

**TITLE 45  
INTERPRETIVE RULE  
BUREAU OF ENVIRONMENT  
DIVISION OF ENVIRONMENTAL PROTECTION  
OFFICE OF AIR QUALITY**

**SERIES 31A  
RELEASE OF PREVIOUSLY SUBMITTED  
CONFIDENTIAL INFORMATION**

**§45-31A-1. General.**

1.1. Scope. -- Series 31A establishes some of the factors to be considered pursuant to WVCSR §45-31-3.2 by the Director in his or her decision whether to release confidential information submitted prior to the effective date of WV45CSR31 (September 25, 1997) in response to a written request for the information in accordance with the West Virginia Freedom of Information Act (W.Va. Code §29B-1-1 et seq.).

1.2. Authority. -- W. Va. Code §§22-5-4; 22-5-10; 29A-1-2(c); and WV45CSR31.

1.3. Filing Date.-- August 19, 1998.

1.4. Effective Date.-- September 21, 1998.

**§45-31A-2. Definitions.**

The definitions set forth in WVCSR §45-31-2 shall apply to this rule as though set forth herein.

**§45-31A-3. Release of Confidential Information.**

3.1. Pursuant to the authority granted in WVCSR §45-31-3.2, the Director will release confidential information submitted to the Office of Air Quality prior to September 25, 1997, in response to a written request for the information only after notifying the person who submitted the confidential information of the request and evaluation of the following factors and in accordance with the following procedures:

3.1.a. Where the person who submitted such information has, in fact, reviewed the

requested information and has submitted a cover document establishing a claim of confidentiality in accordance with WV45CSR31, the Director will use the cover document as a basis for the review of the confidentiality claim and the determination whether to release such information: Provided, That the person who submitted the cover document may submit revisions to the document which the Director shall consider if received within three (3) days of the notice required under subsection 3.1. Upon review of the cover document, the Director may request additional information, if necessary to make the determination whether to release such information to the public. The Director will notify the designee and the person requesting the information of his or her determination in accordance with WVCSR §45-31-4.2.

3.1.b. Where, in the judgment of the Director, the person who submitted such information has made a good faith effort to review the information and to establish a claim of confidentiality in accordance with the requirements of WV45CSR31, but has not been able to complete such process, or documents are identified which were not made available for prior review by the designee under WV45CSR31, the Director will give the person a reasonable time period, depending upon the nature and volume of the requested information, to complete the review of the information and to submit a cover document. Upon review of the cover document, the Director may request any necessary additional information. Such cover document will form the basis of the Director's determination whether to release such information, and the designee and the person requesting the information will be notified of the determination in accordance with WVCSR

§45-31-4.2.

3.1.c. Where, in the judgment of the Director, the person who submitted such information has not made a good faith effort to review the information and to establish a claim of confidentiality, the Director will specify an expedited time period (but in no case less than three [3] days from the time of notice under subsection 3.1) for the person to review such information and submit a cover document to establish a claim of confidentiality. Upon review of the cover document, the Director may request any necessary additional information. The Director will notify the designee and the person requesting the information of his or her determination in accordance with WVCSR §45-31-4.2.

3.2. Should the person who submitted such confidential information not comply with any of the time periods specified by the Director in accordance with subsection 3.1., the Director may release such information after notification in accordance with WVCSR §45-31-4.2.