

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

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

AMENDMENT TO AN EXISTING RULE: YES X, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR34

TITLE OF RULE BEING AMENDED: Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 63

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

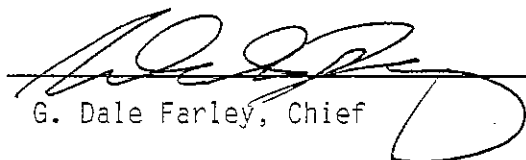
TITLE OF RULE BEING PROPOSED:

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) H.B. 2333

SECTION Section 64-3-1(c), PASSED ON April 12, 1997

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE FOLLOWING DATE: June 1, 1997


G. Dale Farley, Chief

\$3.80

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45CSR34

MAY 30 1 22 PM '97

TITLE 45
LEGISLATIVE RULE
DIVISION OF ENVIRONMENTAL PROTECTION OFFICE OF WEST VIRGINIA
OFFICE OF AIR QUALITY SECRETARY OF STATE

SERIES 34
EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS
PURSUANT TO 40 CFR PART 63

§45-34-1. General.

1.1. Scope. -- This rule establishes general provisions for national emission standards for hazardous air pollutants (NESHAPS) and other regulatory requirements pursuant to section 112 of the federal Clean Air Act as amended in 1990 (CAA). This rule codifies general procedures and criteria to implement emission standards for stationary sources that emit (or have the potential to emit) one or more of the substances listed as hazardous air pollutants (HAP) in or pursuant to section 112(b) of the CAA. It is the intent of the Director to adopt these standards by reference. It is also the intent of the Director to adopt associated reference methods, performance specifications and other test methods which are appended to these standards.

1.2. Authority. -- W.Va. Code §§22-5-1 et seq.

1.3. Filing Date. -- May 30, 1997

1.4. Effective Date. -- June 1, 1997

1.5. Incorporation by Reference -- Federal Counterpart Regulation. The Director has determined that a federal counterpart regulation exists, and in accordance with the Director's recommendation, with limited exception, this rule incorporates by reference, 40 CFR Part 63, effective June 15, 1996.

§45-34-2. Requirements.

2.1. After the effective date of the state permit program under Title V of the CAA, no person may modify a major source of hazardous air pollutants, unless the Director determines that the maximum achievable control technology emission limitation under this rule for existing sources will be met.

2.2. After the effective date of the state permit program under Title V of the CAA, no person may construct or reconstruct any major source of hazardous air pollutants, unless the Director

determines that the maximum achievable control technology emission limitation under this rule for new sources will be met.

2.3. After the effective date of the state permit program under Title V of the CAA, the Director shall determine and apply case-by-case maximum achievable control technology standards to existing sources categorized by the Administrator pursuant to Section 112(c)(1) of the CAA for which the Administrator has not promulgated emission standards in accordance with Section 112(d) and 112(e) of the CAA.

2.4. Prior to constructing, reconstructing or modifying any facility subject to this rule, the owner or operator shall obtain a permit in accordance with the applicable requirements of 45CSR13, 45CSR14, 45CSR30 and this rule.

§45-34-3. Definitions.

3.1. "Administrator" means the Administrator of the United States Environmental Protection Agency or his or her designated representative.

3.2. "Director" means the Director of the West Virginia Division of Environmental Protection or such other person to whom the Director has delegated authority or duties pursuant to W. Va. Code §22-1-6 or §22-1-8.

3.3. "Hazardous air pollutant" means any air pollutant listed pursuant to §112(b) of the CAA as of June 15, 1996.

§45-34-4. Adoption of Standards.

4.1. The Director hereby adopts and incorporates by reference the provisions of 40 CFR Part 63 including any reference methods, performance specifications and other test methods which are appended to such standards and contained in 40 CFR Part 63 as in effect on June 15, 1996, for the purposes of implementing a program for national emission standards for hazardous air pollutants for source categories, except as follows:

4.1.a. Section 63.15 is amended to provide that information shall be available to the public in accordance with W.Va. Code §§22-5-1 et seq. and §§29B-1-1 et seq.

4.1.b. Any provision related to section 112(r) of the CAA.

4.1.c. Section 63.150 is excluded from adoption.

§45-34-5. Director.

5.1. Any and all references in 40 CFR Part 63 to the "Administrator" are amended to be the "Director" except in the following references which shall remain "Administrator."

- 5.1.a. Part 63.1(a)(2)
- 5.1.b. Part 63.1(a)(3)
- 5.1.c. Part 63.1(b)(2)
- 5.1.d. Part 63.1(c)(2)(ii)
- 5.1.e. Part 63.2 pertaining to the definition of:
 - Administrator
 - Alternative Emission Limitation
 - Alternative Emission Standard
 - Alternative Test Method
 - Approved Permit Program
 - Equivalent Emission Limitation
 - Federally Enforceable
 - Lesser Quantities
 - Major Source
 - Performance Audit
 - Permitting Authority
 - Regulation Promulgation Schedule
 - Responsible Official
- 5.1.f. Part 63.5(b)(4)
- 5.1.g. Part 63.5(b)(5)
- 5.1.h. Part 63.6(g)(1)
- 5.1.i. Part 63.6(g)(3)

- 5.1.j. Part 63.6(h) (9)
- 5.1.k. Part 63.7(c) (4) (iii)
- 5.1.l. Part 63.9(a) (3)
- 5.1.m. Part 63.9(b) (2)
- 5.1.n. Part 63.9(b) (3)
- 5.1.o. Part 63.9(b) (4)
- 5.1.p. Part 63.9(b) (5)
- 5.1.q. Part 63.9(c)
- 5.1.r. Part 63.9(d)

5.1.s. Part 63.9(i), depending upon whether the Administrator or the Director has responsibility for administering the applicable section of the rule.

5.1.t. Part 63.9(j), depending upon whether the Administrator or the Director has responsibility for administering the applicable section of the rule.

- 5.1.u. Part 63.10(a) (3)
- 5.1.v. Part 63.10(b) (3)
- 5.1.w. Part 63.12(b) (1)
- 5.1.x. Part 63.12(c)
- 5.1.y. Part 63.13(a)
- 5.1.z. Part 63.13(b)
- 5.1.aa. Part 63.52(a)
- 5.1.ab. Part 63.56
- 5.1.ac. Part 63.100 (1) (1) (iii)
- 5.1.ad. Part 63.101(a)
- 5.1.ae. Part 63.102(a) (2) (b)
- 5.1.af. Part 63.102(b) (3)

5.1.ag. Part 63.103(d), pertaining to the second occurrence of "Administrator".

5.1.ah. Part 63.106(a)

5.1.ai. Part 63.111(4) pertaining to the use of "Administrator" in the definition of "maximum true vapor pressure".

5.1.aj. Part 63.191(a)

5.1.ak. Part 63.192(h)

5.1.al. Part 63.193

5.1.am. Part 63.301

5.1.an. Part 63.302(a) (2)

5.1.ao. Part 63.304(b) (3)

5.1.ap. Part 63.304(d)

5.1.aq. Part 63.307(e) (1)

5.1.ar. Part 63.311(g) (2)

5.1.as. Part 63.313

5.1.at. Part 63.321

5.1.au. Part 63.325(a)

5.1.av. Part 63.325(b)

5.1.aw. Part 63.325(c)

5.1.ax. Part 63.342 pertaining to the use of "Administrator" in Table 1 to 63.342.

5.1.ay. Part 63.342(f) (3) (i) (c)

5.1.az. Part 63.343(c) (8) (ii)

5.1.ba. Part 63.343(d)

5.1.bb. Part 63.344(c) (4)

5.1.bc. Part 63.347(a)

- 5.1.bd. Part 63.347(c) (1)
- 5.1.be. Reference 63.8(F) (2) of Table 1 to Subpart N
- 5.1.bf. Part 63 Appendix A Method 306A Section 5.1.1.2.b
- 5.1.bg. Part 63.366(a)
- 5.1.bh. Part 63.366(a) (1) (ii)
- 5.1.bi. Part 63.366(a) (2)
- 5.1.bj. Part 63.401(3), pertaining to the second occurrence of "Administrator" in the definition of "Responsible Official".
- 5.1.bk. Part 63.404
- 5.1.bl. Part 63.428(h)
- 5.1.bm. Part 63.429(a)
- 5.1.bn. Part 63.460(e)
- 5.1.bo. Part 63.461 pertaining to the definition of "Administrator".
- 5.1.bp. Reference 63.2 of Appendix C to Subpart T
- 5.1.bq. Part 63.522 (three times in one sentence)
- 5.1.br. Part 63.703(h) (3)
- 5.1.bs. Part 63.707(a)
- 5.1.bt. Part 63.708(a)
- 5.1.bu. Part 63.468(j)
- 5.1.bv. Part 63.646(b) (2)
- 5.1.bw. Part 63.648(I) (B) (1)
- 5.1.bx. Part 63.652(I) (1)
- 5.1.by. Part 63.652(I) (1) (iii)
- 5.1.bz. Part 63.652(I) (2)
- 5.1.ca. Part 63.652(I) (3)

5.1.cb. Part 63.652(I) (4)
5.1.cc. Part 63.652(I) (5)
5.1.cd. Part 63.652(I) (5) (ii)
5.1.ce. Part 63.652(I) (6)
5.1.cf. Part 63.652(j) (2) (v)
5.1.cg. Part 63.743(c)
5.1.ch. Part 63.750(g) (4) (I)
5.1.ci. Part 63.750(g) (4) (I) (D)
5.1.cj. Part 63.751(e) (1)
5.1.ck. Part 63.751(e) (2)
5.1.cl. Part 63.751(e) (3)
5.1.cm. Part 63.751(e) (4) (I)
5.1.cn. Part 63.751(e) (4) (iii)
5.1.co. Part 63.751(e) (5) (I)
5.1.cp. Part 63.751(e) (5) (I) (B)
5.1.cq. Part 63.751(e) (5) (ii)
5.1.cr. Part 63.562(e) (2) (iv)
5.1.cs. Part 63.562(e) (3)
5.1.ct. Part 63.563(b) (9)
5.1.cu. Part 63.564(j)
5.1.cv. Part 63.565(m) (1)
5.1.cw. Part 63.565(m) (2)
5.1.cx. Part 63.567(b) (2)
5.1.cy. Part 63.567(b) (3)

- 5.1.cz. Part 63.801(a)
- 5.1.da. Part 63.804(f)(4)(iv)(D)
- 5.1.db. Part 63.804(g)(4)(iii)(C)
- 5.1.dc. Part 63.804(g)(6)(iii)(C)
- 5.1.dd. Part 63.805(e)(1)
- 5.1.de. Part 63.783(a)
- 5.1.df. Part 63.783(c)(1)
- 5.1.dg. Part 63.783(c)(2)
- 5.1.dh. Part 63.783(c)(3)
- 5.1.di. Part 63.786(b)
- 5.1.dj. Part 63.827(b)(1)(I)
- 5.1.dk. Part 63.827(b)(1)(iii)(B)
- 5.1.dl. Part 63.827(b)(2)(I)
- 5.1.dm. Part 63.827(c)(1)
- 5.1.dn. Part 63.827(c)(2)
- 5.1.do. Part 63.340(e)(1)
- 5.1.dp. Part 63.347(e)(2)
- 5.1.dq. Part 63.347(f)(1)

§45-34-6. Permits.

6.1. Nothing contained in this rule shall be construed or inferred to mean that permit requirements in accordance with applicable rules shall in any way be limited or inapplicable.

§45-34-7. Inconsistency Between Rules.

7.1. In the event of any inconsistency between this rule and any other existing rule of the West Virginia Division of Environmental Protection, such inconsistency shall be resolved by

the determination of the Director and such determination shall be based upon the application of the more stringent provision, term, condition, method, rule or regulation.



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

CECIL H. UNDERWOOD
GOVERNOR

JOHN E. CAFFREY
COMMISSIONER

May 23, 1997

Ms. Judy Cooper
Director, Administrative Law Division
Office of the Secretary of State
Capitol Complex
Charleston, West Virginia 25305

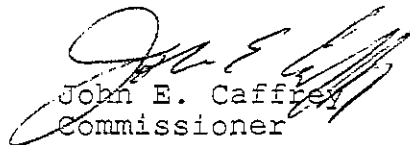
RE: 45CSR34 - "Emission Standards for Hazardous Air
Pollutants Pursuant to 40 CFR part 63"

Dear Ms. Cooper:

This is to advise you that I am giving approval for final filing and adoption of the above-referenced rule with your office.

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

Sincerely yours,


John E. Caffrey
Commissioner

JEC/tlm

Attachments

LEGISLATIVE HISTORY ABSTRACT 45CSR34

EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS PURSUANT TO 40 CFR PART 63

Bureau of Environment
Division of Environmental Protection
Office of Air Quality
House Bill 2333 Section 64-3-1(c)

07/10/96 Filed Notice of Public Hearing with Secretary of State.

07/10/96 Initial Filing with Legislative Rule-Making Review Committee.

08/13/96 Held Public Hearing.

08/13/96 End of Public Comment Period.

08/29/96 Agency Approved Rule Filed with Secretary of State and Legislative Rule-Making Review Committee.

12/19/96 Rule Approved by Legislative Rule-Making Review Committee.

04/12/97 Passed the West Virginia Legislature.

05/02/97 Approved by the Governor.

05/30/97 Rule Final Filed with Secretary of State.

06/01/97 Effective Date of Rule.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

JAN CASTO
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900



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WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

(Plus all the volunteer
help we can get)

TO: CARRIE CHAMBERS

AGENCY: DEP - OFFICE OF AIR QUALITY

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: June 17, 1997

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 34 TITLE: 45 DEP - OFFICE OF AIR QUALITY

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: *Rufus Burchard*

TITLE OF PERSON SIGNING: ERS III

DATE: 6/30/97

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.