070

Independent Herald  
P.O. Box 100  
Pineville, WV 24874

Tyler Star News/County  
Journal  
P.O. Box 191  
Sistersville, WV 26175

Weston Democrat  
P. O. Box 968  
Weston, WV 26452

Weston Democrat  
P.O. Box 968  
Weston, WV 26452

SEP- 6-94 TUE 15:45

DEP NITRO W. VA

FAX NO. 3047590526

P.06

The Herald Record  
202 E. Main Street  
West Union, WV 26456

The Catholic Spirit  
P.O. Box 951  
Wheeling, WV 26003

The Putnam Democrat  
P.O. Box 179  
Winfield, WV 25213

**Appalachian Power Company**  
PO Box 2021  
Roanoke, VA 24022-2121  
703 985 2300

WV DIV OF ENVIR. PROTECT.  
OFFICE OF AIR QUALITY

1995 JUL 19 A 10:04

RECEIVED



Mr. G. Dale Farley, Chief  
West Virginia Division of Environmental Protection  
Office of Air Quality  
1558 Washington Street, East  
Charleston, West Virginia 25311

Re: 45 CSR 33

July 18, 1995

Dear Mr. Farley:

Appalachian Power Company appreciates the opportunity to comment on the changes to 45 CSR 33 - "Acid Rain Provisions and Permits."

As owners and operators of four affected facilities, we support the changes proposed to this regulation as a means of updating and clarifying the regulation.

Sincerely,

A handwritten signature in cursive script that reads 'Robert J. Robinson'.

Robert J. Robinson  
Environmental Affairs Director

RJR:d



WV DIV  
OFFICE OF AIR QUALITY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

841 Chestnut Building  
Philadelphia, Pennsylvania 19107-4431

1995 JUL 24 P 12: 31

RECEIVED

JUL 21 1995

G. Dale Farley, Chief  
Division of Environmental Protection  
Office of Air Quality  
1558 Washington Street, East  
Charleston, WV 25311-2599

Dear Mr. Farley:

On June 22, 1995, the West Virginia Division of Environmental Protection, Office of Air Quality (OAQ), submitted a limited rule package to EPA, Region III (EPA) for review and comment. The regulations pertinent to the Permits Program Section include 45CSR30A, 45CSR30B, 45CSR33, and 45CSR34. After staff level review of these rules, EPA's comments are outlined below:

45CSR30A "Deferral of Area Sources from Permitting Requirements"

- 1 - Section 4.3 appears to limit deferred sources from the ability to "opt-in" to the 45CSR30 program after the dates in section 45CSR30.4.1.a have passed. Part 70 does not limit the time by which deferred sources may "opt-in".
- 2 - Regarding Section 5.1, certain sources currently deferred from the obligation to obtain a permit may be ultimately exempted from permitting.

45CSR30B "Identification and Counting of Fugitive Emissions in Major Source Determinations Under WV 45CSR30"

- 1 - Sections 3.1, 3.3, and 3.5 provide that only "affected facilities" at a source in a source category regulated by a section 111 or 112 standard need to consider fugitives in making major source determinations. See enclosed materials.
- 2 - Regarding Section 4.2, EPA suggests that the provision be modified to clarify that 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), many sources already need to consider fugitives as they belong to source categories that have been designated to do so pursuant to 302(j) (i.e. sources required by section 302(j) to count fugitives must do so regardless of the attainment status of the area).

45CSR34 "Emissions Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 63"

- 1 - Regarding Sections 2.1 and 2.2 of 45CSR34, OAQ should note that EPA recognizes that states need lead time to be able to implement the modification provisions contained in section 112(g). EPA published an interpretive notice in February 1995 advising states that they are not required to implement the modification provisions until EPA issues the final rule. EPA's current plan is to issue the final rule in early 1996.
- 2 - For administrative efficiency, EPA suggests that Sections 3.1 and 3.2 allow for delegation to a designated representative.
- 3 - Section 4.1.a of 45CSR34 amends 40 C.F.R. § 63.15. This section addresses information available to the public and confidentiality. Does this amendment restrict the public's access to information beyond what 40 C.F.R. § 63.15 allows?
- 4 - Regarding Section 4.1.b of 45CSR34, OAQ should note that Section 112(r) of the CAA must be, at a minimum, implemented and enforced for Title V sources. EPA does not believe that the Risk Management Plan (RMP) be included in the permit, but the submission of the RMP to the implementing agency should be considered a reporting requirement. In addition, EPA believes that the 112(r) program is best implemented at the state and local level and encourages states to seek delegation of the program in the future for all sources (i.e., Title V and non-Title V sources).
- 5 - OAQ should note that Sections 5.1.m and 5.1.n of 45CSR34 contain identical references to 40 C.F.R. Part 63.
- 6 - OAQ should note that the following sections of 45CSR34 appear to contain incorrect references to 40 C.F.R. Part 63: 5.1.h; 5.1.i; 5.1.j; 5.1.o; 5.1.z; 5.1.ac; 5.1.ad; 5.1.af; and, 5.1.ag.

At this time, EPA has no comments on 45CSR33. Please be aware that with respect to the proposed 45CSR30 interpretive rulemakings, 40CSR30A and 45CSR30B, EPA will not consider such regulations to be part of West Virginia's Title V program unless they are formally submitted to EPA as such.

Thank you for the opportunity to review and comment. If you have any questions or require additional information, please contact Jennifer Abramson at (215) 597-2923 or James Cashel at (215) 597-1260.

Sincerely,

A handwritten signature in cursive script that reads "Donna J. Weiss".

Donna J. Weiss, Chief  
Permit Programs Section

Enclosures

**45CSR33**

**ACID RAIN PROVISIONS AND PERMITS**

**RESPONSE TO COMMENTS**

At the public hearing on 45CSR33 conducted on July 19, 1995, no oral comments were presented on the rule. One written comment was submitted on 45CSR33 by Appalachian Power Company.

**I. Commenter: Appalachian Power Company**

COMMENT 1. General

*Comment supports the proposed rule as a means of updating and clarifying the regulation.*

RESPONSE 1. The comment supports the proposed rule.