



west virginia department of environmental protection

SIGN-IN SHEET

Public Hearing on proposed 2017 Division of Air Quality Rules 45CSR1, 45CSR8, 45CSR13, 45CSR14, 45CSR16, 45CSR18, 45CSR25, and 45CSR34.

August 1, 2016, 6:00 p.m.

The Department of Environmental Protection asks for the information below so that agency staff may provide responses and information about decisions to you. The information you voluntarily provide on this sheet becomes part of the public record related to this topic and may be released if requested under the Freedom of Information Act.

Visitor
Tag #

	Name (please print)	Address	Organization	Phone	E-mail	Comment Y/N
47	Missy L. Young		Court Reporter			
48	Julia Archer	1500 Dixie Street Charleston, WV 25311	WV Citizen Action INVSURO	346-5891	julie@wvscvo.org	N
49	Don Smith	3401 Pennsylvania Ave, Charleston	WVPA	304-550-0451	don.smith@wvpress.com	Y
50	Ku Ward JR	Gazette-Mail 1001 Virginia St E Charleston WV 25301	Gazette-Mail	304- 343 348-702	Kward@wvgazette.com	N
	Laura Crowder		DEP/PA		Laura.M.Crowder@wv.gov	N

Name (please print)	Address	Organization	Phone	E-mail	Comment Y/N
Wendy Radcliff		WV DEP	1328		N
ROBERT KEATLEY		WV DAQ	1695		N
Jake Glance		WV DEP			N
Laura Jennings		WV DAQ			

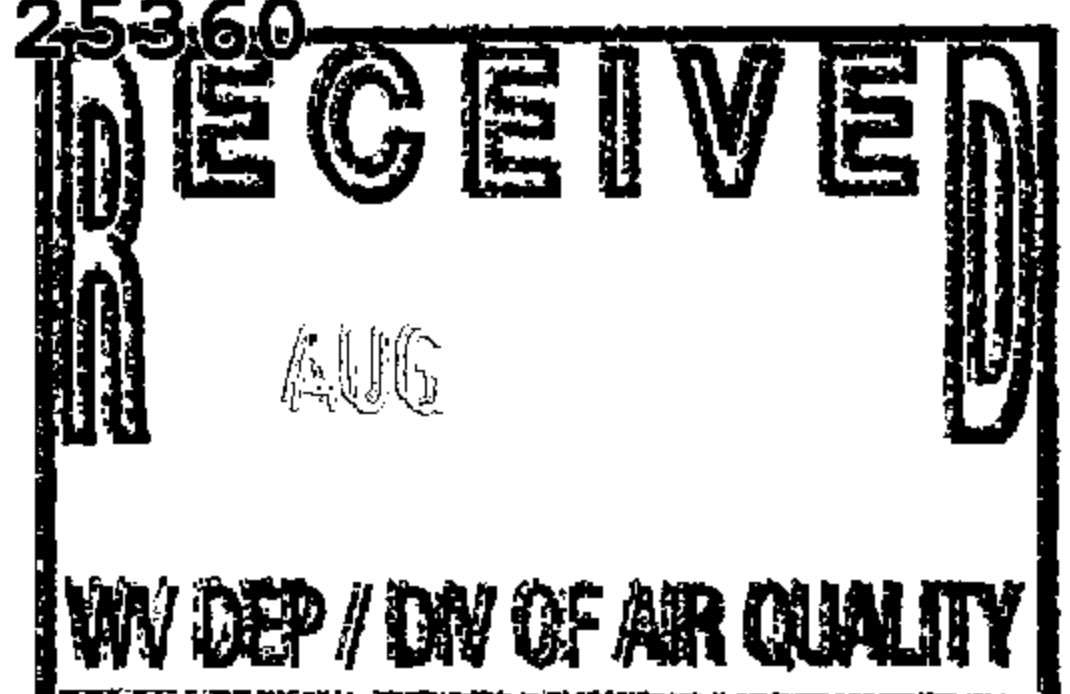
Promoting a healthy environment.

BEFORE THE WEST VIRGINIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
DIVISION OF AIR QUALITY

In re: 45CSR13 - *Permits for Construction,
Modification, Relocation and Operation of
Stationary Sources of Air Pollutants,
Notification Requirements, Administrative
Updates, Temporary Permits, General Permits,
Permits to Commence Construction and
Procedures for Evaluation*

Transcript of proceedings had at a public
hearing in the above-styled matter taken at the West
Virginia Department of Environmental Protection, Division
of Air Quality, Conference Room, 601 57th Street, S. E.,
Charleston, West Virginia, commencing at 6:01 p.m., on the
1st day of August, 2016, pursuant to notice.

MISSY L. YOUNG, C.C.R.
POST OFFICE BOX 13622
SISSONVILLE, WEST VIRGINIA 25360
304-539-6192



P R O C E E D I N G S

1
2 MS. JENNINGS: This public hearing will now come
3 to order on this 1st day of August, 2016, at the West
4 Virginia Department of Environmental Protection
5 Headquarters. Comments and testimony will be accepted
6 until the close of this hearing and will be made part of
7 the rulemaking record. Any relevant question regarding
8 revisions to the rules will be included with your comments,
9 and any such question will be addressed as part of the
10 response to comments in the rulemaking record.

11 The purpose of this public hearing is to accept
12 comments on proposed revisions to rule 45CSR13 - Permits
13 for Construction, Modification, Relocation and Operation of
14 Stationary Sources of Air Pollutants, Notification
15 Requirements, Administrative Updates, Temporary Permits,
16 General Permits, Permits to Commence Construction and
17 Procedures for Evaluation.

18 This rule sets forth the procedures for
19 stationary source reporting and the criteria for obtaining
20 a permit to construct and operate a new stationary source
21 which is not a major stationary source and to modify a non-
22 major stationary source.

23 This rule also establishes the requirements for

1 obtaining an administrative update to an existing permit,
2 temporary permit, or a general permit and for filing
3 notifications and maintaining records of changes not
4 otherwise subject to the permit requirements of this rule.

5 The rule establishes public participation
6 requirements, as well as procedures for permission to
7 commence construction and the transfer, suspension and
8 revocation of permits.

9 Changes to the rule include: (i) deleted former
10 rules section; (ii) revised modification and stationary
11 source definitions to make clear that greenhouse gases
12 cannot trigger a permitting event due to the exist - - or
13 due to existing threshold limits; (iii) added store on-site
14 and WVDEP/DAQ web page definitions; (iv) changed
15 applicability for Class I administrative updates to no
16 increase in emissions; (v) changed applicability on Class
17 II administrative updates to an increase in emissions; (vi)
18 clarified "store on-site" requirements; (vii) deleted
19 Section 5.8; revised public review requirements; (ix)
20 clarified Section 10; (x) revised the inconsistency between
21 rule sections to include only DAQ; and (xi) made
22 miscellaneous clarifications and updated references.

23 Upon authorization and promulgation of 45CSR13,

1 the rule will be submitted to the EPA as a revision to the
2 state implementation plan pursuant to the Federal Clean Air
3 Act.

4 The floor is now open for comments.

5 MS. ARCHER: I have some written comments I'd
6 like to --

7 MS. JENNINGS: Okay. What's your name?

8 MS. ARCHER: Julie Archer.

9 MS. JENNINGS: Do you have any oral comments as
10 well?

11 MS. ARCHER: No.

12 MR. SMITH: I have both written and oral.

13 MS. JENNINGS: Okay. Thank you. And then just
14 please state your name and affiliation, please.

15 MR. SMITH: My name is Don Smith and I'm the
16 executive director of the West Virginia Press Association.
17 I want to thank you for the opportunity to address -- may
18 I begin?

19 MS. JENNINGS: Yes.

20 MR. SMITH: Oh, okay, thank you. I wanted to be
21 sure -- opportunity to address the Division of Air
22 Quality's proposed 2017 legislative rule 45CRS13 (sic).
23 The West Virginia Press Association and its 77-member

1 newspapers oppose the proposed rule which, in our summary,
2 would remove - - the section we're most concerned about,
3 would remove public notification by Class 1 and Class 2
4 legal advertisements for stationary sources of air
5 pollutants in a newspaper of general circulation in the
6 area where the source would be located in favor of placing
7 the notification on a West Virginia Department of
8 Environmental Protection, Division of Air Quality web page.

9 The West Virginia Press Association and its
10 newspapers think the proposed rule represents a tremendous
11 disservice as well as real and measurable harm to the
12 residents of West Virginia and, in particular, to the
13 region - - to the residents of the region designated in the
14 respective permit application.

15 In my remarks, I want to address facts and the
16 vested interest of the WVPA and its newspapers with this
17 issue. West Virginia newspapers are paid to run legal
18 advertisements and public notices. That's a fact.
19 Throughout our state's history, government agencies have
20 been required to alert citizens of certain government
21 activities that may impact local communities, providing
22 citizens with an opportunity to stay informed and take
23 action when necessary. Newspapers have long partnered with

1 government agencies by publishing public notices enabling
2 government agencies to be fully transparent and accountable
3 to tax - - citizen taxpayers.

4 The West Virginia Legislature sets the cost of
5 legal advertising. That is business and West Virginia
6 newspapers stand by their value. The West Virginia Press
7 Association maintains there is no better way of spreading
8 news to a local community than the local newspaper at this
9 point, which is why the newspapers are the primary retail
10 advertising source in their communities.

11 The WVPA is very interested to learn the reason
12 for the proposed rules and to see evidence documenting that
13 a permit placed on a DEP Division of Air Quality web page
14 would provide the same public notice to the residents of
15 the impacted areas as a legal advertisement in the
16 community newspaper.

17 However, the vested interest I'm referring to is
18 the presence of our newspaper facilities in the homes of
19 our employees in every county of West Virginia. Our
20 employees, like all West Virginians, want to know what is
21 happening in the area where they live and know that the
22 local newspaper is a source for that information.

23 In today's environmentally aware atmosphere and

1 in a state with documented serious health issues, it's hard
2 to understand the reason the DEP would decide to reduce
3 public notification for a stationary source of air
4 pollutants application, especially to the people living in
5 the actual area that's being considered.

6 We can think of few notifications more valuable,
7 perhaps even life saving, than the information from a new
8 source of air pollutants. The WVPA and its newspapers
9 think the proposed rules, when viewed in terms of impacts
10 on residents, work ability and cost, greatly reduce access
11 in West Virginia - public access in West Virginia. It
12 creates problems for local and state residents and
13 represents a tremendous liability for the State of West
14 Virginia and all parties involved in such projects.

15 There are a host of reasons why the WVPA thinks
16 it's important to continue to print public notices in
17 newspapers, especially at this time in West Virginia.
18 Public notice laws were created to notify the public of
19 government actions that may affect the public's interest or
20 rights. Residents rely on local newspapers for this
21 information. Providing public notice is not a formality,
22 it's a responsibility. It's, in fact, a huge
23 responsibility.

1 These rules would take permit applications for
2 designated stationary sources of air pollutants, which
3 would seem to be of tremendous public interest, out of
4 plain sight and bury them in a tangle of documents on a
5 government-designated web site. Anyone looking for the
6 information would have to know exactly what it is they're
7 searching for and when and where to look.

8 Rather than going to their local newspaper where
9 they have always gone to see these legal advertisements,
10 citizens would be left searching for a needle in a
11 haystack. The public cannot reasonably be expected to keep
12 track of governmental activities when there are literally
13 hundreds of State agencies as well as county, municipal,
14 special districts, school districts all with their own web
15 sites. The newspapers serves as - - currently, the
16 newspapers serve as a sole aggregate source for all public
17 notice in the impacted areas.

18 Additionally, large portions of West Virginia are
19 very rural and still do not have reliable Internet access
20 or even reliable cell phone service. Many in poor and
21 senior communities cannot readily view Internet
22 notifications. How would a citizen gain access to such
23 vital information if they do not have access to the

1 Internet?

2 Ironically enough, it often seems items such as
3 stationary sources of air pollutants end up in economically
4 challenged areas of our counties and not in city centers or
5 in new sub-divisions that have adequate Internet service.
6 Local newspaper notification - - local newspapers are - -
7 notify the entire community.

8 Newspapers effectively push the public notice out
9 to the public. If the notices are only on a government web
10 site, it requires the citizens to look for what they need
11 to know. Publishing a public notice in a community
12 newspaper enables citizens to be aware of and understand
13 what is happening in their neighborhood, city or town.

14 That is the reason the notices must continue to
15 be published in the - - in the areas impacted. It prevents
16 the notices from being hidden in a distant paper or a
17 massive data base. Government files are just that, files.
18 Putting a permit application or corporate documentation in
19 an electronic data base is not public notification.
20 Publishing it in a local newspaper and putting the matter
21 directly to the attention of the community that will be
22 impacted is public notice.

23 Also government posting on - - government posting

1 of public notices on a government-controlled web site
2 creates the potential for abuse and could result in public
3 distrust. As an example, with permit applications for this
4 stationary source of air pollutants which could represent
5 tremendous value in government contracts or a controversial
6 project up for consideration, it might be tempting to
7 manipulate the timing for access to these documents.

8 At the very least, any issue with posting or with
9 a government web site's operation could give the appearance
10 of abuse. Newspapers offer third-party neutrality.
11 Publishing public notices in a newspaper informs a wide
12 audience in a local community of the government's action,
13 reaching citizens that are passive information seekers and
14 not always aware of the important notices impacting a
15 community that could be suddenly placed on a government's
16 web site.

17 Further, publishing notices in a newspaper serves
18 as an important audit role as the newspaper's status as an
19 independent third party is important for legal reasons to
20 verify that the government agency has, in fact, given
21 public notice. That doesn't even take into consideration
22 any liability and loss of public confidence should an
23 agency experience - - if the government web site suffers

1 server issues or becomes inaccessible, the information is
2 lost, at some point manipulated or found to be in any way
3 incomplete.

4 We ask that you compare the cost of publishing
5 these permits to the total dollar amount of projects and
6 liability in question. If cost is the issue, would it not
7 make more sense to include the actual cost into the permit
8 fee and keep the public informed? The actual cost of the
9 legal advertisement.

10 In terms of keeping taxpayers informed, placing
11 an advertisement in a newspaper, in the view of the WV
12 Press Association, is a very effective and cost efficient
13 part of government doing the people's business. With
14 government web sites, government entities will have to pay
15 consultants or undertake the massive internal process to
16 develop, maintain, and most importantly now, secure the web
17 site for the distribution of public notice.

18 Securing a web site so the public notice is not
19 altered, is not deleted by hackers will be the biggest
20 expense facing government entities. With publication in
21 print newspapers, government officials don't have to worry
22 about hackers and there will not be a question of whether
23 the public was informed on this important issue. Clearly,

1 developing and maintaining these dependable and secure
2 government-controlled web sites would greatly reduce if not
3 completely eliminate any savings on the publication.

4 If the government web site goes down today, it's
5 an inconvenience. With a government-controlled web page
6 hosting the legal web sites, if the DEP web site goes down
7 during the public comment period, it could be a violation
8 of State code and public notification. If the government
9 web site crashes, was the public - - was the publication
10 requirement met? That is a question that must be answered.
11 If the action based on a permit is later challenged for a
12 lack of public notice, who is now liable? The State, the
13 agency, the applicant?

14 The public and the source of the notice are able
15 to verify that a notice was published in a newspaper and -
16 - and not altered after publication. With a newspaper
17 legal advertisement, an affidavit is provided by the
18 publisher which can be used as evidentiary evidence to
19 demonstrate the true copy was published as well as the
20 exact wording that was used.

21 It is difficult and costly to provide
22 authentication of Internet site publications because
23 Internet ad sites can, and often are, edited after the

1 initial publication and it becomes virtually impossible to
2 prove that any stakeholder witnessed any particular element
3 of an Internet site at the - - at a given time.

4 With a government-controlled web site, the
5 government body will be the sole party verifying that the
6 notification was drafted, published and not edited after
7 publication and was posted on the government web site for
8 the entire length of time. In fact, there is great concern
9 that once a notification is removed from a government
10 body's Internet site or if a platform is updated, there
11 could be no - - there could be a loss of the record that
12 the public notice ever existed.

13 West Virginia doesn't want to be in a position
14 where government agencies are released from the obligation
15 to notify the public of what they're doing before a
16 decision is made. The State has worked hard to increase
17 and maintain openness. Closing the door on disseminating
18 this information would jeopardize the open and transparent
19 government processes upon which West Virginians rely.

20 Public notices need to be made available as
21 widely as possible. West Virginia newspapers are already
22 addressing the issue of greater availability. Most
23 newspapers are on the Internet and post their public

1 notices via their web sites. Many West Virginia newspapers
2 also upload their notices to their own web site and now
3 post them to the West Virginia Press Association's site,
4 wvlegals.com on a daily or weekly basis.

5 With this - - with this growth in the newspaper
6 industry, State agencies get the value of printed legal
7 advertisements and the benefit of Internet listings at no
8 additional cost. The Internet listings are provided at no
9 cost or liability to the publishing government body. The
10 WVPA web site allows - - allows users to key word search
11 and for a demonstration, you can go to www.wvlegals.com.
12 The site is free to the public and to government agencies.
13 It's funded by the West Virginia newspaper industry and
14 gives additional value to the paid public notice print
15 advertisement in West Virginia newspapers.

16 This site is an example of what many public
17 officials support: The use of private enterprise instead
18 of public dollars to provide a demonstratable valuable
19 public service. What does publication of notices mean to
20 West Virginia? The idea of ending any public notice and
21 putting it instead on a government web site may be the
22 classic, "penny wise, pound foolish" position. It reduces
23 the placement and storage of legal public notices to the

1 mere reproduction of words instead of actual public
2 notification.

3 However, it's much more than that. It's about
4 the preservation of evidentiary record viewed from the
5 standpoint of end users of such an ad. The printing of
6 them is a far more cost-effective method of assuring the
7 integrity of the evidentiary record than installing the
8 safeguards that would be required if government were to be
9 trusted to do this job itself on it's own web site.

10 In closing, remember the West Virginia newspapers
11 publish notices in print at a cost set by the Legislature
12 and place them online at no additional cost. Additionally,
13 the newspaper industry gives funding for wvlegals.com,
14 which gives greater access. Creating public access, again,
15 is a huge responsibility and one that must be considered at
16 all times versus the - - at all times.

17 Thank you for your consideration.

18 MS. JENNINGS: Thank you for your comments. Are
19 there any further comments?

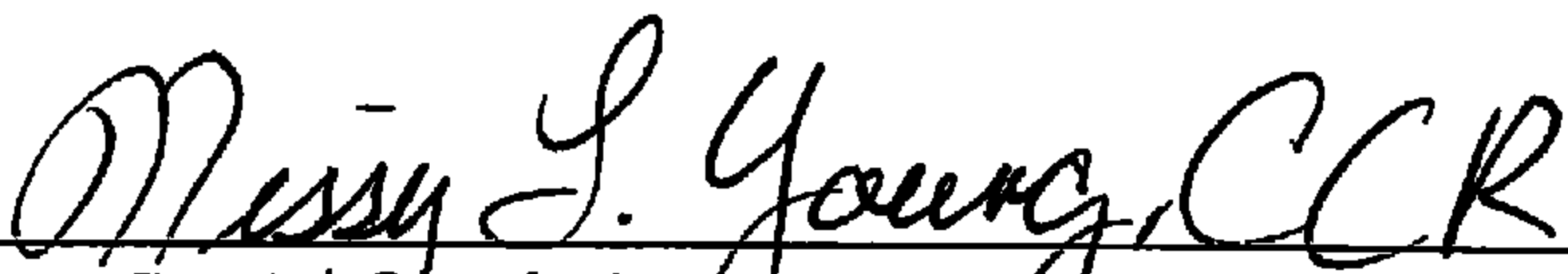
20 Okay. There being nothing further, this public
21 hearing for proposed Rule 45CSR13 is concluded.

22 (WHEREUPON, the hearing was
23 concluded at 6:36 p.m.)

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

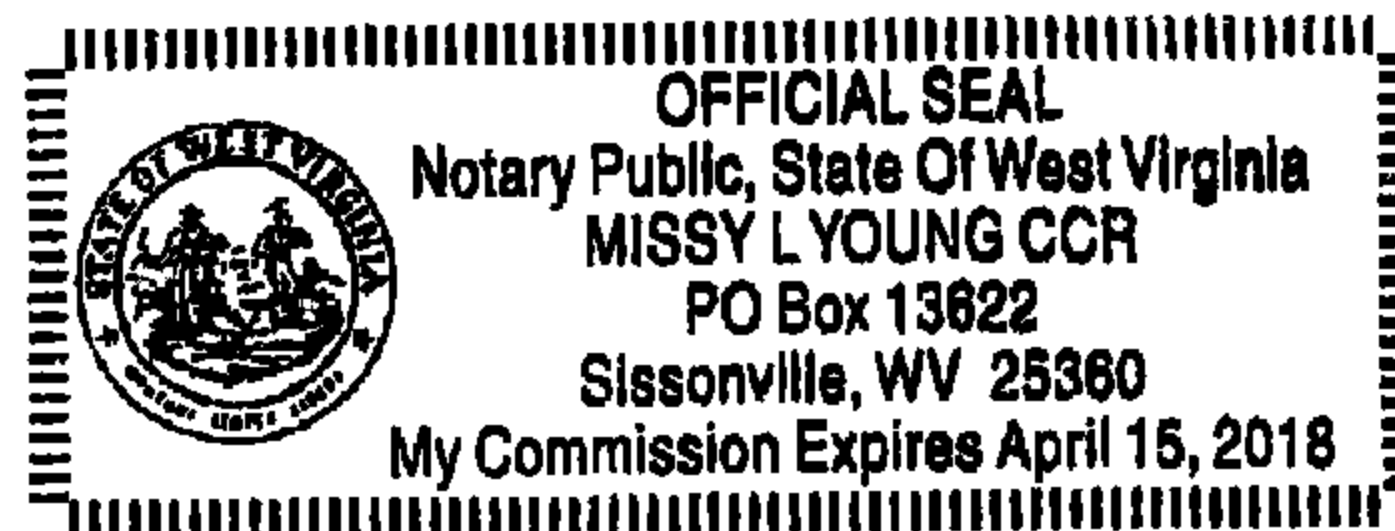
I, the undersigned, Missy L. Young, a Certified Court Reporter and Notary Public within and for the State of West Virginia, duly commissioned and qualified, do hereby certify that the foregoing, was taken to the best of my skill and ability, a true and accurate transcript of all the proceedings had in the aforementioned matter.

Given under my hand and official seal this 2nd day of August, 2016.



Certified Court Reporter
Notary Public for the State of West Virginia

My commission expires April 15, 2018.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

JUL 28 2016

Mr. William F. Durham, Director
West Virginia Department of Environmental Protection
Division of Air Quality
601 57th Street SE
Charleston, West Virginia 25304

Dear Mr. Durham:

Thank you for your June 29, 2016 letter requesting comment on the following seven West Virginia Department of Environmental Protection proposed air quality rules: 45 C.S.R. 1, 45 C.S.R. 8, 45 C.S.R. 13, 45 C.S.R. 14, 45 C.S.R. 16, 45 C.S.R. 25, and 45 C.S.R. 34.

The U.S. Environmental Protection Agency's comments are enclosed.

If you have any questions, please do not hesitate to contact me or have your staff contact Ms. Irene Shandruk, for 45 C.S.R. 1, at 215-814-2166, or shandruk.irene@epa.gov or Ms. Amy Johansen, for the remaining rules, at 215-814-2156, or johansen.amy@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Arnold".

David L. Arnold,
Acting Division Director

Enclosure



Enclosure

EPA's Comments on West Virginia's Proposed Air Quality Rules for 2017 Legislative Session

45 C.S.R. 1 - Alternative Emission Limitations during Startup, Shutdown, and Maintenance Operations

1. Please explain provision 45-1-3.3. The wording is vague and it is unclear why only RACT is mentioned. Perhaps it should say that the alternative emission limitation (AEL) shall otherwise meet applicable West Virginia and Clean Air Act requirements.
2. Please clarify the meaning and intent of provision 45-1-7. It is unclear how the AEL could be more stringent than an otherwise applicable limitation. If the AEL is less stringent, based on this provision, the AEL would not apply to sources during startup/shutdown/malfunction when the sources cannot meet the otherwise applicable emission limitations.
3. To the extent that West Virginia intends to establish AELs for periods of startup/shutdown/malfunction, such limitations must be submitted to EPA for approval into West Virginia's state implementation plan (SIP) for SIP compliance purposes. That is, if the AEL is done via permit or enforcement order, the permit or order must be approved by EPA into West Virginia's SIP to ensure that the limitations are enforceable by EPA.
4. Please define "zero process weight rate" to make the definition of "maintenance operation" clearer.

45 C.S.R. 13 – Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits, Permission to Commence Construction, and Procedures for Evaluation

1. Please explain why 45-13-5.8 is being removed. By removing this provision there appears to be no limit on the timeframe in which the Secretary shall complete review of any application for an existing stationary source operating permit.
2. It should be noted that on December 29, 2015 (80 FR 81234), EPA proposed "Revisions to the Public Notice Provisions in Clean Air Act Permitting Programs," which will remove mandatory requirements to provide public notice of a draft air permit, as well as certain other program actions, through publication in a newspaper and would instead allow for electronic noticing (e-notice) of these actions. EPA suggests West Virginia

review that proposed rule as well as the final rule, once published, noting that the proposal is subject to change upon going final.

3. West Virginia is making changes to Public Review Procedures in 45-13-8 and is to be commended for moving to electronic public noticing; however, please explain why West Virginia is removing requirements to public notice applications for operating permits in provision 45-13-8.3.

45 C.S.R. 14 – Permits for Construction and Major Modification of Major Stationary Sources for the Prevention of Significant Deterioration of Air Quality

1. Please explain the changes made to provision 45-14-2.45. It is unclear why “under the CAA” is being removed.
2. Please explain your changes to the definition of “PAL permit” in provision 45-14-2.54.
3. The edits made to 45-14-11.5 are confusing and unclear. It appears the same thing is being said twice. Please clarify.
4. In the provisions under 45-14-17 for Public Review Procedures, it appears West Virginia will continue to use legal advertisement in a newspaper of general circulation, but are moving to electronic notice under 45-13. Once EPA finalizes “Revisions to the Public Notice Provisions in Clean Air Act Permitting Programs,” EPA would recommend one consistent public noticing method, unless there are specific instances where the public would be better served using a CAA approved alternative (i.e., newspaper).

August 1, 2016

Via Email/Hand Delivery

West Virginia Department of Environmental Protection
Public Information Office
601 57th Street, SE
Charleston, WV 25304
DEP.comment@wv.gov

Re: Comments on Proposed Changes to §45CSR13 Procedures and Criteria for Construction, Modification, Relocation, and Operation of Stationary Sources of Air Pollutants

To Whom It May Concern:

Please accept the following comments from the WV Surface Owners' Rights Organization (WV-SORO) regarding the proposed Changes to §45CSR13 relating to Procedures and Criteria for Construction, Modification, Relocation, and Operation of Stationary Sources of Air Pollutants. WV-SORO is a statewide membership organization representing over 900 members, all of who live or own land in the state's oil and gas producing counties.

Our comments on the rule are limited primarily to the proposed changes to section 8 pertaining to public review and notification procedures.

WV SORO opposes the proposed changes to substitute public notice on the DEP/Division of Air Quality (DAQ) webpage for legal notices in local newspapers. ~~While~~ We recognize and appreciate that the DEP has taken steps over the years to increase and improve public access to permits, applications and other information by making more documents available on its website. Nevertheless, we believe this proposed policy change is counter to serving the public and ensuring that the public knows about and can get access to information about plans for the construction of or changes to facilities in their communities.

Although internet access is more widely available than it once was, and many of us have come to rely on the DEP website and public notice email list, thousands of West Virginians in rural areas live without internet access and many more live in areas that are underserved. Considering this, cutting back on public notice is at odds with transparency and adequate outreach to the public.

If the agency decides to move forward with this proposal, the rule should clarify that electronically published means the application has been posted on the Division of Air Quality webpage and notice has been sent via the DEP's enhanced/electronic mailing list for public notices. However, many West Virginians still rely on their local newspapers for news and information about events and activities that affect their communities and we do not believe electronic publication alone is a sufficient substitute for notice in these papers.

Additionally, we are concerned that the proposed change may conflict with WV Code §22-5-11A, which requires the applicant to "give notice by publishing a Class 1 legal notice" "upon submission of the application for permission to construct." While this section may only apply to applicants seeking authorization to construct in advance of receiving a permit, it seems inconsistent and contrary to the spirit of the law to require the publication notice only in this instance.

We urge you to be consistent with your public notice requirements and to maintain the various levels of legal advertisement in newspapers for construction, modification, relocation and operation of sources requiring air permits from the DAQ.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Archer", with a long horizontal flourish extending to the right.

Julie Archer, Project Manager
WV Surface Owners' Rights Organization
1500 Dixie Street
Charleston, WV 25311
(304) 346-5891
julie@wvsoro.org

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:25 PM
To: Jennings, Laura M
Subject: FW: Comments on 45CSR13
Attachments: SORO_Comments_45CSR13_DAQPermitPublicNoticeProcedures.doc

Jake Glance

Please consider the environment before printing this email.

From: Julie Archer [mailto:julie@wvsoro.org]
Sent: Monday, August 01, 2016 4:21 PM
To: DEP Comments <DEP.Comments@wv.gov>
Cc: David McMahon <wv david@wv david.net>
Subject: Comments on 45CSR13

Please find attached comments from the WV Surface Owners' Rights Organization regarding the proposed changes to 45CSR13 relating to the Procedures and Criteria for Construction, Modification, Relocation, and Operation of Stationary Sources of Air Pollutants.

Thank you for your consideration.

--
Julie Archer, Project Manager
WV Surface Owners' Rights Organization
1500 Dixie Street
Charleston, WV 25311
(304) 346-5891
www.wvsoro.org

Jennings, Laura M

From: Huffman, Randy C
Sent: Monday, August 01, 2016 4:25 PM
To: Gillenwater, Kelley J
Subject: FW: 45csr13 concerns

-----Original Message-----

From: Thomas Bates [mailto:hawk_driver_97@yahoo.com]
Sent: Sunday, July 31, 2016 9:32 PM
To: Huffman, Randy C <Randy.C.Huffman@wv.gov>; Radcliff, Wendy E <Wendy.E.Radcliff@wv.gov>
Subject: 45csr13 concerns

Secretary Huffman,

I apologize for contacting you directly, but I feel compelled based on the information I have received recently. I have learned that the state is proposing through 14csr13 that corporations will provide construction of major gas wells and compressors stations via the WVDEP web site and there will not be a requirement for public notice through the newspaper. It's my understanding that the only notification will occur through the DAQ website for the construction of gas wells and compressors. In our particular situation, we did not understand that a major compressor station was scheduled for construction until my wife read the last page of the local newspaper. It was under these circumstances that we realized the scope of the situation and the potential ramifications. Because my wife's reading of an obscure reference to this construction were we able to attend a scheduled DAQ meeting at the local Senior Center in Doddridge Co, and be briefed on the significance of proposed construction. If it were not for the newspaper we would not have any chance for public comment or any ability influence the impact or notification. I would kindly ask that the state reconsider it's position on public notification and continue to place onus on the corporations to inform local citizens on the proposed construction of gas wells and compressor stations through local newspapers. I would appreciate Sir that this be included in public comment.

Thomas Bates
13306 RT 23N West Union, WV 26356

Jennings, Laura M

From: DEP Comments
Sent: Tuesday, August 02, 2016 8:48 AM
To: Jennings, Laura M
Subject: FW: Comments on Proposed Changes to §45CSR13 Procedures and Criteria for Construction, Modification, Relocation, and Operation of Stationary Sources of Air Pollutants

Jake Glance

Please consider the environment before printing this email.

From: m b [mailto:miri_beram@yahoo.com]
Sent: Monday, August 01, 2016 6:58 PM
To: DEP Comments <DEP.Comments@wv.gov>
Cc: Huffman, Randy C <Randy.C.Huffman@wv.gov>
Subject: Comments on Proposed Changes to §45CSR13 Procedures and Criteria for Construction, Modification, Relocation, and Operation of Stationary Sources of Air Pollutants

August 1, 2016

Via Email
West Virginia Department of Environmental Protection
Public Information Office
601 57th Street, SE
Charleston, WV 25304

To Whom It May Concern:

Please accept the following comments from me, a Doddridge County tax paying resident, regarding the proposed Changes to §45CSR13 relating to Procedures and Criteria for Construction, Modification, Relocation, and Operation of Stationary Sources of Air Pollutants.

I live in an area that has been heavily impacted by shale drilling. I have on numerous occasions utilized the legal notices that have been posted in my local newspaper to comment & request public meetings for air quality permits that have been applied for in my community.

I am appalled that a public agency would even consider proposing such a heinous change in the current process. My hope would be that as a public agency, the leadership of the agency would do all that is possible to PROTECT the public and not make it more difficult for us to learn what is going on that will impact our communities.

I oppose the proposed changes to substitute public notice on the DEP/Division of Air Quality (DAQ) webpage for legal notices in local newspapers. While I recognize and appreciate that the DEP had taken steps over the years to increase and improve public access to permits, applications and other information by making more documents available on its website. Nevertheless, I believe this proposed policy change will NOT benefit me and will hamper my access to proposed changes that may be occurring in my community.

I live in a rural area. My internet access is sketchy at times. I also do NOT always receive the notifications sent to my email address. I do typically get my local newspaper delivered and can even manage to read it during power outages. I still rely on my local newspapers for news and information about events and activities that affect my communities and I do not believe electronic publication alone is a sufficient substitute for notice in the news papers.

I am also concerned about the economic impacts on the small rural newspapers that count on the legal notices as a part of their income. Am I correct in thinking, that the cost of the ads falls on the companies applying for the permits or doing the work?

Cutting back on public notice is at odds with transparency and adequate outreach to the public.

I am also concerned that the proposed change may conflict with WV Code §22-5-11A, which requires the applicant to "give notice by publishing a Class 1 legal notice" "upon submission of the application for permission to construct." While this section may only apply to applicants seeking authorization to construct in advance of receiving a permit, it seems inconsistent and contrary to the spirit of the law to require the publication notice only in this instance.

I urge you to be consistent with your public notice requirements and to maintain the various levels of legal advertisement in newspapers for construction, modification, relocation and operation of sources requiring air permits from the DAQ.

The proposed revision to rule 45CSR13 could jeopardize WV DEP's ability to fully comply with Code §29B-1-1, and will make it more difficult for me to stay informed of important developments in my area.

I find WV DEP's proposal to be ill-conceived and severely damaging to my public trust. I respectfully ask that this be withdraw or that you amend your proposed revision to this rule. I urge you to continuing to notify the public via newspaper announcements.

Kindly, tell ME, how this change will be beneficial to ME.

Thank you for the opportunity to comment.

Please acknowledge receipt of this email.

Respectfully,
Mirijana Beram
615 Riggins Run Rd
West Union, WV 26456

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:25 PM
To: Jennings, Laura M
Subject: FW: Proposed Rule 45CSR13

Jake Glance

Please consider the environment before printing this email.

From: Autumn Bryson [mailto:bryson.autumn@gmail.com]
Sent: Monday, August 01, 2016 3:21 PM
To: DEP Comments <DEP.Comments@wv.gov>
Subject: Proposed Rule 45CSR13

Division of Air Quality:

I am requesting that the Division not eliminate the requirement for public notification via Legal Advertisements in local newspapers.

Internet access is not widespread in the state and there are many residents who either don't own computers, don't have internet access at home, and live far from libraries where such services might be available. People rely on their local paper for information about development projects that impact their communities.

Limiting methods of public notice does a disservice to rural residents of WV. It is the responsibility of DEP to provide adequate notice to the public for upcoming comment periods on projects that impact our communities. Discontinuing public notices in local newspapers relating to air quality permits will make it more difficult for the public to access this important information, especially at a time when the frequency of these permits is increasing. Increased outreach to the public is needed, not decreasing public notice as proposed in 45CSR13.8 of the Air Quality Regulations.

I strongly urge you to reinstate the various levels of legal advertisement in newspapers for construction, modification, relocation and operation of sources requiring air permits from WVDEP and to improve notification by including reference to posting on the WVDEP/DAQ webpage as well as making permits and modifications available via the WVDEP email notification process.

Thank you for the opportunity to comment.

Sincerely,

Autumn Bryson

Autumn Environmental

Lewisburg, WV

Jennings, Laura M

From: DEP Comments
Sent: Tuesday, August 02, 2016 8:48 AM
To: Jennings, Laura M
Subject: FW: A comment on the proposed revision to rule 45CSR13

Jake Glance

Please consider the environment before printing this email.

From: Kevin Campbell [mailto:kevincampbell0@gmail.com]
Sent: Monday, August 01, 2016 6:49 PM
To: DEP Comments <DEP.Comments@wv.gov>
Subject: A comment on the proposed revision to rule 45CSR13

As a citizen of West Virginia, I do not support the current proposed revision to rule "45CSR13 - Permits for Construction, Modification, Relocation, and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, Permission to Commence Construction, and Procedures for Evaluation."

As defined in section "§45-13-8 Public Review Procedures", WV DEP's proposal to eliminate public notification in local newspapers does not serve the public interest, will work to undermine a transparent public notification process for the permitting of new oil and gas facilities, and may be in violation of basic principles found within the West Virginia Legislative Code §29B-1-1:

"§29B-1-1. Declaration of policy.

Pursuant to the fundamental philosophy of the American constitutional form of representative government which holds to the principle that government is the servant of the people, and not the master of them, it is hereby declared to be the public policy of the state of West Virginia that all persons are, unless otherwise expressly provided by law, **entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees**. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. **The people insist on remaining informed so that they may retain control over the instruments of government they have created**. To that end, the provisions of this article shall be liberally construed with the view of carrying out the above declaration of public policy."

The proposed revision to rule 45CSR13 could jeopardize WV DEP's ability to fully comply with Code §29B-1-1, and will make it more difficult for residents to stay informed of important developments in their area.

Let it be resolved by the signature(s) herein, that the people of West Virginia find WV DEP's proposal to be ill-conceived and

severely damaging to our public trust. We ask that you immediately withdraw or amend your proposed revision to this rule, continuing to notify the public via newspaper announcements.

Kevin Campbell
Adrian School
271 Adrian School Rd
Adrian, WV 26210

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:24 PM
To: Jennings, Laura M
Subject: FW: 45CSR13

Jake Glance

Please consider the environment before printing this email.

From: cdellis@wildblue.net [mailto:cdellis@wildblue.net]
Sent: Monday, August 01, 2016 2:15 PM
To: DEP Comments <DEP.Comments@wv.gov>
Subject: 45CSR13

WV DEP

Eliminating print access to air pollution permitting information would be discriminatory to West Virginia citizens who already are impacted by lack of broadband.
The newspaper announcement format should be retained.

--

Cynthia D. Ellis
3114 Steel Ridge Road
Red House, WV 25168-7724
304 586-4135 h
304 206-0083 c
cdellis@wildblue.net

Deep peace of the quiet earth to you
Deep peace to you.
~from a Gaelic blessing

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 5:29 PM
To: Jennings, Laura M
Subject: FW: Comments on proposed revision to rule 45CSR13

Jake Glance

Please consider the environment before printing this email.

From: T Hickson [mailto:alleghenytrace@gmail.com]
Sent: Monday, August 01, 2016 5:09 PM
To: DEP Comments <DEP.Comments@wv.gov>
Subject: Comments on proposed revision to rule 45CSR13

As a citizen of West Virginia, I do not support the current proposed revision to rule "45CSR13 - Permits for Construction, Modification, Relocation, and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, Permission to Commence Construction, and Procedures for Evaluation."

As defined in section "§45-13-8 Public Review Procedures", WV DEP's proposal to eliminate public notification in local newspapers does not serve the public interest, will work to undermine a transparent public notification process for the permitting of new oil and gas facilities, and may be in violation of basic principles found within the West Virginia Legislative Code §29B-1-1:

"§29B-1-1. Declaration of policy.
Pursuant to the fundamental philosophy of the American constitutional form of representative government which holds to the principle that government is the servant of the people, and not the master of them, it is hereby declared to be the public policy of

the state of West Virginia that all persons are, unless otherwise expressly provided by law, **entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.** The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. **The people insist on remaining informed so that they may retain control over the instruments of government they have created.** To that end, the provisions of this article shall be liberally construed with the view of carrying out the above declaration of public policy.”

The proposed revision to rule 45CSR13 could jeopardize WV DEP’s ability to fully comply with Code §29B-1-1, and will make it more difficult for residents to stay informed of important developments in their area.

Let it be resolved by the signature(s) herein, that the people of West Virginia find WV DEP's proposal to be ill-conceived and severely damaging to our public trust. We ask that you immediately withdraw or amend your proposed revision to this rule, continuing to notify the public via newspaper announcements.

Furthermore, only 67% of West Virginians have access to wired broadband 25mbps or faster, and of these, the state has a generation gap and lack of computer knowledge and skills that further reduces access to obtaining online public notice. Overall, West Virginia ranks 45th in the nation in terms of broadband internet access, and for the DEP to move its filings entirely online and through email lists is unethical to those who have no access to computers or the internet.

Sincerely,
Traci Hickson
Cass, West Virginia

Jennings, Laura M

From: Gillenwater, Kelley J
Sent: Tuesday, August 02, 2016 3:46 PM
To: Huffman, Randy C
Cc: Jennings, Laura M
Subject: RE: Newspaper Notices

OK. I'm copying Laura Jennings in DAQ on this one now. Thanks.

-----Original Message-----

From: Huffman, Randy C
Sent: Tuesday, August 02, 2016 3:45 PM
To: Gillenwater, Kelley J <Kelley.J.Gillenwater@wv.gov>
Subject: FW: Newspaper Notices

Forgot to send this one.

-----Original Message-----

From: Lew McDaniel [mailto:lewmcdan@trueband.com]
Sent: Saturday, July 30, 2016 8:43 AM
To: Huffman, Randy C <Randy.C.Huffman@wv.gov>
Subject: Newspaper Notices

Good day:

Ken Ward's headline today read:

"Hearing Monday on WVDEP plan to cut newspaper notices for some air pollution permit applications"

His report said those notices would be posted on the WVDEP web site instead.

A very significant portion of state citizens do not have internet access. Most of them live in rural areas where WVDEP activities are very important. Without internet access at home, folks would have to drive miles to a library, hoping your agency would have posted something. This would be haphazard way for them to be informed of important issues.

I understand the economic issues involved with the plan to cease newspaper publication of notices. And although I live in an area without traditional internet access, I am fortunate enough to afford satellite service. However, I am not the state norm.

In conclusion:

- Until such time as internet access is available to rural West Virginians, I think notifications should continue to be posted.
- I ask that WVDEP strongly urge the state to find an effective way to deliver interstate access to all its citizens.

Thank you.

Lew McDaniel

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:25 PM
To: Jennings, Laura M
Subject: FW: AEP Comments on 2017 Proposed Legislative Rules

Jake Glance

Please consider the environment before printing this email.

From: Jeffrey P Novotny [mailto:jpnovotny@aep.com]
Sent: Monday, August 01, 2016 3:58 PM
To: DEP Comments <DEP.Comments@wv.gov>
Cc: Gregory J Wooten <gjwooten@aep.com>; Janet J Henry <jjhenry@aep.com>; John C Hendricks <jchendricks@aep.com>
Subject: AEP Comments on 2017 Proposed Legislative Rules

Enclosed please find comments on the recently proposed revisions to West Virginia Regulations that were public noticed on the West Virginia DEP website. The comment period begins July 1, 2016 and ends at the conclusion of the public hearing on August 1, 2016. American Electric Power, Appalachian Power Company and Kentucky Power Company (AEP) appreciate this opportunity to provide comment on these important regulations that directly impact facilities operated by our companies in West Virginia. Please consider these comments on the proposed regulations.

45 CSR 1 – Alternative Emission Limitations During Start-up, Shutdown and Maintenance Operations

AEP supports the agency's effort to develop this rule allowing sources flexibility to develop an alternative emission limitation other than numerical limits, such as using work practices. The US EPA has utilized alternatives to numerical limits by defining the start-up/shutdown period and acceptable work practices in several new regulations, specifically the MATS and ICI Boiler MACT. We agree that the state should provide sources with the opportunity to develop similar alternatives, providing they are specific and able to be monitored, is advantageous to the source. Where the source has existing requirements based upon other federal or state requirements for start-up and shutdown, those existing requirements should not also fall under this regulation nor should this regulation impart additional burden on those

sources. Those requirements defined under the NSPS or HAP/MACT federal regulations should take precedence over and negate the applicability of this rule to those sources.

We support the concept that work practices can be based on, but not limited to equipment manufacturer's recommendations or procedures and industry standards. We request that site-specific practices utilized for older equipment be acceptable taking into consideration the age and condition of the source.

The proposed rule infers that the implementation of this regulation will typically occur during the permitting process. The agency did not provide a timeline for implementing this rule. The agency also requires a summary of strategies considered and reasoning for not using those strategies. This is an excessive burden to document the process of arriving at the proposed alternative control strategy for no apparent use. The criteria requirements do not refer to evaluation of alternatives. The section 4.2.c. is requested to be removed since it is not considered within the criteria for agency approval of the alternative emission limit.

The proposed rule does not provide instructions or clarity on the level of the evaluation of the worst-case emissions that could occur during periods when using the alternative emission limit. The agency should define their expectations regarding this emissions estimate.

45 CSR 13 – Minor New Source Permitting

The existing rule includes a maximum 180-day permit development time limitation for the agency (Section 5.8 of Regulation 13) after the permit application is considered complete (as defined in Section 5.7 of Regulation 13). This section of the rule has been proposed to be removed. We request that the agency return this or enter a similar timeline into the regulation to allow facilities opportunity to obtain a permit on a timely basis and utilize this development time in any project schedule. As proposed, the agency does not have any requirements to evaluate and return a permit on a timely basis.

45 CSR 14 – Major Source Permitting for PSD

The revision proposed for Section 11.5 is very confusing! As written, the changes appear to repeat sections already included in the condition. We suggest this condition be rewritten as follows:

The owner or operator shall gather, over a period of one year, all required ambient air quality monitoring data which shall represent the year preceding receipt of the application. However, if the Secretary determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year, but not less than four months, the owner or operator may use the data that is gathered over that shorter period.

Jeffrey P. Novotny
Air Quality Services
American Electric Power
Bus. Phone (614) 716-1294
Bus. FAX (614) 716-2255

Jennings, Laura M

From: DEP Comments
Sent: Tuesday, August 02, 2016 8:47 AM
To: Jennings, Laura M
Subject: FW: Proposed rule revision 45CSR13 - Permits for construction, modification, relocation, and operation of stationary sources of Air pollutants

Jake Glance

Please consider the environment before printing this email.

From: Vickie Nutter [mailto:nutterv56@gmail.com]
Sent: Monday, August 01, 2016 6:17 PM
To: DEP Comments <DEP.Comments@wv.gov>
Subject: Proposed rule revision 45CSR13 - Permits for construction, modification, relocation, and operation of stationary sources of Air pollutants

Vickie Nutter
3185 Pike Road
Ellenboro WV 26346
304-869-3748

TO: West Virginia Department of Environmental Protection
West Virginia Department of Air Quality

As a citizen of West Virginia, I do not support the current proposed revision to rule "45CSR13 - Permits for Construction, Modification, Relocation, and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, Permission to Commence Construction, and Procedures for Evaluation."

As defined in section "§45-13-8 Public Review Procedures", WV DEP's proposal to eliminate public notification in local newspapers does not serve the public interest, will work to undermine a

transparent public notification process for the permitting of new oil and gas facilities, and may be in violation of basic principles found within the West Virginia Legislative Code §29B-1-1:

“§29B-1-1. Declaration of policy.

Pursuant to the fundamental philosophy of the American constitutional form of representative government which holds to the principle that government is the servant of the people, and not the master of them, it is hereby declared to be the public policy of the state of West Virginia that all persons are, unless otherwise expressly provided by law, **entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.** The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. **The people insist on remaining informed so that they may retain control over the instruments of government they have created.** To that end, the provisions of this article shall be liberally construed with the view of carrying out the above declaration of public policy.”

The proposed revision to rule 45CSR13 could jeopardize WV DEP's ability to fully comply with Code §29B-1-1, and will make it more difficult for residents to stay informed of important developments in their area.

Let it be resolved by the signature herein, that I, a citizen of West Virginia find WV DEP's proposal to be ill-conceived and severely damaging to the public trust. I ask that you immediately withdraw or amend your proposed revision to this rule, continuing to notify the public via newspaper announcements.

Vickie Nutter



West
Virginia
Highlands
Conservancy

August 1, 2016

West Virginia Department of Environmental Protection
Division of Air Quality
601 57th Street SE
Charleston, WV 25304

Via email to: DEP.Comments@wv.gov

Comments re: **Proposed Rule 45CSR13** -- Permits for Construction, Modification, Relocation, and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, Permission to Commence Construction, and Procedures for Evaluation

Division of Air Quality

I read with great dismay the changes to the required Public Review Procedures proposed to 45CSR13 (45-13-8).

First let me say that it is praiseworthy that the Division of Air recognizes the importance of notification via the WVDEP website/DAQ as defined in 45-13-2.28.

However, it is unconscionable that the Division even consider eliminating the requirement for various levels of notification via Legal Advertisements in local newspapers.

While I am ever grateful to WVDEP for initiating the email notification process, a process that I personally, and WV Highlands Conservancy along with several other citizen groups worked to bring about not so many years ago, there are many in communities like mine who either don't own computers or have access to internet at home and who live at substantial distances from local libraries where such services might be available.

The time may be coming when communication via the postal service and daily or weekly newspapers is passé, but PEOPLE IN WEST VIRGINIA STILL READ THEIR LOCAL NEWSPAPERS AND IN MANY INSTANCES RELY ON THEM AS THEIR ONLY SOURCE OF LOCAL INFORMATION ABOUT DEVELOPMENTS - INCLUDING PERMITTING - PERTINENT TO THEIR COMMUNITIES.

Cutting back on methods of giving public notice flies in the face of transparency and adequate outreach to the general public, no matter how many of us may or may not rely on local newspapers and/or the email notice list and/or checking the DEP website on a routine or occasional basis.

The agency is supposed to service the public as well as the industries it regulates. Lordy knows how often changes are made to streamline services for various industries ... Surely this is one change that does the opposite for the public, by making things more difficult for the public to know about and access information.

This is deplorable especially in this time when new and upgraded construction of facilities associated with increased gas drilling and gas pipelines is rampant throughout the state. Enhanced outreach to the public is needed, not limiting public notice as proposed in 45CSR13.8 of the Air Quality Regulations.

We strongly urge you to reinstate the various levels of legal advertisement in newspapers for construction, modification, relocation and operation of sources requiring air permits from WVDEP and to improve notification by including reference to posting on the WVDEP/DAQ webpage as well as making permits and modifications available via the WVDEP email notification process.

Thank you for the opportunity to comment.

Cindy Rank

West Virginia Highlands Conservancy

www.wvhighlands.org

Chair, Extractive Industries Committee

4401 Eden Road

Rock Cave, WV 26234

304-924-5802

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:25 PM
To: Jennings, Laura M
Subject: FW: Proposed Rule 45CSR13 - Air Permits
Attachments: 45CSR13 Air - Public Notice comments August 1 2016.doc

Jake Glance

Please consider the environment before printing this email.

From: cindy rank [mailto:clrank2@gmail.com]
Sent: Monday, August 01, 2016 3:05 PM
To: DEP Comments <DEP.Comments@wv.gov>
Cc: Christina <mchrisw40@aol.com>; Mirijana Beram <miri_beram@yahoo.com>; Bill Hughes <hughes@ovis.net>; wvsoro <julie@wvsoro.org>; Jim Sconyers <jimscon@gmail.com>; Jim Kotcon <jkotcon@wvu.edu>; Cynthia D. Ellis <cdellis@wildblue.net>; Janet Keating <janet.ovec@gmail.com>; Gary Zuckett <garyz@wvcag.org>; Derek Teaney <dteaney@appalmad.org>; Vivian Stockman <vivian@ohvec.org>; Leslee McC <lesleemac1@frontier.com>; Autumn Bryson <abryson@wvrivers.org>; Angie_Rosser <arosser@wvrivers.org>; Diane Pitcock <diane.pitcock@gmail.com>; Robin Blakeman <rbrobinjh@gmail.com>; Liz Wiles <liz_wiles@comcast.net>; Frank Young <fyoung@mountain.net>; paul@wvecouncil.org; Beth Little <blittle@citynet.net>
Subject: Proposed Rule 45CSR13 - Air Permits

WVDEP/Division of Air Quality:

Unfortunately i am unable to attend the public hearing this evening at DEP headquarters in Kanawha City.

Please accept the attached comments on behalf of the West Virginia Highlands Conservancy.

I've also included in this email several other individuals who have been concerned about the proposed changes to the public notice requirements for air permits.

If you have any questions, please feel free to contact me.

Thank you.

Cindy Rank
WV Highlands Conservancy
304-924-5802

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:24 PM
To: Jennings, Laura M
Subject: FW: DEP proposed rule 45CSR13

Jake Glance

Please consider the environment before printing this email.

From: Tammie Toler [mailto:ttoler@ptonline.net]
Sent: Monday, August 01, 2016 1:20 PM
To: DEP Comments <DEP.Comments@wv.gov>
Cc: Huffman, Randy C <Randy.C.Huffman@wv.gov>; Stadelman, Christopher P <Christopher.P.Stadelman@wv.gov>
Subject: DEP proposed rule 45CSR13

Hello,

Please accept the following comment in opposition to the W.Va. Department of Environmental Protection's Division of Air Quality proposed rule 45CSR13.

Removing public notice/legal advertising from the newspaper of record for the community impacted by action designed in the public notice is a tremendous disservice to the residents of the region.

Public notice laws were created to notify the public of government actions that may affect the public's interests or rights. Residents, particularly in remote and rural areas — as many places in our beloved West Virginia hills are prone to be — rely on local newspapers for this critical information. Providing public notice is not a formality, it's a responsibility ... a huge responsibility that Mountain State newspapers take extremely seriously. It is at the heart and soul of who we are, what we do and why we exist in a world that constantly reminds us we are an evolving medium and an ever-changing industry.

These rules would take permit applications for designated stationary sources of air pollutants, which would seem to be of tremendous public interest, out of plain sight and bury them in the tangle of documents on government-designated website.

While the public might not know the meaning of **designated stationary sources of air pollutants**, I am very certain that members of my community want to know if designated stationary sources of air pollutants are being considered for their area. I am equally positive they would most likely get that information from the local newspaper(s), rather than a government website.

On a government website, anyone looking for the information would have to know exactly what to search for and precisely where to pinpoint the desired information. Rather than going to the local newspaper, where they have always gone to see these legal advertisements, citizens would be left searching for “a needle in a haystack.”

The general public cannot reasonably be expected to keep track of governmental activities, when there are literally hundreds of state agencies, as well as counties, municipalities, special districts and school districts all with their own websites. Newspapers serve as the sole aggregate source for all public notices in the impact areas.

Additionally, large portions of West Virginia are very rural and still do not have reliable Internet access or even cell phone service. Many in poor and senior communities cannot readily and easily view Internet notifications, and would be unable to drive the distance required to view the documents at the DEP/DAQ office. How could a citizen gain access to such vital information if they do not have access to Internet or reliable transportation?

Removing the public notice from newspapers to a government webpage reduces the general public’s access. It caters to those few who follow, profit from, or have vested interest in such developments.

Newspapers notify the community. Newspapers effectively “push” the public notices out to the public. If notices are only on government websites, it requires citizens to look for what they need to know, to have the technological savvy and the financial ability to maneuver the Internet and pay for the service and to live in an area where the provider's service is adequate to navigate the web and access the agency website sufficiently. In many, many areas of West Virginia, one cannot guarantee that any, and certainly not all of these statements are true for all citizens affected by all DEP decisions.

Publishing a public notice in a community newspaper enables citizens to be aware of and understand what is happening in their neighborhood, city or town. That is the reason notices must be published in the county impacted. It prevents the notices from being hidden in a distant paper or a massive database. Government files are just that – files. Putting a permit application or a corporate document in an electronic database is not public notice. Publishing in a newspaper, bringing the matter directly to the attention of the community is public notice.

West Virginia doesn’t want to be in a position where government agencies are released from the obligation to notify the public of what they are doing before a decision is made. This state has worked hard to increase and maintain openness. Closing the door on disseminating this information would jeopardize the open and transparent government processes upon which West Virginians rely. Public notices need to be made available as widely as possible.

The usefulness of the newspaper-published presentation is underlined by the fact that all of the West Virginia newspapers that carry public notices have paid subscribers who choose to have the newspapers deliver the notices. Government agency, corporate and other public notices are the purest kind of news, telling the reader exactly who proposes to do what kind of business in the community, with no slant or editorial content.

Removing the public notices from newspapers would also greatly reduce overall public access on the Internet. West Virginia newspapers are on the Internet and many post their public notices via their websites. Many West Virginia newspapers upload their notices to their own website and many are now posting public notices to the West Virginia Press Association's website wvlegals.com on a daily or weekly basis. These Internet listings are provided at no cost or liability to the publishing government body. The WVPA website allows users to enter "key word" searches. For a demonstration, go to www.wvlegals.com. The site is free to the public and to government agencies. It's funded by West Virginia's newspaper industry and gives additional value to the paid public notice print advertising in West Virginia newspapers. This site is an example of what many officials support: The use of private enterprise instead of public dollars to provide a demonstrably valuable public service.

Additionally, if legal notices are posted on government agency websites, taxpayers must absorb the cost of setting up, securing, maintaining and updating these web pages. Perhaps the greatest cost would be the liability: If a government website crashes or is hacked, was the publication requirement met? If action based on a permit is later challenged for lack of public notice, who is liable? The state? The applicant?

The idea of ending any public notice and putting it, instead, on government websites may be the classic penny-wise, pound-foolish position. It reduces the placement and storage of legal public notices to the mere reproduction of words instead of real public notification; however, it's much more than that. It's about the preservation of an evidentiary record. Viewed from the standpoint of the end-user of such ads, the printing of them is a far more cost-effective method of assuring the integrity of this evidentiary record than installing the safeguards that would be required if government were to be trusted with this job itself.

These are just a few of the reasons proposed rule 45CSR13 is a mistake and a disservice to the people of West Virginia. Please take all of these factors into careful, conscientious consideration and cast your support against this potentially harmful proposed rule.

Thank you for your consideration,

Tammie Toler
2268 Elgood Rd.
Princeton, WV 24739
tammietoler@gmail.com
304-320-3655

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:25 PM
To: Jennings, Laura M
Subject: FW: Proposed Rule 45CSR13 - Air Permits
Attachments: 45CSR13 Air - Public Notice comments August 1 2016.doc

Jake Glance

Please consider the environment before printing this email.

From: CHRISTINA WOODS [mailto:MCHRISW40@outlook.com]
Sent: Monday, August 01, 2016 4:00 PM
To: DEP Comments <DEP.Comments@wv.gov>
Subject: Fw: Proposed Rule 45CSR13 - Air Permits

WVDEP/Division of Air Quality:

I would like it to be entered into the public comments - that I agree and concur with the comments presented here by Cindy Rank for WV Highland Conservancy for the Proposed Rule 45CSR13 - Air Permits.

This is a step backwards for transparency for the public.

Please acknowledge this will be entered into public comments.

Thank you,
Christina Woods
1585 Broad Run Road
Center Point, WV 26339

From: cindy rank <clrank2@gmail.com>
Sent: Monday, August 1, 2016 3:09 PM
To: DODD RES
Subject: Fwd: Proposed Rule 45CSR13 - Air Permits

Sorry, Christina, i accidentally pulled up the wrong email for you again..... too much rushing.....

Cindy

=====

----- Forwarded message -----

From: cindy rank <clrank2@gmail.com>
Date: Mon, Aug 1, 2016 at 3:05 PM
Subject: Proposed Rule 45CSR13 - Air Permits
To: DEP.Comments@wv.gov
Cc: Christina <mchrisw40@aol.com>, Mirijana Beram <miri_beram@yahoo.com>, Bill Hughes <hughes@ovis.net>, wvsoro <julie@wvsoro.org>, Jim Sconyers <jimscon@gmail.com>, Jim Kotcon <jkotcon@wvu.edu>, "Cynthia D. Ellis" <cdellis@wildblue.net>, Janet Keating <janet.ovec@gmail.com>, Gary Zuckett <garyz@wvcag.org>, Derek Teaney <dteaney@appalmad.org>, Vivian Stockman <vivian@ohvec.org>, Leslee McC <lesleemac1@frontier.com>, Autumn Bryson <abryson@wvrivers.org>, Angie Rosser <arosser@wvrivers.org>, Diane Pitcock <diane.pitcock@gmail.com>, Robin Blakeman <rbrobinjh@gmail.com>, Liz Wiles <liz_wiles@comcast.net>, Frank Young <fyoun@mountain.net>, paul@wvecouncil.org, Beth Little <blittle@citynet.net>

WVDEP/Division of Air Quality:

Unfortunately i am unable to attend the public hearing this evening at DEP headquarters in Kanawha City.

Please accept the attached comments on behalf of the West Virginia Highlands Conservancy.

I've also included in this email several other individuals who have been concerned about the proposed changes to the public notice requirements for air permits.

If you have any questions, please feel free to contact me.

Thank you.

304-924-5802

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 5:04 PM
To: Jennings, Laura M
Subject: FW: Newspaper public notice for air pollutants

Jake Glance

Please consider the environment before printing this email.

From: Susan Zorn [mailto:susanzorn@gmail.com]
Sent: Monday, August 01, 2016 5:01 PM
To: DEP Comments <DEP.Comments@wv.gov>
Subject: Newspaper public notice for air pollutants

I believe that small communities in our state rely on newspapers to obtain local information. Please continue to post public notices in the newspaper.

Sincerely,

--

Susan Zorn

Cell: (304) 871-0716

Don Smith
Executive Director
donsmith@wvpress.org
304-342-1011, ext. 160



Toni Heady
Advertising Director
theady@wvpress.org
304-342-1011, ext. 164

Date: 8/1/16

Attention:

Division of Air Quality Director William Durham
Cabinet Secretary of DEP Randy Huffman
Gov. Earl Ray Tomblin

Topic: Proposed Legislative Rules 45CRS13

Hello,

Thank you for your attention to the West Virginia Press Association's concerns with the following issue, which is being addressed at a public hearing at 6 p.m., Aug. 1, 2016, at the DEP's Charleston Headquarters.

The West Virginia Press Association and its 77 member newspapers oppose the Division of Air Quality's proposed 2017 legislative rule 45CRS13, in particular section ~~45-13-18 Public Review Procedures~~.

In summary, ~~45-13-18 Public Review Procedures~~' proposed rules for the permitting for stationary sources of air pollutants would remove public notification by Class I and Class II legal advertisements in a newspaper of general circulation in the area where the source would be located, in favor of placing the notification on a WVDEP/DAQ webpage.

The WVPA and its newspapers think the proposed rules represent a tremendous disservice — as well as real and measureable harm — to the residents of West Virginia and, in particular, to the residents of each region designated in the respective permit application.

In today's environmentally aware atmosphere — and in a state with documented serious health issues — it's hard to understand the reason the WVDEP would decide to reduce public notification for the people living in an area being considered for a "stationary source of air pollutants" application. We can think of few notifications more valuable, perhaps even lifesaving, than information on a new source of air pollutants.

Additionally, the WVPA is very interested to learn the reason for the proposed rules and to see the evidence that a permit placed on a DEP/DAQ webpage would provide the same public notice to the residents of the impacted areas as a legal advertisement in a community newspaper.

The WVPA and its newspapers think the proposed rules — when viewed in terms of impact on residents, workability and cost — greatly reduce public access in West Virginia, create problems for local and state residents and represent tremendous liabilities for the state of West Virginia and all parties involved in such projects.

3422 Pennsylvania Avenue, Charleston, WV 25302



Throughout our state's history, government agencies have been required to alert citizens of certain government activities that may impact a local community, providing citizens with an opportunity to stay informed and take action when necessary. Newspapers have long partnered with government agencies by publishing public notices, enabling government agencies to be fully transparent and accountable to citizen taxpayers.

In recent years there has been legislation and rules introduced stating that public notices should not be published in printed newspapers but posted solely on government-run websites.

There are a host of reasons why it's important to continue to print public notices in newspapers, especially at this time in West Virginia. Below, we explain why we believe removing any public notice – and especially for a designated stationary source of air pollutants – from a community newspaper to place it on a government-operated website is a mistake.

Government posting of public notices on a government-controlled website creates the potential for abuse and could result in public distrust. As an example, with permit applications for stationary sources of air pollutants – which could represent tremendous value in government contracts and/or controversial projects up for consideration, it might be tempting for government officials to manipulate the timing or access to these documents. At the very least, any issues with the posting or the government website would give the appearance of abuse.

Newspapers offer objective, third-party neutrality. Publishing public notices in newspapers informs a wide audience in a local community of a government agency's action; reaching citizens that are passive information seekers and not aware that important notices impacting the community are on a government agency's website. Further, publishing public notices in the newspaper serves an important audit role as the newspaper's status as an independent third party is important for legal reasons to verify that the government agency has given the public notice.

Again, if the goal of these proposed rules is increased public access and greater transparency of government operation, we question how that is accomplished by eliminating the publication of permit applications/registrations in newspapers in the impacted communities and counties.

There are other issues when considering publication of public notices on a government website.

Is the rationale for these proposed rules to save the DEP the expense of purchasing the required legal advertising space for the public notice? The cost of publication pales in significance to the risk these changes pose to public access and an informed citizenry.



We see no comparison when measuring the cost of publication against the value of citizens having easy access to information on permit applications, or other items such as awarding of government contracts, purchases of services for government use, and other government expenses.

That doesn't even take into consideration the liability – and loss of public confidence – an agency would experience if the government website suffers server issues and becomes inaccessible, the information is lost, manipulated or found to be in any way incomplete.

We ask that you compare the cost of publishing these permits to the total dollar amount of projects and the liability in question. If the cost is an issue, would it not make more sense to include the actual cost into the permit fee structure and keep the public informed?

In terms of keeping the taxpayers informed, placing advertising in newspapers is a very effective and cost-efficient part of government doing the people's business.

With government websites, government entities will have to pay consultants or undertake the massive process internally to develop, maintain and – most importantly – secure websites for the distribution of a public notice. Securing websites so that the public notice is not altered or deleted by hackers will be the biggest expense facing government entities. With publication in printed newspapers, government officials do not have to worry that hackers will put into question whether the public was informed on important public issues.

Clearly, developing and maintaining these dependable and secure government-controlled websites would greatly reduce, if not completely eliminate, any proposed savings on the publication.

If a government website goes down today, it's an inconvenience. If a government website goes down during a public comment period, it could be a violation of state code and public notification.

The simple fact is placing a public notice on a government web site does not provide adequate access for the following reasons:

Accessibility:

Public notice laws were created to notify the public of government actions that may affect the public's interests or rights. Residents rely on local newspapers for this information. Providing public notice is not a formality, it's a responsibility ... a huge responsibility.



These rules would take permit applications for designated stationary sources of air pollutants, which would seem to be of tremendous public interest, out of plain sight and bury them in the tangle of documents on government-designated websites. Anyone looking for the information would have to know exactly what it is they're searching for and when and where to look. Rather than going to their local newspaper where they have always gone to see these legal advertisements, citizens would be left searching for "a needle in a haystack."

The public cannot reasonably be expected to keep track of governmental activities when there are literally hundreds of state agencies as well as counties, municipalities, special districts and school districts all with their own websites. Newspapers serve as the sole aggregate source for all public notices in the impact areas.

Large portions of West Virginia are very rural and still do not have reliable Internet access or even cell phone service. Many in poor and senior communities cannot readily view Internet notifications, and would be unable to drive the distance required to view the documents at the DEP/DAQ office. How could a citizen gain access to such vital information if they do not have access to Internet or reliable transportation?

Trustworthiness:

During a time when transparency is being demanded by the public, given the current economic situations throughout the state and country, it is important to trust public notice information to an independent and neutral third party. A third-party provider is not biased, provides verification of the publication and has safeguards in place to provide an archive of the information at a later date if requested. Newspaper staffs provide affidavits to verify public notices are printed correctly and keep bound editions of the newspapers for easy reference.

Allowing a government body to publish the official record removes an extra layer of confidence in the notice that having an independent publisher provides.

State agencies, city councils, county commissions, school boards and other public bodies are required to provide special notices of special meetings, for example, because those notices must list all items to be discussed. Public notices are required for permit applications, public hearings on land zoning changes, proposed budgets and taxes, certain ordinances, annexations, and when the government plans to use its ultimate police power – the use of eminent domain to take private property.

Public notices are like the third leg of a stool – with the open records and open meetings laws.

The public and the source of the notice are able to verify that the notice was published and not altered once published. With a newspaper legal advertisement, an affidavit is provided by the



publisher, which can be used in an evidentiary proceeding to demonstrate that a true copy was published as well as the exact wording that was used. It is difficult and costly to provide authentication of Internet site publications because Internet sites can be and often are edited after initial publication and it becomes virtually impossible to prove that any stakeholder witnessed any particular element of an Internet site at any given time. Under this element, the government body will be the sole party both verifying that the notification was drafted, published, not edited once published, and posted on a state government Internet site for a particular length of time. In fact, there is great concern that once the notification is removed from a government body's Internet site or its platform is updated, there will be no record that the public notice ever existed.

West Virginia doesn't want to be in a position where government agencies are released from the obligation to notify the public of what they are doing before a decision is made. This state has worked hard to increase and maintain openness. Closing the door on disseminating this information would jeopardize the open and transparent government processes upon which West Virginians rely. Public notices need to be made available as widely as possible.

News sharing:

Newspapers notify the community. Newspapers effectively "push" the public notices out to the public. If notices are only on government websites, it requires citizens to look for what they need to know. Publishing a public notice in a community newspaper enables citizens to be aware of and understand what is happening in their neighborhood, city or town. That is the reason notices must be published in the county impacted. It prevents the notices from being hidden in a distant paper or a massive database. Government files are just that – files. Putting a permit application or a corporate document in an electronic database is not public notice. Publishing in a newspaper, bringing the matter directly to the attention of the community is public notice.

The most recent study (October 2011) done by the National Newspaper Association shows that citizens do read Public Notices. Of those polled, 83% read public notices (from very often to occasionally). It also shows that of those polled, 80% felt that governments should be required to publish public notices in newspapers.

The usefulness of the newspaper-published presentation is underlined by the fact that all of the West Virginia newspapers that carry public notices have paid subscribers who choose to have the newspapers deliver the notices. Government agency, corporate and other public notices are the purest kind of news, telling the reader exactly who proposes to do what kind of business in the community, with no slant or editorial content. And the price is nominal – pocket change at any newsstand.



Need:

Newspapers are on the Internet and post their public notices via their websites. Many West Virginia newspapers upload their notices to their own website and many are now posting public notices to the West Virginia Press Association's website wvlegals.com on a daily or weekly basis. These Internet listings are provided at no cost or liability to the publishing government body. The WVPA website allows users to enter "key word" searches. For a demonstration, go to www.wvlegals.com. The site is free to the public and to government agencies. It's funded by West Virginia's newspaper industry and gives additional value to the paid public notice print advertising in West Virginia newspapers. This site is an example of what many officials support: The use of private enterprise instead of public dollars to provide a demonstrably valuable public service.

Cost:

Newspaper costs are controlled. Newspapers take the responsibility for public notices very seriously. We know these notices are vital, and they are treated with care and respect. The West Virginia Legislature sets the cost of legal advertising. The notices are set tight and held to strict space requirements.

If the notices were uploaded on a government Web site, taxpayers would incur unlegislated additional expense. The notices cannot be uploaded without spending money to expand their payrolls to hire workers to post the notices or pay for Internet services, prepare verification standards and to retool their Web sites to make them easier for the public to find. If the websites are to be the new carriers of this legally vital information, that will require many agencies to upgrade their websites to meet a uniform standard, to ensure continued operation, to ensure they are secure from hacking, and to ensure that the archived information from past public notices remains accessible and secure as sites change to take advantage of new technology. All of this would cut into the envisioned cost savings substantially.

In summary, if legal notices are posted on local government websites, local governments should know that setting up, maintaining and updating web pages has costs associated with it as well. That cost would also include liability: If a government website crashes, was the publication requirement met? If action based on a permit is later challenged for lack of public notice, who is liable? The state? The applicant?

What publication of public notice means to West Virginia:

The idea of ending any public notice and putting it, instead, on government websites may be the classic penny-wise, pound-foolish position. It reduces the placement and storage of

Don Smith
Executive Director
donsmith@wvpress.org
304-342-1011, ext. 160



Toni Heady
Advertising Director
theady@wvpress.org
304-342-1011, ext. 164

legal public notices to the mere reproduction of words instead of public notification; however, it's much more than that. It's about the preservation of an evidentiary record. Viewed from the standpoint of the end-user of such ads, the printing of them is a far more cost-effective method of assuring the integrity of this evidentiary record than installing the safeguards that would be required if government were to be trusted with this job itself.

Remember, West Virginia newspapers publish public notices in print at a cost set by the Legislature and place them online at no additional cost. Additionally, the newspaper industry is funding wvlegals.com

Thank you for your time and consideration,

Don Smith
Executive Director

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:24 PM
To: Jennings, Laura M
Subject: FW: Comment on DEP/DAQ Proposed Rule 45CSR13

Jake Glance

Please consider the environment before printing this email.

From: WV Press - Don Smith [mailto:donsmith@wvpress.org]
Sent: Monday, August 01, 2016 11:43 AM
To: DEP Comments <DEP.Comments@wv.gov>
Cc: Huffman, Randy C <Randy.C.Huffman@wv.gov>; Stadelman, Christopher P <Christopher.P.Stadelman@wv.gov>
Subject: Comment on DEP/DAQ Proposed Rule 45CSR13

Hello,

In response to the W.Va. Department of Environmental Protection's Division of Air Quality request for comments on proposed rule 45CSR13, I would like to express my opposition.

Removing public notice/legal advertising from the newspaper of record for the community impacted by action designed in the public notice is a tremendous disservice to the residents of the region.

Public notice laws were created to notify the public of government actions that may affect the public's interests or rights. Residents rely on local newspapers for this information. Providing public notice is not a formality, it's a responsibility ... a huge responsibility.

These rules would take permit applications for designated stationary sources of air pollutants, which would seem to be of tremendous public interest, out of plain sight and bury them in the tangle of documents on government-designated website.

While the public might not know the meaning of a **designated stationary sources of air pollutants**, I am very certain that members of my community want to know if a designated stationary sources of air pollutants is being considered for their area. We would most likely get that information from the local newspaper, not a government website.

On a government website, anyone looking for the information would have to know exactly what it is they're searching for and when and where to look. Rather than going to the local newspaper where they have always gone to see these legal advertisements, citizens would be left searching for "a needle in a haystack."

The general public cannot reasonably be expected to keep track of governmental activities when there are literally hundreds of state agencies as well as counties, municipalities, special districts and school districts all with their own websites. Newspapers serve as the sole aggregate source for all public notices in the impact areas.

Additionally, large portions of West Virginia are very rural and still do not have reliable Internet access or even cell phone service. Many in poor and senior communities cannot readily and easily view Internet notifications, and would be unable to drive the distance required to view the documents at the DEP/DAQ office. How could a citizen gain access to such vital information if they do not have access to Internet or reliable transportation?

Removing the public notice from newspapers to a government webpage reduces the general public's access. It caters to those few who follow, profit from, or have vested interest in such developments.

Newspapers notify the community. Newspapers effectively "push" the public notices out to the public. If notices are only on government websites, it requires citizens to look for what they need to know. Publishing a public notice in a community newspaper enables citizens to be aware of and understand what is happening in their neighborhood, city or town. That is the reason notices must be published in the county impacted. It prevents the notices from being hidden in a distant paper or a massive database. Government files are just that – files. Putting a permit application or a corporate document in an electronic database is not public notice. Publishing in a newspaper, bringing the matter directly to the attention of the community is public notice.

West Virginia doesn't want to be in a position where government agencies are released from the obligation to notify the public of what they are doing before a decision is made. This state has worked hard to increase and maintain openness. Closing the door on disseminating this information would jeopardize the open and transparent government processes upon which West Virginians rely. Public notices need to be made available as widely as possible.

The usefulness of the newspaper-published presentation is underlined by the fact that all of the West Virginia newspapers that carry public notices have paid subscribers who choose to have the newspapers deliver the notices. Government agency, corporate and other public notices are the purest kind of news, telling the reader exactly who proposes to do what kind of business in the community, with no slant or editorial content.

Removing the public notices from newspapers would also greatly reduce overall public access on the Internet. West Virginia newspapers are on the Internet and many post their public notices via their websites. Many West Virginia newspapers upload their notices to their own website and many are now posting public notices to the West Virginia Press Association's website wvlegals.com on a daily or weekly basis. These Internet listings are provided at no cost or liability to the publishing government body. The WVPA website allows users to enter "key word" searches. For a demonstration, go to www.wvlegals.com. The site is free to the public and to government agencies. It's funded by West Virginia's newspaper industry and gives additional value to the paid public notice print advertising in West Virginia newspapers. This site is an example of what many officials support: The use of private enterprise instead of public dollars to provide a demonstrably valuable public service.

Additionally, if legal notices are posted on government agency websites, taxpayers must absorb the cost of setting up, securing, maintaining and updating these web pages. Perhaps the greatest cost would be the liability: If a government website crashes or is hacked, was the publication requirement met? If action based on a permit is later challenged for lack of public notice, who is liable? The state? The applicant?

The idea of ending any public notice and putting it, instead, on government websites may be the classic penny-wise, pound-foolish position. It reduces the placement and storage of legal public notices to the mere reproduction of words instead of real public notification; however, it's much more than that. It's about the preservation of an evidentiary record. Viewed from the standpoint of the end-user of such ads, the printing of them is a far more cost-effective method of assuring the integrity of this evidentiary record than installing the safeguards that would be required if government were to be trusted with this job itself.

These are just a few of the reasons proposed rule 45CSR13 is a mistake and a disservice to the people of West Virginia.

Thank you for your consideration,

Don

Don Smith
Executive Director
West Virginia Press Association
3422 Pennsylvania Ave.,
Charleston, W.Va. 25302
Office: 304-342-1011, ext. 160
Cell: 304-550-0454
Fax: 304-343-5879
Email: donsmith@wvpress.org
Website: www.wvpress.org
Newspapers are good business in West Virginia

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:24 PM
To: Jennings, Laura M
Subject: FW: Rule 45CSR13

Jake Glance

Please consider the environment before printing this email.

From: Ed Given [mailto:quality@rtol.net]
Sent: Monday, August 01, 2016 1:38 PM
To: DEP Comments <DEP.Comments@wv.gov>
Subject: Rule 45CSR13

Hello,

I am writing in response to the W.Va. Department of Environmental Protection's Division of Air Quality request for comments on proposed rule 45CSR13.

Removing public notice/legal advertising from the newspaper of record for the community impacted by action designed in the public notice is a tremendous disservice to the residents of my county.

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These rules would take permit applications for designated stationary sources of air pollutants, which would seem to be of tremendous public interest, out of plain sight and bury them in the tangle of documents on government-designated website.

While the public might not know the meaning of a **designated stationary sources of air pollutants**, I am very certain that members of my community want to know if a designated stationary sources of air pollutants is being considered for their area. We would most likely get that information from the local newspaper, not a government website.

On a government website, anyone looking for the information would have to know exactly what it is they're searching for and when and where to look. Rather than going to the local newspaper where they have always gone to see these legal advertisements, citizens would be left searching for "a needle in a haystack."

The general public cannot reasonably be expected to keep track of governmental activities when there are literally hundreds of state agencies as well as counties, municipalities, special districts and school districts all with their own websites. Newspapers serve as the sole aggregate source for all public notices in the impact areas.

Additionally, large portions of West Virginia are very rural and still do not have reliable Internet access or even cell phone service. Many in poor and senior communities cannot readily and easily view Internet notifications, and would be unable to drive the distance required to view the documents at the DEP/DAQ office. How could a citizen gain access to such vital information if they do not have access to Internet or reliable transportation?

Removing the public notice from newspapers to a government webpage reduces the general public's access. It caters to those few who follow, profit from, or have vested interest in such developments.

Newspapers notify the community. Newspapers effectively "push" the public notices out to the public. If notices are only on government websites, it requires citizens to look for what they need to know. Publishing a public notice in a community newspaper enables citizens to be aware of and understand what is happening in their neighborhood, city or town. That is the reason notices must be published in the county impacted. It prevents the notices from being hidden in a distant paper or a massive database. Government files are just that – files. Putting a permit application or a corporate document in an electronic database is not public notice. Publishing in a newspaper, bringing the matter directly to the attention of the community is public notice.

West Virginia doesn't want to be in a position where government agencies are released from the obligation to notify the public of what they are doing before a decision is made. This state has worked hard to increase and maintain openness. Closing the door on disseminating this information would jeopardize the open and transparent government processes upon which West Virginians rely. Public notices need to be made available as widely as possible.

The usefulness of the newspaper-published presentation is underlined by the fact that all of the West Virginia newspapers that carry public notices have paid subscribers who choose to have the newspapers deliver the notices. Government agency, corporate and other public notices are the purest kind of news, telling the reader exactly who proposes to do what kind of business in the community, with no slant or editorial content.

Removing the public notices from newspapers would also greatly reduce overall public access on the Internet. West Virginia newspapers are on the Internet and many post their public notices via their websites. Many West Virginia newspapers upload their notices to their own website and many are now posting public notices to the West Virginia Press Association's website [wvlegals.com](http://www.wvlegals.com) on a daily or weekly basis. These Internet listings are provided at no cost or liability to the publishing government body. The WVPA website allows users to enter "key word" searches. For a demonstration, go to www.wvlegals.com. The site is free to the public and to government agencies. It's funded by West Virginia's newspaper industry and gives additional value to the paid public notice print advertising in West Virginia newspapers. This site is an example of what many officials support: The use of private enterprise instead of public dollars to provide a demonstrably valuable public service.

Additionally, if legal notices are posted on government agency websites, taxpayers must absorb the cost of setting up, securing, maintaining and updating these web pages. Perhaps the greatest cost would be the liability: If a government website crashes or is hacked, was the publication requirement met? If action based on a permit is later challenged for lack of public notice, who is liable? The state? The applicant?

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Sincerely,
Ed Given, publisher
Braxton Citizens' News
P.O. Box 516
Sutton, WV 26601
(304)765-5193

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:24 PM
To: Jennings, Laura M
Subject: FW: Public comment on proposed DEP rule

Jake Glance

Please consider the environment before printing this email.

From: Jim King [mailto:news@hampshirereview.com]
Sent: Monday, August 01, 2016 11:41 AM
To: DEP Comments <DEP.Comments@wv.gov>
Subject: Public comment on proposed DEP rule

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The idea of ending any public notice and putting it, instead, on government websites may be the classic penny-wise, pound-foolish position. It reduces the placement and storage of legal public notices to the mere reproduction of words instead of real public notification; however, it's much more than that. It's about the preservation of an evidentiary record. Viewed from the standpoint of the end-user of such ads, the printing of them is a far more cost-effective method of assuring the integrity of this evidentiary record than installing the safeguards that would be required if government were to be trusted with this job itself.

These are just a few of the reasons proposed rule 45CSR13 is a mistake and a disservice to the people of West Virginia.

Thank you for your consideration,

Jim King
Managing Editor
jim@hampshirereview.com
The Hampshire Review
P.O. Box 1036
Romney WV 26757
Office: 74 W. Main St.
Phone: 304-822-3871 ext. 28
Cell: 304-822-0141
Fax: 304-822-4487

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:25 PM
To: Jennings, Laura M
Subject: FW: Public comment on proposed DEP bill

Jake Glance

Please consider the environment before printing this email.

From: News [mailto:news@hampshirereview.com]
Sent: Monday, August 01, 2016 2:46 PM
To: DEP Comments <DEP.Comments@wv.gov>
Subject: Public comment on proposed DEP bill

Good afternoon,

In response to the W.Va. Department of Environmental Protection's Division of Air Quality request for comments on proposed rule 45CSR13, I would like to express my opposition.

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Thank you for your consideration,

Craig See, Publisher
Hampshire Review
74 W. Main Street
Romney, WV 26757
304-822-3871 Ext. 34

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:25 PM
To: Jennings, Laura M
Subject: FW: Public comment of proposed DEP rule

Jake Glance

Please consider the environment before printing this email.

From: Sallie See [mailto:salliesee@frontier.com]
Sent: Monday, August 01, 2016 2:40 PM
To: DEP Comments <DEP.Comments@wv.gov>
Subject: Public comment of proposed DEP rule

Hello,

In response to the W.Va. Department of Environmental Protection's Division of Air Quality request for comments on proposed rule 45CSR13, I would like to express my opposition.

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Thank you for your consideration,

Sallie See, Editor
Hampshire Review
74 W. Main Street
Romney, WV 26757

[www.salliee@frontier.com](mailto:salliee@frontier.com)

www.HampshireReview.com

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:24 PM
To: Jennings, Laura M
Subject: FW: W.Va. Department of Environmental Protection's Division of Air Quality request for comments on proposed rule 45CSR13

Jake Glance

Please consider the environment before printing this email.

From: Elkins, Teresa [mailto:telkins@jacksonnewspapers.com]
Sent: Monday, August 01, 2016 12:24 PM
To: DEP Comments <DEP.Comments@wv.gov>
Cc: Huffman, Randy C <Randy.C.Huffman@wv.gov>; Stadelman, Christopher P <Christopher.P.Stadelman@wv.gov>
Subject: W.Va. Department of Environmental Protection's Division of Air Quality request for comments on proposed rule 45CSR13

Hello,

In response to the W.Va. Department of Environmental Protection's Division of Air Quality request for comments on proposed rule 45CSR13, I would like to express my opposition.

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Thank you for your consideration,

Teresa Elkins
P.O.Box 31, Ripley, WV 25271
telkins@jacksonnewspapers.com
304-372-4222

--

Teresa Elkins
Classified Manager
Jackson Newspapers
Phone: 304-372-4222
Fax: 304-372-5544

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Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:25 PM
To: Jennings, Laura M
Subject: FW:

Jake Glance

Please consider the environment before printing this email.

From: Beavers, Liz [mailto:lbeavers@newstribune.info]
Sent: Monday, August 01, 2016 3:18 PM
To: DEP Comments <DEP.Comments@wv.gov>
Cc: Huffman, Randy C <Randy.C.Huffman@wv.gov>; Stadelman, Christopher P <Christopher.P.Stadelman@wv.gov>
Subject:

Hello,

In response to the W.Va. Department of Environmental Protection's Division of Air Quality request for comments on proposed rule 45CSR13, I would like to express my opposition.

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Thank you for your consideration,

Liz Beavers

--

Liz Beavers

Managing Editor

Mineral Daily News Tribune

P.O. Box 879

21 Shamrock Drive

Keyser WV 26726

Phone: 304-788-3333

Visit our website: www.newstribune.info

Check out our facebook page!

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Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:25 PM
To: Jennings, Laura M
Subject: FW:

Jake Glance

Please consider the environment before printing this email.

From: William Bailey [mailto:chroniclebill@gmail.com]
Sent: Monday, August 01, 2016 2:58 PM
To: DEP Comments <DEP.Comments@wv.gov>
Subject:

Hello, WV DEP

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Thank you for your consideration,

Bill Bailey

Technician, The Calhoun Chronicle

The Exponent Telegram

(304) 626-1400 (800)-982-6034

www.theet.com support@theet.com

321 Hewes Ave Clarksburg, WV 26301 PO Box 2000 Clarksburg, WV 26301

August 1, 2016

To whom it may concern:

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While the public might not know the meaning of a **designated stationary sources of air pollutants**, I am very certain that members of my community want to know if a designated stationary sources of air pollutants is being considered for their area. We would most likely get that information from the local newspaper, not a government website.

On a government website, anyone looking for the information would have to know exactly what it is they're searching for and when and where to look. Rather than going to the local newspaper where they have always gone to see these legal advertisements, citizens would be left searching for "a needle in a haystack."

The general public cannot reasonably be expected to keep track of governmental activities when there are literally hundreds of state agencies as well as counties, municipalities, special districts and school districts all with their own websites. Newspapers serve as the sole aggregate source for all public notices in the impact areas.

Additionally, large portions of West Virginia are very rural and still do not have reliable Internet access or even cell phone service. Many in poor and senior communities cannot readily and easily view Internet notifications, and would be unable to drive the distance required to view the documents at the DEP/DAQ office. How could a citizen gain access to such vital information if they do not have access to Internet or reliable transportation?

Removing the public notice from newspapers to a government webpage reduces the general public's access. It caters to those few who follow, profit from, or have vested interest in such developments.

Newspapers notify the community. Newspapers effectively "push" the public notices out to the public. If notices are only on government websites, it requires citizens to look for what they need to know. Publishing a public notice in a community newspaper enables citizens to be aware of and understand what is happening in their neighborhood, city or town.

That is the reason notices must be published in the county impacted. It prevents the notices from being hidden in a distant paper or a massive database. Government files are just that – files. Putting a permit application or a corporate document in an electronic database is not public notice. Publishing in a newspaper, bringing the matter directly to the attention of the community is public notice.

West Virginia doesn't want to be in a position where government agencies are released from the obligation to notify the public of what they are doing before a decision is made. This state has worked hard to increase and maintain openness. Closing the door on disseminating this information would jeopardize the open and transparent government processes upon which West Virginians rely. Public notices need to be made available as widely as possible.

The usefulness of the newspaper-published presentation is underlined by the fact that all of the West Virginia newspapers that carry public notices have paid subscribers who choose to have the newspapers deliver the notices. Government agency, corporate and other public notices are the purest kind of news, telling the reader exactly who proposes to do what kind of business in the community, with no slant or editorial content.

Removing the public notices from newspapers would also greatly reduce overall public access on the Internet. West Virginia newspapers are on the Internet and many post their public notices via their websites. Many West Virginia newspapers upload their notices to their own website and many are now posting public notices to the West Virginia Press Association's website wvlegals.com on a daily or weekly basis. These Internet listings are provided at no cost or liability to the publishing government body. The WVPA website allows users to enter "key word" searches. For a demonstration, go to www.wvlegals.com. The site is free to the public and to government agencies. It's funded by West Virginia's newspaper industry and gives additional value to the paid public notice print advertising in West Virginia newspapers. This site is an example of what many officials support: The use of private enterprise instead of public dollars to provide a demonstrably valuable public service.

Additionally, if legal notices are posted on government agency websites, taxpayers must absorb the cost of setting up, securing, maintaining and updating these web pages. Perhaps the greatest cost would be the liability: If a government website crashes or is hacked, was the publication requirement met? If action based on a permit is later challenged for lack of public notice, who is liable? The state? The applicant?

The idea of ending any public notice and putting it, instead, on government websites may be the classic penny-wise, pound-foolish position. It reduces the placement and storage of legal public notices to the mere reproduction of words instead of real public notification; however, it's much more than that. It's about the preservation of an evidentiary record. Viewed from the standpoint of the end-user of such ads, the printing of them is a far more cost-effective method of assuring the integrity of this evidentiary record than installing the safeguards that would be required if government were to be trusted with this job itself.

These are just a few of the reasons proposed rule 45CSR13 is a mistake and a disservice to the people of West Virginia.

Thank you for your consideration.

Please contact me directly if you wish to discuss the matter further. My direct line is (304)626-1468.

Best Regards,



Andy Kniceley
Publisher

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:24 PM
To: Jennings, Laura M
Subject: FW: WV DEP's Division of Air Quality public hearing

Jake Glance

Please consider the environment before printing this email.

From: Craig Bartoldson [mailto:cbartoldson@journal-news.net]
Sent: Monday, August 01, 2016 2:19 PM
To: DEP Comments <DEP.Comments@wv.gov>
Cc: Huffman, Randy C <Randy.C.Huffman@wv.gov>; Stadelman, Christopher P <Christopher.P.Stadelman@wv.gov>
Subject: WV DEP's Division of Air Quality public hearing

To whom it may concern:

In response to the W.Va. Department of Environmental Protection's Division of Air Quality request for comments on proposed rule 45CSR13, I would like to express my opposition.

Removing public notice/legal advertising from the newspaper of record for the community impacted by action designed in the public notice is a tremendous disservice to the residents of the region.

Public notice laws were created to notify the public of government actions that may affect the public's interests or rights. Residents rely on local newspapers for this information. Providing public notice is not a formality, it's a responsibility ... a huge responsibility.

These rules would take permit applications for designated stationary sources of air pollutants, which would seem to be of tremendous public interest, out of plain sight and bury them in the tangle of documents on government-designated website.

While the public might not know the meaning of a **designated stationary sources of air pollutants**, I am very certain that members of my community want to know if a designated stationary sources of air pollutants is being considered for their area. We would most likely get that information from the local newspaper, not a government website.

On a government website, anyone looking for the information would have to know exactly what it is they're searching for and when and where to look. Rather than going to the local newspaper where they have always gone to see these legal advertisements, citizens would be left searching for "a needle in a haystack."

The general public cannot reasonably be expected to keep track of governmental activities when there are literally hundreds of state agencies as well as counties, municipalities, special districts and school districts all with their own websites. Newspapers serve as the sole aggregate source for all public notices in the impact areas.

Additionally, large portions of West Virginia are very rural and still do not have reliable Internet access or even cell phone service. Many in poor and senior communities cannot readily and easily view Internet notifications, and would be unable to drive the distance required to view the documents at the DEP/DAQ office. How could a citizen gain access to such vital information if they do not have access to Internet or reliable transportation?

Removing the public notice from newspapers to a government webpage reduces the general public's access. It caters to those few who follow, profit from, or have vested interest in such developments.

Newspapers notify the community. Newspapers effectively "push" the public notices out to the public. If notices are only on government websites, it requires citizens to look for what they need to know. Publishing a public notice in a community newspaper enables citizens to be aware of and understand what is happening in their neighborhood, city or town. That is the reason notices must be published in the county impacted. It prevents the notices from being hidden in a distant paper or a massive database. Government files are just that - files. Putting a permit application or a corporate document in an electronic database is not public notice. Publishing in a newspaper, bringing the matter directly to the attention of the community is public notice.

West Virginia doesn't want to be in a position where government agencies are released from the obligation to notify the public of what they are doing before a decision is made. This state has worked hard to increase and maintain openness. Closing the door on disseminating this information would jeopardize the open and transparent government processes upon which West Virginians rely. Public notices need to be made available as widely as possible.

The usefulness of the newspaper-published presentation is underlined by the fact that all of the West Virginia newspapers that carry public notices have paid subscribers who choose to have the newspapers deliver the

notices. Government agency, corporate and other public notices are the purest kind of news, telling the reader exactly who proposes to do what kind of business in the community, with no slant or editorial content.

Removing the public notices from newspapers would also greatly reduce overall public access on the Internet. West Virginia newspapers are on the Internet and many post their public notices via their websites. Many West Virginia newspapers upload their notices to their own website and many are now posting public notices to the West Virginia Press Association's website wvlegals.com on a daily or weekly basis. These Internet listings are provided at no cost or liability to the publishing government body. The WVPA website allows users to enter "key word" searches. For a demonstration, go to www.wvlegals.com. The site is free to the public and to government agencies. It's funded by West Virginia's newspaper industry and gives additional value to the paid public notice print advertising in West Virginia newspapers. This site is an example of what many officials support: The use of private enterprise instead of public dollars to provide a demonstrably valuable public service.

Additionally, if legal notices are posted on government agency websites, taxpayers must absorb the cost of setting up, securing, maintaining and updating these web pages. Perhaps the greatest cost would be the liability: If a government website crashes or is hacked, was the publication requirement met? If action based on a permit is later challenged for lack of public notice, who is liable? The state? The applicant?

The idea of ending any public notice and putting it, instead, on government websites may be the classic penny-wise, pound-foolish position. It reduces the placement and storage of legal public notices to the mere reproduction of words instead of real public notification; however, it's much more than that. It's about the preservation of an evidentiary record. Viewed from the standpoint of the end-user of such ads, the printing of them is a far more cost-effective method of assuring the integrity of this evidentiary record than installing the safeguards that would be required if government were to be trusted with this job itself.

These are just a few of the reasons proposed rule 45CSR13 is a mistake and a disservice to the people of West Virginia.

Thank you for your consideration,

Craig Bartoldson

Publisher

The Journal

207 W. King St.

Martinsburg, WV 25401

cbartoldson@journal-news.net

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:24 PM
To: Jennings, Laura M
Subject: FW: Comments on proposed rule 45CSR13

Jake Glance

Please consider the environment before printing this email.

From: Misty Poe [mailto:mpoe@timeswv.com]
Sent: Monday, August 01, 2016 12:24 PM
To: DEP Comments <DEP.Comments@wv.gov>; Huffman, Randy C <Randy.C.Huffman@wv.gov>; Stadelman, Christopher P <Christopher.P.Stadelman@wv.gov>
Subject: Comments on proposed rule 45CSR13

Hello,

In response to the W.Va. Department of Environmental Protection's Division of Air Quality request for comments on proposed rule 45CSR13, I would like to express my opposition.

Removing public notice/legal advertising from the newspaper of record for the community impacted by action designed in the public notice is a tremendous disservice to the residents of the region.

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These are just a few of the reasons proposed rule 45CSR13 is a mistake and a disservice to the people of West Virginia.

Thank you for your consideration,

Misty Poe
General Manager
Editor
Times West Virginian
(304)-367-2523
PO Box 2530
Fairmont, WV 26555

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:24 PM
To: Jennings, Laura M
Subject: FW: Comments on 45CSR13 changes

Jake Glance

Please consider the environment before printing this email.

From: Randy Mooney [mailto:rmooney@cnhi.com]
Sent: Monday, August 01, 2016 2:35 PM
To: DEP Comments <DEP.Comments@wv.gov>
Cc: Huffman, Randy C <Randy.C.Huffman@wv.gov>; christopher.p.stadleman@wv.gov
Subject: Comments on 45CSR13 changes

I would like to comment on proposal 45CSR13 which includes plans to change placement of DEP public notice Class 1 legal advertising in newspapers of general circulation in areas where the source of air pollution is located.

It is inconceivable that any government entity would feel that online posting of such information could be adequate in the state of West Virginia. With inadequate coverage of internet access and even cell phone service, many of the areas that could be impacted the most will have no opportunity to provide input or feedback.

In a state where we value transparency in government and where clean air and water are such topical issues it is imperative that notices are delivered in the most visible and broad reaching way possible. Concerned citizens know they can depend on this information to be delivered in a very open and accessible manner when it is published in the newspaper.

This is not the time for government agencies to appear to be hiding information that needs to be pushed out to not only citizens who are looking for it but citizens who just need to know. Those people would not necessarily know to locate a website and search through tons of legalese and jargon to find the information they need. Many of them would not even have the ability.

We cannot afford to release government agencies from the obligation to notify the public of what they are doing before a decision is made. West Virginia has suffered enough damage to the environment. It is time we step up to make sure the most vital resource that we have remaining is protected and that citizens are able to participate in those decisions.

Please do not allow these changes to proceed.

Thank you,
Randy

Randy Mooney
Senior Publisher
Bluefield Daily Telegraph
Princeton Times

928 Bluefield Avenue
Bluefield, WV 24701
Office: 304 327-2840
Cell: 918.348.9711
rmooney@cnhi.com

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:24 PM
To: Jennings, Laura M
Subject: FW: Proposed rule 45CSR13

Jake Glance

Please consider the environment before printing this email.

From: Trip Shumate [mailto:tshumate@wvgazette.com]
Sent: Monday, August 01, 2016 12:17 PM
To: DEP Comments <DEP.Comments@wv.gov>
Cc: Huffman, Randy C <Randy.C.Huffman@wv.gov>; Stadelman, Christopher P <Christopher.P.Stadelman@wv.gov>
Subject: Proposed rule 45CSR13

Department of Environmental Protection:

The public's right to know must not be hidden behind some governmental web site. Newspapers offer an efficient mechanism for public notice and are delivered to the door of many citizens throughout the State of West Virginia.

The WV DEP's Division of Air Quality is holding a public hearing tonight - Monday, Aug. 6, 2016, for comment on several proposed rules that would be sent to the WV Legislature for consideration next session. The public hearing is from 6 p.m. until 8 p.m. today.

Among these rules is 45CSR13 -- Permits for Construction, Modification, Relocation, and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, Permission to Commence Construction, and Procedures for Evaluation.

PS: The WVPA and our industry owes a large thanks to reporter Ken Ward Jr. of the Charleston Gazette-Mail for digging down through these rules and sounding an alert on this public hearing and proposed rule 45CSR13

in particular. Read Ken's Blog on this issue at <http://blogs.wvgazette.com/watchdog/> West Virginia newspaper reporters are indeed the "watchdogs" for the public and our industry. We greatly appreciate Ken's efforts and those of other reporters around the state.

In summary, 45CSR13 — would remove public notification by Class I and Class II legal advertisements in a newspaper of general circulation in favor of placing the notification on a WVDEP/DAQ webpage. Let's keep these notifications in the public eye, in local newspapers where West Virginia citizens seek to learn about issues in the areas they live, not a web site that must be accessed.

Thank you,

Norman W. Shumate, III
President
Charleston Newspapers

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 5:29 PM
To: Jennings, Laura M
Subject: FW: Hearing input on the EPA's suggested change in Newspaper Legal Notification (45CSR13)

Jake Glance

Please consider the environment before printing this email.

From: Glenville News [mailto:glenvillenews@gmail.com]
Sent: Monday, August 01, 2016 5:11 PM
To: DEP Comments <DEP.Comments@wv.gov>
Cc: Stadelman, Christopher P <Christopher.P.Stadelman@wv.gov>
Subject: Hearing input on the EPA's suggested change in Newspaper Legal Notification (45CSR13)

Dear Sirs,

It is my understanding that the WV DEP wants to change the public notices' requirements for publishing Legal Notices in newspapers (45CSR13) relative to air quality pollutants within the regions affected to a less publicly accessed departmental website. This is a shortsighted idea and neither I nor the people of Gilmer County would be in favor of.

Here's why! About two years ago, we, in Gilmer County, became a center of the Oil & Gas Industry's marcellus shale drilling area. At that time, one well was installed a short distance from a school and much residential housing. The parents with children in the school and residents of the area demanded to know what changes they could anticipate in air quality through potential pollutants. Their only recourse was to come to their local Glenville Democrat and Glenville Pathfinder newspapers to request answers to their questions and to allay their fears. The companies, however, did not hold public meetings in Gilmer County to answer the people's questions or to allay their fears, as requested by this newspaper.

At the same time, that affected area's citizens contacted environmental speakers from adjoining counties where drilling and extracting were currently taking place. The speakers emphasized the fact that such industrial activities did, in fact, produce air pollution to interfere with one's breathing. Also, that there was stream pollution from the extraction chemicals. Sadly, there were no representatives of those drilling companies present to explain the purported "safety" of these new industrial techniques and to answer air quality contamination assertions and rumors.

Hence, the only way the people living in these new Oil & Gas Industry areas in West Virginia and Gilmer County can find out about the levels of air pollution that they are living in is from the "Legal Notices" published in our local newspapers and the stories written by our reporters. As a result, we editors stand strongly against such new suggested change in regulations that would omit the posting of Air Quality pollutant levels in our county for the people's information and protection, not to forget their good health.

Please include this Letter of Protest in your Public Hearing's documents on August 6, 2016

Respectfully yours,
David H. Corcoran, Sr., Ph.D.
Publisher-Editor-Owner
Glennville Newspapers,
PO Box 458,
Glennville WV 26351
304-462-7309

--

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• *Phone: 304-462-7309 • Fax: 304-462-7300* •
Visit the Glennville *Democrat/Pathfinder* online.

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:24 PM
To: Jennings, Laura M
Subject: FW: 45CSR13 comments

Jake Glance

Please consider the environment before printing this email.

From: editor [mailto:editor@morganmessenger.com]
Sent: Monday, August 01, 2016 12:19 PM
To: DEP Comments <DEP.Comments@wv.gov>
Subject: 45CSR13 comments

Hello,

In response to the W.Va. Department of Environmental Protection's Division of Air Quality request for comments on proposed rule 45CSR13, I would like to express my opposition.

In particular, I am opposed to removing the requirement that an applicant for designated stationary sources of air pollutants must advertise their efforts in a newspaper of record in the place where they proposed to operate.

Placing application information on the DEP website is not public notification. General members of the public don't have the time or expertise to dig for every new application on a website that is already packed with data of all sorts. Posting notice there is essentially burying the information from public view.

Not only that, many people in West Virginia don't have reliable or unlimited access to the internet, which is required to view these documents. On the other hand, most communities are served by a daily or weekly newspaper that is widely distributed and easily available. Public notices about pollutant sources should continue to be published in those papers, not simply posted online to be found, or not found.

Publication of these notices is especially important, since the rules require extensive comments and feedback about the applications in order to trigger a public hearing about a matter. If the people don't know about the applications, they will not know to comment or ask for a public hearing. And yet, we know that local residents are often concerned about sources of pollution, and monitoring the quality of their air and water.

For these reasons, and many more, I opposed the publication changes proposed in 45CSR13 and ask that those changes be removed and the rules reconsidered.

Kate Shunney
49 Rugby Lane
Berkeley Springs, WV 25411

editor@morganmessenger.com
304-258-1800

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:25 PM
To: Jennings, Laura M
Subject: FW: Proposed rule 45CSR13

Jake Glance

Please consider the environment before printing this email.

From: Mike Myer [mailto:mmyer@theintelligencer.net]
Sent: Monday, August 01, 2016 2:42 PM
To: DEP Comments <DEP.Comments@wv.gov>
Subject: Proposed rule 45CSR13

Adoption of the Department of Environmental Protection proposed rule that would eliminate the requirement for public notices in newspapers on certain air pollution permit matters is a terrible idea. As DEP officials know, or should know, websites are no substitute for the daily and weekly newspapers West Virginians read every day. Notices such as those under consideration are seen in newspapers. Restricting them to websites means people must go looking for them. This change, if adopted, would restrict knowledge of such permit applications to the handful of people, mostly professionals in government or industry, who look for such information regularly. It would mean the vast majority of people affected by the applications would not know about them until action was taken by the DEP. This is NOT the way to keep Mountain State residents in the loop.

J. Michael Myer, editor, The Intelligencer and Wheeling News-Register

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 5:29 PM
To: Jennings, Laura M
Subject: FW: Proposed Rule 45CSR13

Jake Glance

Please consider the environment before printing this email.

From: Frank Wood [mailto:fwood@register-herald.com]
Sent: Monday, August 01, 2016 5:13 PM
To: DEP Comments <DEP.Comments@wv.gov>; Huffman, Randy C <Randy.C.Huffman@wv.gov>; Stadelman, Christopher P <Christopher.P.Stadelman@wv.gov>
Subject: Proposed Rule 45CSR13

August 1, 2016

RE: Proposed Rule 45CSR13

To Whom It May Concern:

Thanks for reading my comments and opposition to proposed rule 45CSR13 as it relates to removing public notice/legal advertising from newspapers of record.

Online posting is not sufficient enough in the Mountain State because of insufficient coverage of Internet access. Removing the public notice from the local newspapers of record to a government webpage reduces the general public's access even more. It would be a disfavor to many state residents, denying them the opportunity to pass timely comment.

Removing the public notice from newspapers would further reduce overall public access on the Internet. Most West Virginia newspapers not only publish public notices on the Internet, they have a paid, home delivered subscriber base already accustomed to receiving public/legal advertising.

Removing public/legal advertising from a local newspaper whose region is being impacted by action outlined in public notices is a tremendous disservice to the residents of that area.

Government should be all about transparency and that is another reason the proposed rule 45CSR13, which includes plans to change placement of DEP public notice Class 1 legal advertising in newspapers of general interest to a government website should be abandoned now.

Thanks for your time and understanding,

Frank Wood
Publisher, The Register-Herald
The Fayette Tribune
The Montgomery Herald

Jennings, Laura M

From: DEP Comments
Sent: Monday, August 01, 2016 4:24 PM
To: Jennings, Laura M
Subject: FW: Objection to Proposed Rule 45CSR13

Jake Glance

Please consider the environment before printing this email.

From: jmcgoldrick@oracleandleader.com [mailto:jmcgoldrick@oracleandleader.com]
Sent: Monday, August 01, 2016 2:12 PM
To: DEP Comments <DEP.Comments@wv.gov>
Cc: Huffman, Randy C <Randy.C.Huffman@wv.gov>; christopher.p.stadleman@wv.gov
Subject: Objection to Proposed Rule 45CSR13

To Whom It May Concern,

I am writing to express my opposition to the West Virginia Department of Environmental Protection's Division of Air Quality proposed rule 45CSR13

Removing public notice/legal advertising from the newspaper of record for the community impacted by action designed in the public notice is a tremendous disservice to the residents, businesses and industries of the our state and beyond. Public notice laws were created to notify the public of government actions that may affect the public's interests or rights. Residents rely on local newspapers for this information. Providing public notice is not a formality, it's a huge responsibility.

These rules would take permit applications for designated stationary sources of air pollutants, which would seem to be of tremendous public interest, out of plain sight and bury them in the tangle of documents on government-designated website known to only a handful of our state's 1.8 million residents. How many hits has your website had in the past 12 months and how does that number compare to the number of our state's residents? Not well, I am certain.

While the public might not know the meaning of a designated stationary sources of air pollutants, I am very certain that members of my community want to know if a designated stationary sources of air pollutants is being considered for their area. We would most likely get that information from the local newspaper, not a government website. Nationally less than half the population has access to websites such as Facebook, which is widely regarded as the most heavily used website on the internet. In West Virginia, I suspect the percentage is even lower due to the unavailability of proper broadband service in most parts of the state.

On a government website, anyone looking for the information would have to know exactly what it is they're searching for and when and where to look. Rather than going to the local newspaper where they have always gone to see these legal advertisements which affect their area, citizens would be left searching for "a needle in a haystack." For much longer than a century, government entities in West Virginia have utilized newspapers as THE medium by which to notify residents and businesses of significant developments in whatever area in which they are charged with the responsibility of informing the public. Why do you know think changing that dependable, efficient system of public notices will be improved in the least by omitting newspaper notices in favor of website notes?

The general public cannot reasonably be expected to keep track of governmental activities when there are literally hundreds of state agencies as well as counties, municipalities, special districts and school districts all with their own websites. Newspapers serve as the sole aggregate source for all public notices in the impact areas.

Removing the public notice from newspapers to a government webpage reduces the general public's access. It caters to those few who follow, profit from, or have vested interest in such developments.

Newspapers notify the community. Newspapers effectively "push" the public notices out to the public. If notices are only on government websites, it requires citizens to look for what they need to know. Publishing a public notice in a community newspaper enables citizens to be aware of and understand what is happening in their neighborhood, city or town. That is the reason notices must be published in the county impacted. It prevents the notices from being hidden in a distant paper or a massive database. Government files are just that – files. Putting a permit application or a corporate document in an electronic database is not public notice. Publishing in a newspaper, bringing the matter directly to the attention of the community is public notice.

West Virginia doesn't want to be in a position where government agencies are released from the obligation to notify the public of what they are doing before a decision is made. This state has worked hard to increase and maintain openness. Closing the door on disseminating this information would jeopardize the open and transparent government processes upon which West Virginians rely. Public notices need to be made available as widely as possible.

The usefulness of the newspaper-published presentation is underlined by the fact that all of the West Virginia newspapers that carry public notices have paid subscribers who choose to have the newspapers deliver the notices. Government agency, corporate and other public notices are the purest kind of news, telling the reader exactly who proposes to do what kind of business in the community, with no slant or editorial content.

Removing the public notices from newspapers would also greatly reduce overall public access on the Internet. West Virginia newspapers are on the Internet and many post their public notices via their websites. Many West Virginia newspapers upload their notices to their own website and many are now posting public notices to the West Virginia Press Association's website wvlegals.com <<http://wvlegals.com/>>; on a daily or weekly basis. These Internet listings are provided at no cost or liability to the publishing government body. The WVPA website allows users to enter "key word" searches. For a demonstration, go to www.wvlegals.com <<http://www.wvlegals.com/>>. The site is free to the public and to government agencies. It's funded by West

Virginia's newspaper industry and gives additional value to the paid public notice print advertising in West Virginia newspapers. This site is an example of what many officials support: The use of private enterprise instead of public dollars to provide a demonstrably valuable public service.

Additionally, if legal notices are posted on government agency websites, taxpayers must absorb the cost of setting up, securing, maintaining and updating these web pages. Perhaps the greatest cost would be the liability: If a government website crashes or is hacked, was the publication requirement met? If action based on a permit is later challenged for lack of public notice, who is liable? The state? The applicant?

The idea of ending any public notice and putting it, instead, on government websites may be the classic penny-wise, pound-foolish position. It reduces the placement and storage of legal public notices to the mere reproduction of words instead of real public notification; however, it's much more than that. It's about the preservation of an evidentiary record. Viewed from the standpoint of the end-user of such ads, the printing of them is a far more cost-effective method of assuring the integrity of this evidentiary record than installing the safeguards that would be required if government were to be trusted with this job itself.

Lest this sound like a newspaper publisher largely interested in preserving his own economic interest, allow me to remind you that state law allows newspapers of our size to charge 11 cents per word for the first week and 8.625 cents per word for the second week for any notice we publish. By contrast, our newspapers charge 15 cents per word for classified ads. We would make more money by publishing classified ads than we do legal notices. But we recognize our responsibility to inform the citizens of West Virginia and so so at rates that are, in effect, discounted to those charged with placing legal notices. This include the DEP.

Newspapers provide the only means of true PUBLIC notice. Websites provide notice only to those who already know, or have a vested interest in knowing, what is occurring.

Ironically, I am responding to this on the last day because your notice of this proposed rule was buried one your website, and not published to the PUBLIC. I would attend your hearing tonight, but there are not enough hours left on the clock for me to get there safely. I found out about this rule only today because of the diligence of a reporter for another newspaper in digging through your proposal.

Proposed rule 45CSR13 is a mistake and a disservice to the people of West Virginia.

Thank you for your consideration,

J. McGoldrick, Publisher
The St. Marys Oracle
Pleasants County Leader
The Pennsboro News
Wirt County Journal
The Brooke Review
P. O. Box 27
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45CSR13

PERMITS FOR CONSTRUCTION, MODIFICATION, RELOCATION AND OPERATION OF STATIONARY SOURCES OF AIR POLLUTANTS, NOTIFICATION REQUIREMENTS, ADMINISTRATIVE UPDATES, TEMPORARY PERMITS, GENERAL PERMITS, PERMISSION TO COMMENCE CONSTRUCTION, AND PROCEDURES FOR EVALUATION

RESPONSE TO COMMENTS

On July 1, 2016 the Division of Air Quality (DAQ) commenced a thirty day public comment period and subsequently held a public hearing on August 1, 2016 to accept oral comments on proposed revisions to legislative Rule 45 C.S.R. 13. Written comments were also accepted through the conclusion of the public hearing on Monday, August 1, 2016. Any comments received after this time are considered ex parte communications and cannot be considered in accordance with WV Code Chapter 29A Article 3. Thirty-three (33) commenters submitted written comments regarding revisions to the proposed Rule 45 C.S.R. 13, and one person (Don Smith, West Virginia Press Association) provided verbal comments at the public hearing.

Written comments were received by the U.S. EPA, Julie Archer (WV Surface Owners' Rights Organization), Thomas Bates, Mirijana Beram, Autumn Bryson (Autumn Environmental), Kevin Campbell, Cynthia Ellis, Traci Hickson, Lew McDaniel, Jeffrey Novotny (AEP), Vickie Nutter, Cindy Rank (WV Highlands Conservancy), Tammie Toler, Christina Woods, Susan Zorn, Don Smith (West Virginia Press Association), Ed Given (Braxton Citizens' News), Jim King (Hampshire Review), Craig See (Hampshire Review), Sallie See (Hampshire Review), Teresa Elkins (Jackson Newspapers), Liz Beavers (Mineral Daily News Tribune), William Bailey (The Calhoun Chronicle), Andy Knicely (The Exponent Telegram), Craig Bartoldson (The Journal), Misty Poe (Times West Virginian), Randy Mooney (Bluefield Daily Telegraph, Princeton Times), Trip Shumate (Charleston Gazette-Mail), David Corcoran (Glenville News), Kate Shunney (Morgan Messenger), Mike Myer (The Intelligencer), Frank Wood (The Register-Herald, The Fayette Tribune, The Montgomery Herald), and J. McGoldrick (The St. Marys Oracle, Pleasant County Leader, The Pennsboro News, Wirt County Journal, The Brooke Review).

All comments received during the public notice period are provided in their entirety prior to this response to comment document. The oral comments are provided in their entirety in the public hearing transcripts prior to the response to comment document.

The majority of comments received were in regard to the proposed revisions to public notice procedures contained in Section 8. Overarching responses to the public notification comments are provided because of the similarity of the comments received. The overarching responses address all of the individual comments that were submitted.

Additional comments and responses that are not specifically related to Section 8 are

provided in the body of this document.

Background

The DAQ proposed revisions to the public notice procedures with the intention of streamlining the process and improving the availability of information to the public. The DAQ wanted to continue the enhancements that have been made with regard to public access to information.

The agency was also approached by industry to discuss requested changes to 45 C.S.R. 13. The DEP is continually challenged to improve efficiencies and streamline processes to provide better service to both the public and the industries that it regulates. This is especially true with the growing natural gas industry in the state. The proposed revisions to the public notice processes were consistent with discussions with the West Virginia Manufacturer's Association and other industry groups.

The DEP has maintained a public notice page and email list for public notices since January of 2004. This page has been maintained for over 12 years and is searchable (i.e. county, agency, keyword). The public notice system allows subscribers to receive e-mails regarding agency actions that are of interest to them. The e-mail notification system allows citizens to choose their preference for all 55 counties in the state, or to specify the specific county(ies) of interest. This system also has a provision for subscribers to receive mailings if e-mail is not preferred.

Two years ago, the DAQ began posting all New Source Review (NSR) permit applications, along with draft permits and engineering evaluations on the DAQ webpage to supplement the newspaper advertisement. Additionally, final permits were posted on the DAQ webpage.

In April of 2012, the EPA issued a memo on the subject of Minor New Source Review Program Public Notice Requirements under 40 C.F.R. §51.161(b)(3) to clarify its position on what constitutes "prominent advertisement" for minor sources. The memo stated:

Over the years, this "prominent advertisement" requirement for minor source programs, including minor NSR permits, has been interpreted in many instances as being met by a public notice in a newspaper of general circulation. However, as the public continues to increase its use of web based sources of information and states experience decreases in the budgets allocated for public noticing of permits, we believe that, for the purposes of minor NSR programs and permits, the "prominent advertisement" requirement at 40 CFR 51.161(b)(3) is media neutral.

This clarification from the EPA provided the opportunity to evaluate alternative mechanisms for keeping the public informed.

Overarching Responses

The DAQ believed the time was right to embrace available technology and propose changes to the public notification process with the intention of improving public access to information, while streamlining the process. It was also believed that the proposal to shift the public notice process to an electronic format would encourage more participation in the valuable *list serve* e-mail notification process that is available through the public information office (PIO). The public notice would be available immediately on the webpage and would remain during the 30 day public notice period. If a webpage would go down temporarily, it would have no effect on the public comment period. Although the proposed rule language did not expressly include it as a requirement, it was always the DAQ's intent to proactively use e-mail notifications to any interested parties in addition to posting on its web pages.

The DAQ believed, based on the clarification memo from the EPA and the DEP and DAQ systems described in the background, that the infrastructure had been in place for sufficient time to support this request from industry while at the same time, embracing the available technology and improving outreach to the public. However, after careful consideration of all comments received, the DAQ has decided to revise the proposed rule and has removed the proposed changes to the public notice requirements in the agency approved version submitted to the Secretary of State office.

Although the DAQ expected this change would result in an annual cost savings of \$10,000, this was not the primary impetus for the proposed changes to the public notification process as some commenters have suggested.

Several commenters were concerned with the freedom of information section of the West Virginia State Code, specifically that it would jeopardize the WV DEP's ability to fully comply with W. Va. Code §29B-1-1. The proposed change did not in any way jeopardize WV DEP's ability to fully comply with W. Va. Code §29B-1-1, which states:

§29B-1-1. Declaration of policy.

Pursuant to the fundamental philosophy of the American constitutional form of representative government which holds to the principle that government is the servant of the people, and not the master of them, it is hereby declared to be the public policy of the state of West Virginia that all persons are, unless otherwise expressly provided by law, entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments of government they have created. To that end, the provisions of this article shall be liberally construed with the view of carrying out the above declaration of public policy.

In addition to the information previously discussed, the DEP (and therefore DAQ) has a Public Information Office and routinely responds to requests for information under the Freedom

of Information Act (FOIA) and handles documents and records that need to be kept in order and made available to the public upon request.

Several commenters expressed concern with maintenance of records. The DEP/DAQ is legally responsible for official records. Newspapers are a source of information for the public; however, the onus to provide evidence of public notice, as required by the Clean Air Act is the responsibility of the agency. Databases and other systems are maintained to track and provide evidence of our work as required by state rules and federal regulations.

Several commenters expressed concern with securing websites so that the public notice is not altered or deleted by hackers and the expense associated with securing the websites. The DEP has maintained its emailing and public notice webpage for over 12 years, so there is no additional expense. The DAQ webpage is part of the DEP website. All of the WVDEP employees are required to take training in cyber security every year. The DEP maintains server backups, and if a server would fail or be hacked, the back-ups would be available.

One commenter asked how many hits has your website had in the past 12 months and how does that number compare to the number of our state's 1.8 million residents? The WVDEP webpage has received 1,648,515 hits in the past 12 months.

Several commenters were concerned that the proposed changes conflicted with WV Code 22 -5-11A. The proposed changes did not conflict with WV Code 22 -5-11A (Activities authorized in advance of permit issuance). The commenters are correct that this section applies only to select applicants and West Virginia Code requires publishing a Class 1 legal notice for this specific circumstance. Therefore, there were not any proposed revisions to Section 16 of the rule.

The US Census Bureau reports there are 1,296,905 internet users in West Virginia (as of June 2010), which is 70.5% of the population; however, the DAQ received numerous comments that citizens in all areas of West Virginia do not have reliable access to the internet, particularly those in rural areas.

One commenter was concerned that only 67% of West Virginians have access to wired broadband 25Mbps or faster, and of these, the state has a generation gap and lack of computer knowledge and skills that further reduces access to obtaining online public notice. "Overall, West Virginia ranks 45th in the nation in terms of broadband internet access, and for the DEP to move its filings entirely online and through email lists is unethical to those who have no access to computers or the internet". The DAQ's research found that according to the Federal Communications Commission (FCC), a US household with 4 users [1 user on 1 device (e.g., laptop, tablet, or game console] would need 6 to 15 Mbps download speed for internet service. <https://www.fcc.gov/research-reports/guides/household-broadband-guide> Also, common functions such as email and searching government websites uses only 0.5 Mbps download speed. <https://www.fcc.gov/reports-research/guides/broadband-speed-guide>.

Several commenters acknowledged the improvements made by the DEP/DAQ in providing additional access to information and that they have come to rely on those systems. Those same commenters however, do not believe that the electronic notification systems are

sufficient to be a stand-alone process at this time for all West Virginians.

There were a significant number of commenters stating their concern for citizens that continue to rely on the published legal advertisement as their primary source of information regarding air quality permitting actions in their local communities. According to the public records obtained by the DAQ from the Secretary of State website, the actual subscription of qualified newspapers in WV (those that can run legal ads) have a subscription reach of approximately 415,584 for July 1, 2015 through June 30, 2016.

Several commenters cited the most recent study (October 2011) done by the National Newspaper Association shows that citizens do read Public Notices. Of those polled, 83% read public notices (from very often to occasionally). It also shows that of those polled, 80% felt that governments should be required to publish public notices in newspapers. The DEP research found in a report issued by the National Environmental Justice Advisory Council (NEJAC), that publication in the legal section of a newspaper is ineffective and is not ideal for providing notice to affected environmental justice (EJ) communities. In West Virginia, environmental justice communities can be best associated with low-income households.

It should also be mentioned that the EPA, in its comments submitted under proposed Rule 45 C.S.R. 14, stated *“In the provisions under 45-14-17 for Public Review Procedures, it appears West Virginia will continue to use legal advertisement in a newspaper of general circulation, but are moving to electronic notice under 45-13. Once EPA finalizes “Revisions to the Public Notice Provisions in Clean Air Act Permitting Programs,” EPA would recommend one consistent public noticing method, unless there are specific instances where the public would be better served using a CAA approved alternative (i.e., newspaper).”* [emphasis added] 45 C.S.R. 14 is the legislative rule involving Permits for Construction and Major Modification of Major Stationary Sources for the Prevention of Significant Deterioration of Air Quality. The public participation requirements under 45 C.S.R. 14 are required to comply with the federal counterpart rule (40 C.F.R. §51.166(q)) which requires public notification “by advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed. . .” The DAQ did not propose a revision to the public notification process under 45 C.S.R. 14 for that reason.

DAQ Action

The purpose of the public notice period and the public hearing as part of the legislative rule making process is to receive comments regarding the proposed rules prior to filing the agency approved rules with the Secretary of State office. The DEP carefully reviews and takes into serious consideration each comment received during this public process.

Based on the information that was provided during the public comment period for 45 C.S.R. 13, the DAQ acknowledges that there is a strong concern that a significant number of citizens continue to rely on the published legal advertisement as their primary source of information regarding air quality permitting actions in their local communities. The DAQ further acknowledges that reliable access to the internet for residents, especially those in rural areas, and the accessing of information from the website are also strong concerns based on the

comments received.

The DAQ would like to reiterate that the intention of the proposed revisions to the public notice procedures was not in any way intended to conceal information from the public. The DAQ's intention was instead to streamline the public participation and notification process.

Again, based on the concerns raised in the submitted comments, the DAQ has decided to revise the proposed rule and has removed the proposed changes to the public notice requirements in the agency approved version submitted to the Secretary of State office. The DAQ will thus maintain a consistent public notification mechanism for minor source permitting and major source permitting through newspaper legal advertisements.

The DEP will continue to evaluate and strive for the best mechanisms for keeping the public informed. It is possible that as more and more people gain ready internet access, e-notice may eventually become the preferred notification mechanism. Also, the DEP will continue the service of mailing public notices, upon request, to citizens without e-mail access.

Changes made from Proposed Rule 13 to Agency Approved Rule 13:

- 2.28 - Removed definition of "WVDEP/DAQ webpage".
- 4.1.d – Changed the subsection reference back from 8.2 to 8.3
- 8.2 – Removed all proposed language and removed the strikethroughs from existing language.
- 8.3 - Removed all proposed language and removed the strikethroughs from existing language.
- 8.4. - Removed all proposed language and removed the strikethroughs from existing language.
- 8.5 - Removed all proposed language and removed the strikethroughs from existing language.
- 8.6 - Removed the strikethroughs from existing language.
- 8.7 - Removed all proposed language and removed the strikethroughs from existing language.
- 8.9 – Changed the subsection reference back from 8.3 to 8.4.
- 11.2.a - Removed all proposed language and removed the strikethroughs from existing language.
- Renumber accordingly.

Comments and Responses not related to the proposed public notification changes

1. COMMENTER - United States Environmental Protection Agency, Region III

COMMENT A

Please explain why 45-13-5.8 is being removed. By removing this provision there appears to be no limit on the timeframe in which the Secretary shall complete review of any application for an

existing stationary source operating permit.

RESPONSE A

Section 5.8 is a remnant from 1994 when the DAQ attempted to coordinate Rule 13 with Rule 30, Title V operating permits. That language was not approved by EPA and the majority of it was removed in the 2000 revision of Rule 13. This section was inadvertently overlooked at that time. No source has ever applied for or received an operating permit under this section of the rule. For minor sources seeking permits under Rule 13 all such permits are combined construction and operating permits.

COMMENT B:

It should be noted that on December 29, 2015 (80 FR 81234), EPA proposed "Revisions to the Public Notice Provisions in Clean Air Act Permitting Programs," which will remove mandatory requirements to provide public notice of a draft air permit, as well as certain other program actions, through publication in a newspaper and would instead allow for electronic noticing (e-notice) of these actions. EPA suggests West Virginia review that proposed rule as well as the final rule, once published, noting that the proposal is subject to change upon going final.

RESPONSE B:

The current Rule 13 proposal was written to meet the EPA's proposed rule.

COMMENT C:

West Virginia is making changes to Public Review Procedures in 45-13-8 and is to be commended for moving to electronic public noticing; however, please explain why West Virginia is removing requirements to public notice applications for operating permits in provision 45-13-8.3.

RESPONSE C:

Please refer to Response A.

2. COMMENTER - Lew McDaniel

COMMENT:

I ask that WVDEP strongly urge the state to find an effective way to deliver interstate [sic] access to all its citizens.

RESPONSE:

Please refer to the overarching comments.

3. COMMENTER - American Electric Power

COMMENT:

The existing rule includes a maximum 180-day permit development time limitation for the agency (Section 5.8 of Regulation 13) after the permit application is considered complete (as defined in Section 5.7 of Regulation 13). This section of the rule has been proposed to be removed. We

request that the agency return this or enter a similar timeline into the regulation to allow facilities opportunity to obtain a permit on a timely basis and utilize this development time in any project schedule. As proposed, the agency does not have any requirements to evaluate and return a permit on a timely basis.

RESPONSE:

Please refer to Response A to Commenter 1. All permits issued under Rule 13 do have specific time frames for review.

4. COMMENTER - Glenville Newspapers

COMMENT:

Please include this Letter of Protest in your Public Hearing's documents on August 6, 2016 [sic].

RESPONSE:

Only comments presented orally at the public hearing held on August 1 are included in the transcripts of the public hearing. All written comments, including your comments, are addressed in this response to comments document and are included in the public record, available on the Secretary of State's website.

5. COMMENTER – The St. Marys Oracle, Pleasants County Leader, The Pennsboro News, Wirt County Journal, and The Brooke Review

COMMENT:

Ironically, I am responding to this on the last day because your notice of this proposed rule was buried one [sic] your website, and not published to the PUBLIC. I would attend your hearing tonight, but there are not enough hours left on the clock for me to get there safely. I found out about this rule only today because of the diligence of a reporter for another newspaper in digging through your proposal.

RESPONSE:

The legal advertisement was published on July 1, 2016 in the West Virginia Register, published by the Office of the Secretary of State, and also published in the Charleston Newspapers on July 1, 2016. Additionally, a Press Release was issued by the Public Information Office (PIO) on July 26, 2016 to communicate the public hearing scheduled for August 1, 2016. As communicated in the public notice, the information was also posted to both DEP's and DAQ's websites. Subscribers to the PIO e-mail notification system would also have received an e-mail sent directly to them.