

**TITLE 45
LEGISLATIVE RULE
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY**

**SERIES 29
RULE REQUIRING THE SUBMISSION OF EMISSION STATEMENTS FOR VOLATILE
ORGANIC COMPOUND EMISSIONS AND OXIDES OF NITROGEN EMISSIONS**

§45-29-1. General.

1.1. Scope. -- This rule requires the submission of an emission statement from owners and operators of stationary sources emitting volatile organic compounds (VOCs) or oxides of nitrogen (NO_x). Facilities with less than 25 tons per year of plant-wide actual VOC or NO_x emissions are exempt from the requirements of this rule if such sources are included in the Director's base-year and periodic emissions inventories. This rule applies only to stationary sources located in Putnam, Kanawha, Cabell, Wayne, Wood, and Greenbrier Counties.

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

1.3. Filing Date. -- July 7, 1993.

1.4. Effective Date. -- July 7, 1993.

§45-29-2. Definitions.

For the purpose of this rule, the following definitions shall apply:

2.1. "Actual emissions" means the quantity of volatile organic compounds (VOC) or oxides of nitrogen (NO_x) emitted from a source during a particular time period.

2.2. "AIRS" means the U.S. EPA's Aerometric Information Retrieval System.

2.3. "AFS" means AIRS Facility Subsystem.

2.4. "Ambient air" means that portion of the atmosphere, external to buildings, to which the

general public has access.

2.5. "Annual fuel or process throughput rate" means the actual or estimated annual fuel usage or process operating rate.

2.6. "Certifying individual" means the individual responsible for the completion and certification of the emission statement (e.g. officer of the company) and who will take legal responsibility for the emission statement's accuracy.

2.7. [RESERVED]

2.8. [RESERVED]

2.9. "Control efficiency" means the actual control efficiency achieved by the control device. The actual efficiency shall reflect control equipment downtime and maintenance degradation.

2.10. "Control equipment identification code" means the AIRS/AFS code which defines the equipment (such as an incinerator or carbon adsorber) used to reduce, by destruction or removal, the amount of air pollutant(s) in an air stream prior to discharge to the ambient air.

2.11. "Director" means the Director of the Division of Environmental Protection or his or her designated representative.

2.12. "Division of Environmental Protection" or "DEP" means that Division of the Division of Environmental Protection which is created by the provisions of the W. Va. Code §§22-1-1, et seq.

2.13. "Emission estimation method code" means a one-position code which identifies the estimation technique used in the calculation of estimated emissions.

2.14. "Emissions Unit" means any part of a stationary source which emits or has the potential to emit any pollutant regulated pursuant to the provisions of this rule.

2.15. "Estimated emissions units" means a two-position code which identifies the units associated with an estimated emissions.

2.16. "Facility" means all of the pollutant-emitting activities that are located on one or more contiguous or adjacent properties, and are under the control of the same person (or person under common control).

2.17. "Measured emissions method code" means a one-position code which identifies the test method used to ascertain measured emissions.

2.18. "Measured emissions units" means a two-position code which identifies the units associated with a measured emissions value.

2.19. "Owner or operator" means any person who owns, leases, controls, operates, or supervises a facility, a source, or air pollution control or monitoring equipment.

2.20. "Oxides of nitrogen" (also denoted as NO_x) means, in air pollution usage, a compound comprised of nitric oxide (NO) and nitrogen dioxide (NO_2), expressed as molecular weight of NO_2 .

2.21. "Ozone season" means that period of the year during which conditions for photochemical ozone formation are most favorable. Generally, sustained periods of direct sunlight (i.e., long days, small cloud cover) and warm temperatures. For West Virginia, the ozone season is June, July, and August.

2.22. "Percent seasonal throughput" means the weighted percent of yearly activity for the following periods:

2.22.a. December-February;

2.22.b. March-May;

2.22.c. June-August; and

2.22.d. September-November.

2.23. "Person" means any and all persons, natural or artificial, including the state of West Virginia or any other state, the United States of America, any municipal, statutory, public or private corporation organized or existing under the laws of this or any other state or country, and any firm, partnership, or association of whatever nature.

2.24. "Point" means a physical emission point or process within a facility that results in pollutant emissions.

2.25. "Potential to emit" means the capability of a source to emit a pollutant at a maximum design capacity, except as constrained by the rules of the Director or U.S. EPA enforceable conditions which include the effect of installed air pollution control equipment, restrictions on the hours of operation, and the type and amount of material combusted, stored, or processed.

2.26. "Source" means any building, structure, equipment, or installation that directly or indirectly releases or discharges, or has the potential to release or discharge, VOCs or NO_x into the ambient air.

2.27. "Stationary Source" means any stationary facility or source of air pollutants which directly emits, or has the potential to emit, 10 tons per year or more of VOC or NO_x .

2.28. "Typical ozone season day" means a day typical of that period of the year during which conditions for photochemical ozone formation are most favorable, generally, sustained periods of direct sunlight (i.e., long days, small cloud cover) and warm temperatures. For West Virginia, this day is a typical day during the period of June, July, and August until otherwise notified by the Director.

2.29. "Volatile Organic Compounds" (also denoted as VOCs) means any organic compound that participates in atmospheric photochemical reactions. This includes any organic compound other than the following exempt compounds:

methane
ethane
methyl chloroform (1,1,1-trichloromethane)
CFC-113 (trichlorotrifluoroethane)
methylene chloride
CFC-11 (trichlorofluoromethane)
CFC-12 (dichlorodifluoromethane)
CFC-22 (chlorodifluoromethane)
CFC-23 (trifluoromethane)
CFC-114 (dichlorotetrafluoroethane)
CFC-115, (chloropentafluoroethane)
HCFC-123 (dichlorotrifluoroethane)
HFC-134a (tetrafluoroethane)
HCFC-141b (dichlorofluoroethane)
HCFC-142b (chlorodifluoroethane)
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
pentafluoroethane (HFC-125)
1,1,2,2-tetrafluoroethane (HFC-134)
1,1,1-trifluoroethane (HFC-143a)
1,1-difluoroethane (HFC-152a) and perfluorocarbon compounds which fall into these classes:

2.29.a. Cyclic, branched, or linear, completely fluorinated alkanes;

2.29.b. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

2.29.c. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

2.29.d. Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

Any organic photochemically nonreactive compounds listed in the Federal Register by the U.S. EPA after the effective date of this rule may be exempted by the Director by reference as long as established scientific standards and guidelines are followed by the U.S.

EPA. For purposes of determining compliance with emission limits, VOC will be measured by the test methods approved by the U.S. EPA. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emission standard.

§45-29-3. Applicability.

3.1. The provisions of this rule apply to stationary sources of volatile organic compounds (VOCs) or oxides of nitrogen (NO_x).

3.2. Exemption. Facilities with less than 25 tons per year of plant-wide actual VOC or NO_x emissions are exempt from the requirements of this rule if such sources are included in the Director's base year and periodic emissions inventories.

3.3. Counties affected. This rule applies only to stationary sources of VOCs or NO_x located in Putnam, Kanawha, Cabell, Wayne, Wood, and Greenbrier counties.

§45-29-4. Compliance Schedule.

4.1. On or before July 1 of each year, the owner or operator of a stationary source subject to the requirements of this rule shall submit an emission statement to the Director for the prior calendar year.

4.2. Emission statement reporting forms, guidance, and numerical codes or symbols will be provided by the Director for applicable sources.

4.3. The Director may require the submission of such data in a specified format on magnetic media.

§45-29-5. Emission Statement Requirements.

5.1. The emission statement shall contain, at a minimum, the following information:

5.1.a. Certification that the information contained in the statement is accurate to the best

knowledge of the individual certifying the statement. The certification shall include the full name, title, signature, date of signature, and telephone number of the certifying individual.

5.1.b. Source identification information:

b.1. Full name, physical location, and mailing address of the facility.

5.1.c. Operating data:

c.1. Percentage annual throughput;

c.2. Days per week for both the normal operating schedule and for a typical ozone season day (if different from the normal operating schedule);

c.3. Hours per day for both the normal operating schedule and for a typical ozone season day (if different from the normal operating schedule); and

c.4. Hours per year for both the normal operating schedule and for a typical ozone season day (if different from the normal operating schedule).

5.1.d. Emissions information:

d.1. Actual VOC and/or NO_x emissions at the process level, in tons per year and pounds per day for a typical ozone season day (estimated or measured);

d.2. Emission method code (estimated or measured);

d.3. Units code to identify the emissions units (tons per year or pounds per day); and

d.4. Calendar year for the emissions.

5.1.e. Control equipment information:

e.1. Current primary and secondary control equipment identification codes; and

e.2. Current control equipment efficiencies (%).

5.1.f. Process rate data:

f.1. Annual fuel or process throughput rate; and

f.2. Peak ozone season daily process rate.

5.2. The owner or operator submitting an emission statement pursuant to the provisions of this rule shall maintain records of test methods, procedures, calculations or other information used to determine emission estimates for a period of three (3) years following the date of submittal.

5.3. The Director may require the submittal of records, test methods, or other data upon which the information in Section 5.2 is based to verify emission estimates.

5.4. All non-confidential emission statement data will be submitted by the Director to U.S. EPA by updating AIRS/AFS on an annual basis. All confidential emission statement data will be submitted by the Director to U.S. EPA in accordance with the provisions of W. Va. Code §22-5-10 and rules promulgated thereunder.

§45-29-6. Enforceability.

For the purpose of federal enforceability of the provisions of this rule, reference to the Director shall also mean the Administrator of the U.S. EPA.

§45-29-7. Severability.

The provisions of this rule are severable and if any provision or part thereof shall be held invalid, unconstitutional, or inapplicable to any person or circumstance, such invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sections, or parts of this rule or their application to any persons and circumstances.