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

SERIES 10
TO PREVENT AND CONTROL AIR POLLUTION FROM THE EMISSION OF SULFUR OXIDES

§45-10-1. General.

1.1. Scope.

1.1.a. The purpose of this rule is to prevent and control air pollution from the emission of sulfur oxides.

1.1.b. Fuel Quality Goals. -- It is the intent of the Director that all persons engaged in the burning of fuel make a maximum effort to utilize the best quality fuel available regardless of the requirements of this rule.

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

1.3. Filing Date. -- June 2, 2000.

1.4. Effective Date. -- August 31, 2000.

1.5. Former Rules. -- This legislative rule amends 45CSR10 “To Prevent and Control Air Pollution From the Emission of Sulfur Oxides” which was filed April 27, 1994, and which became effective April 27, 1994.

§45-10-2. Definitions.

2.1. "Air Pollutants" means solids, liquids or gases which, if discharged into the air, may result in a statutory air pollution.

2.2. "Air Pollution", 'statutory air pollution' shall have the meaning ascribed to it in W. Va. Code §22-5-2.

2.3. “Continuous Emission Monitoring System” means the total equipment required for the determination of a gas concentration or emission rate, in the units of the standard.

2.4. "Director" means the director of the division of environmental protection or such other person to whom the director has delegated authority or duties pursuant to W.Va. Code §§22-1-6 or 22-1-8.

2.5. “Distillate Oil” means fuel oil that complies with the specifications for fuel oil numbers 1 and 2, as defined by the American Society for Testing and Materials in ASTM D396-98, “Standard Specification for Fuel Oils”.

2.6. "Equivalent Fuel Sulfur Content" means that quantity of sulfur dioxide in pounds per million British Thermal Units (BTU's) which corresponds to a given percent sulfur in fuel being burned and is calculated on the basis of one hundred percent (100%) conversion of the sulfur to sulfur dioxide and assuming that no sulfur or sulfur dioxide recovery or control measures are employed.

2.7. "Fuel" means any form of combustible matter (solid, liquid, vapor or gas) that is used as a source of heat.

2.8. "Fuel Burning Unit" means and include any furnace, boiler apparatus, device, mechanism, stack or structure used in the process of burning fuel or other combustible material for the primary purpose of producing heat or power by indirect heat transfer. For the purposes of this rule, all fuel burning units are classified in the following categories:

2.8.a. Type 'a' means any fuel burning unit which has as its primary purpose the

generation of steam or other vapor to produce electric power for sale.

2.8.b. Type 'b' means any fuel burning unit not classified as a Type 'a' or Type 'c' unit such as industrial pulverized-fuel-fired furnaces, cyclone furnaces, gas-fired and liquid-fuel-fired units.

2.8.c. Type 'c' means any hand-fired or stoker-fired fuel burning unit not classified as a Type 'a' unit.

2.9. “Indirect Heat Exchanger” means a device that combusts any fuel and produces steam or heats water or any other heat transfer medium. This term includes any duct burner that combusts fuel and is part of a combined cycle system. This term does not include process heaters as defined in subsection 2.18.

2.10. “Malfunction” means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

2.11. "Manufacturing Process" means any action, operation or treatment embracing chemical, industrial or manufacturing efforts, and employing, for example, heat-treating furnaces, by-product coke plants, core-baking ovens, mixing kettles, cupolas, blast furnaces, open hearth furnaces, heating and reheating furnaces, puddling furnaces, sintering plants, electric steel furnaces, ferrous and non-ferrous foundries, kilns, stills, pipe stills, reformers, furnaces associated with manufacturing processes, driers, crushers, grinders, roasters, and equipment used in connection therewith, and all other methods or forms of manufacturing or processing that may emit sulfur dioxide or other sulfur compounds.

2.12. “Natural Gas” means (1) a naturally occurring mixture of hydrocarbon and nonhydrocarbon gases found in geologic formations beneath the earth’s surface, of which the principal constituent is methane, or (2) liquefied petroleum (LP) gas, as defined by the American Society for Testing and Materials in ASTM D1835-97, “Standard Specification for Liquefied Petroleum Gases”.

2.13. "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.

2.14. "Plant" means and includes all fuel burning units, source operations, equipment and grounds utilized in an integral complex.

2.15. "Pollution Control Equipment" means any equipment used for collecting, confining or converting air pollutants for the purpose of preventing or reducing the emission of these pollutants into the open air.

2.16. “Potential To Emit” for the purpose of subdivision 4.1.e means the maximum capacity of a source, on an annual basis, to emit any air pollutant under its physical and operational design, prior to any air pollution control equipment.

2.17. "Priority I Regions", "Priority II Regions" and "Priority III Regions" are defined in Table 45-10A found at the end of this rule.

2.18. “Process Heater” means a device that is primarily used to heat a material to initiate or promote a chemical reaction in which the material participates as a reactant or catalyst.

2.19. "Source Operation" means the last operation in a manufacturing process preceding the emission of air pollutants which operation:

2.19. a. Results in the separation of the air pollutant from the process materials or in the conversion of the process materials into air pollutants; and

2.19.b. Is not an air pollution abatement operation.

2.20. "Stack", for the purposes of this rule, means, but is not limited to, any duct, control equipment exhaust, or similar apparatus, which vents gases and/or particulate matter into the open air.

2.21. "Sulfur Dioxide" is an air pollutant which is a nonflammable, nonexplosive, colorless, gaseous molecule composed of one (1) atom of sulfur and two (2) atoms of oxygen. In concentrations of 0.3 to 1.0 parts per million and above, most people can detect it by taste; in concentrations greater than 3.0 parts per million it has a pungent, irritating odor to most people.

2.22. "Waste Heat Boiler" means any boiler which derives all or part of its heat input from the waste heat of a manufacturing process operation.

2.23. Other words and phrases used in this rule, unless otherwise indicated, shall have the meaning ascribed to them in W. Va. §22-5-1 et seq.

§45-10-3. Sulfur Dioxide Weight Emission Standards for Fuel Burning Units.

3.1. Total Allowable Emission Rates for Similar Units in Priority I and Priority II Regions -- No person shall cause, suffer, allow or permit the discharge of sulfur dioxide into the open air from all stacks located at one plant, measured in terms of pounds per hour, in excess of the amount determined as follows:

3.1.a. For fuel burning units of the Kammer Plant of Ohio Power Company, located in Air Quality Control Region I, the product of 2.7 and the total design heat inputs for such units discharging through those stacks in million British Thermal Units (BTU's) per hour.

3.1.b. For fuel burning units of the Mitchell Plant of Ohio Power Company, located in Air Quality Control Region I, the product of 7.5 and the total actual operating heat inputs for such units discharging through those stacks in million BTU's per hour.

3.1.c. For fuel burning units of the Willow Island Station of Monongahela Power Company, located in Air Quality Control Region II, the product of 2.7 and the total design heat inputs for such units discharging from those stacks in million BTU's per hour.

3.1.d. For fuel burning units of the Mt. Storm Plant of Virginia Electric and Power Company, located in Air Quality Control Region VII, the product of 2.7 and the total design heat inputs for such units discharging through those stacks in million BTU's per hour.

3.1.e. For Type 'b' and Type 'c' fuel burning units, the product of 3.1 and the total design heat inputs for such units discharging through those stacks in million BTU's per hour.

3.2. Maximum Allowable Emission Rates for Similar Units in Region IV (Kanawha Valley Air Quality Control Region: Kanawha County, Putnam County, and Falls and Kanawha Magisterial Districts of Fayette County)--No person shall cause, suffer, allow or permit the discharge of sulfur dioxide into the open air from all stacks located at one plant, measured in terms of pounds per hour, in excess of the amount determined as follows:

3.2.a. For fuel burning units of the John Amos Plant of Appalachian Power Company, located in Air Quality Control Region IV, the product of 1.6 and the total design heat input for such units discharging from those stacks in million BTU's per hour.

3.2.b. For fuel burning units of the Kanawha River Plant of Appalachian Power Company, located in Air Quality Control Region IV, the product of 1.6 and the total design heat inputs for such units discharging through those stacks in million BTU's per hour.

3.2.c. For Type 'b' and Type 'c' fuel burning units, the product of 1.6 and the total design heat inputs for such units discharging

through those stacks in million BTU's per hour, provided however, that no more than 5,500 pounds per hour of sulfur dioxide shall be discharged into the open air from all such stacks.

3.3. Maximum Allowable Emission Rates for Similar Units in All Priority III Regions Except Region IV. -- No person shall cause, suffer, allow or permit the discharge of sulfur dioxide into the open air from all stacks located at one plant, measured in terms of pounds per hour, in excess of the amount determined as follows:

3.3.a. For fuel burning units of the Harrison Power Station of Monongahela Power Company, located in Air Quality Control Region VI, the product of 5.12 and the total actual operating heat inputs for such units discharging from those stacks in million BTU's per hour.

3.3.b. For fuel burning units of the Rivesville Power Station of Monongahela Power Company, located in Air Quality Control Region VI, the product of 3.2 and the total design heat inputs for such units discharging from those stacks in million BTU's per hour.

3.3.c. For fuel burning units of the Albright Power Station of Monongahela Power Company, located in Air Quality Control Region VI, the product of 3.2 and the total design heat inputs for such units discharging from those stacks in million BTU's per hour.

3.3.d. For fuel burning units of the Fort Martin Power Station of Monongahela Power Company, located in Air Quality Control Region VI, the product of 3.1 and the total actual operating heat inputs for such units discharging from those stacks in million BTU's per hour.

3.3.e. For fuel burning units of the Philip Sporn Plant of Central Operating Company, located in Air Quality Control Region III, the product of 3.2 and the total design heat inputs for such units discharging from those stacks in million BTU's per hour.

3.3.f. For Type 'b' and Type 'c' fuel burning units, the product of 3.2 and the total design heat inputs for such units discharging through those stacks in million BTU's per hour.

3.4. Allowable Emission Rates for Individual Stacks.

3.4.a. Unless otherwise approved by the Director, the maximum allowable emission rate for an individual stack shall not exceed by more than twenty-five percent (25%) the emission rate determined by prorating the total allowable emission rate specified in subsections 3.1, 3.2, or 3.3, on the basis of individual unit heat input at design capacity for all fuel burning units discharging through that stack.

3.4.a.1. Subject to the provisions of this section, allowable emission rates for individual stacks shall be determined by the owner and/or operator and registered with the Director at the request of and on forms provided by the Director. Such rates shall be subject to review and approval by the Director.

3.4.a.2. The approved set of individual stack allowable emission rates shall become an official part of the compliance schedule and any permits concerning such source or sources, and shall not be changed without the prior written approval of the Director.

3.4.b. The owner or operator of a source subject to subsections 3.1, 3.2 or 3.3 of this rule which has more than one stack, may petition the Director for individual stack allowable emission rates differing from those calculated under subdivision 3.4.a. The Director may approve such request provided that:

3.4.b.1. For each scenario the sum of the maximum allowable emission rates for each stack shall not exceed the total allowable emission rate specified in subsection 3.1, 3.2 or 3.3 for all stacks located at one plant;

3.4.b.2. The application shall include, but not be limited to, the maximum proposed emission rate for each individual stack for each proposed operating scenario;

3.4.b.3. The owner or operator shall install a certified continuous emissions monitoring system (CEMS) to monitor sulfur dioxide emissions for each stack. Such CEMS shall be installed, certified, operated and maintained as specified in 40 CFR Part 60, Appendix B, Performance Specification 2 (PS2). Sources meeting the requirements of 40 CFR Part 75 (Acid Rain) shall be deemed to have satisfied the requirements of PS2;

3.4.b.4. The owner or operator shall demonstrate to the Director's satisfaction that for each operating scenario approved the source will not cause or contribute to a violation of the National Ambient Air Quality Standard for sulfur dioxide, and demonstrate compliance with any other applicable emissions banking and trading rules;

3.4.b.5. The Director shall not approve a relaxation of a technology-based emission limitation for a specific unit or stack that has been established pursuant to any other rule, permit or consent order nor shall the Director approve a relaxation in emission limits previously established for the purpose of avoiding the permitting requirements of 45CSR14 or 45CSR19; and

3.4.b.6. Any approval of an individual stack allowable emission rate by the Director pursuant to subdivision 3.4.b shall be embodied in a permit issued as an existing stationary source permit in accordance with 45CSR13.

3.5. The design heat input of a waste heat boiler shall not be included in computing the total plant design heat input for the purposes of subsections 3.1, 3.2, 3.3 or 3.4.

3.6. No person shall circumvent the provisions of this rule by constructing fuel burning unit(s) larger than would be necessary to provide heat and/or power for an existing manufacturing plant, with a reasonable margin for plant expansion, in order to use that design heat input to raise the allowable sulfur content in fuel.

3.7. No person shall cause, suffer, allow or permit the discharge of sulfur dioxide to the open air from the combustion of fuel in a fuel burning unit of a waste heat boiler in excess of 2.2 pounds of sulfur dioxide per million BTU's of heat input per hour. This limitation is based on the heat input provided to the boiler by the combustion of this auxiliary fuel.

3.7.a. The provision of this subsection applies only to the fuel used for the waste heat boiler(s) and does not replace or supersede the provisions of subsection 4.1.

3.8. Compliance with the allowable sulfur dioxide emission limitations from fuel burning units shall be based on a continuous twenty-four (24) hour averaging time. The owner and/or operator of a fuel burning unit shall not allow emissions to exceed the weight emissions standards for sulfur dioxide as set forth in this rule, except during one (1) continuous twenty-four (24) hour period in each calendar month and during this one (1) continuous twenty-four hour period said owner and/or operator shall not allow emissions to exceed such weight emission standards by more than ten percent (10%) without causing a violation of this rule. A continuous twenty-four (24) hour period is defined as one (1) calendar day.

§45-10-4. Standards for Manufacturing Process Source Operations.

4.1. No person shall cause, suffer, allow or permit the emission into the open air from any source operation an in-stack sulfur dioxide concentration exceeding 2,000 parts per million by volume from existing source operations, except as provided in subdivisions 4.1.a through 4.1.e.

4.1.a. No person shall cause, suffer, allow or permit sulfur dioxide tail gas emissions from sulfuric acid manufacturing plants to exceed the following:

4.1.a.1. For plants using elemental sulfur as a feed stock, 30 pounds per ton of acid produced.

4.1.a.2. For plants using other materials as a feed stock, 40 pounds per ton of acid produced.

4.1.b. No person shall cause, suffer, allow or permit the emission of sulfur oxides, calculated as sulfur dioxide, from a sulfur recovery plant to exceed 0.06 pounds per pound of sulfur processed.

4.1.c. No person shall cause, suffer, allow or permit the emission of sulfur oxides, calculated as sulfur dioxide, from primary non-ferrous smelters to exceed that determined by the following equations:

Copper Smelters: $Y = 0.2X$

Zinc Smelters: $Y = 0.564X^{0.85}$

Lead Smelters: $Y = 0.98X^{0.77}$

Where, X is the total sulfur fed to the smelter in pounds per hour and Y is the allowable sulfur dioxide emissions in pounds per hour.

4.1.d. No person shall cause, suffer, allow or permit the total sulfite pulp mill emissions of sulfur oxides, calculated as sulfur dioxide, from operations such as blow pits, washer vents, storage tanks, digester relief and recovery system, to exceed nine (9.0) pounds per air-dried ton of pulp produced.

4.1.e. Any owner or operator of a manufacturing process source operation(s) which has the potential to emit less than 500 pounds per year of sulfur oxides.

4.2. Compliance with the allowable sulfur dioxide concentration limitations from manufacturing process source operation(s) set forth in this rule shall be based on a block three (3) hour averaging time.

§45-10-5. Combustion of Refinery or Process Gas Streams.

5.1. No person shall cause, suffer, allow or permit the combustion of any refinery process gas stream or any other process gas stream that contains hydrogen sulfide in a concentration greater than 50 grains per 100 cubic feet of gas except in the case of a person operating in compliance with an emission control and mitigation plan approved by the Director and U. S. EPA. In certain cases very small units may be considered exempt from this requirement if, in the opinion of the Director, compliance would be economically unreasonable and if the contribution of the unit to the surrounding air quality could be considered negligible.

5.2. Any owner or operator of a by-product coke production facility in existence on the effective date of this rule who can demonstrate to the Director that there is no practical alternative to scheduled maintenance (including shutdown) of desulfurization equipment may request the approval of an enforceable, temporary sulfur dioxide emissions control and mitigation plan for such maintenance period. In order for a plan under this paragraph to be approved the plan must meet the following conditions:

5.2.a. Provide that all feasible control measures and process changes will be employed at the coke production facility to reduce emissions of sulfur dioxide (including reduction of coke oven gas generation) during the control system outage.

5.2.b. Provide for a definitive reduction in sulfur dioxide emissions by the establishment of unit-specific allowable emission rates for all emissions units of the stationary source sufficient to prevent any violation of federal and state ambient air quality standards or applicable air quality increments for sulfur dioxide.

5.2.c. Provide that system down-time and excess sulfur dioxide emissions be reduced to the greatest extent possible by use of increased or contract maintenance personnel, maximized maintenance labor shifts and optimization of available spare parts inventories.

5.2.d. Provide for emissions and compliance monitoring as required by the Director in the approved plan during the maintenance periods and for the submission of reports of such monitoring and tests within time-frames specified by the Director in the approved plan. All approved plans shall require that a certified report of excess sulfur dioxide emissions from the by-product coke production facility and offsetting emission units be submitted to the Director within thirty (30) days after the end of the maintenance period.

5.2.e. Provide that no maintenance period exceed fourteen (14) days in length nor occur more than twice in any calendar year.

5.2.f. Provide at least two weeks notice of all scheduled maintenance periods, the anticipated length of the maintenance period, work to be completed, measures to be taken to minimize the length of desulfurization system down-time and such other information as the Director may specify.

5.2.g. Provide for annual review, if necessary, modification or termination of the plan by the Director.

5.2.h. Provide that the Director may impose limitations on emission units that are more restrictive than those provided for in the plan as necessary to assure attainment of air quality standards for sulfur dioxide in light of data provided pursuant to subdivision 5.2.f, or any other information available to the Director.

5.3. The Director shall, in making a determination concerning plan modification or termination, review the plant's compliance history and records to determine whether the plan has prevented or minimized, to the extent feasible, desulfurization system outages and excess emissions. The initial approval of the plan and any modification of the plan shall be accomplished as a revision to the State Implementation Plan.

5.4. Compliance with the allowable hydrogen sulfide concentration limitations for combustion sources set forth in this rule shall be based on a block three (3) hour averaging time.

§45-10-6. Registration.

6.1. Within thirty (30) days after the effective date of this rule all persons owning and/or operating a source(s) of sulfur dioxide subject to this rule and not previously registered shall have registered such source(s) with the Director. The information required for registration shall be determined and provided in the manner specified by the Director. Registration forms should be requested from the Director by the owner and/or operator of such source(s).

6.2. The owner and/or operator of a source(s) of sulfur dioxide that is under construction or on which construction is initiated within thirty (30) days after the effective date of this rule shall register such source(s) within this thirty (30) day period.

§45-10-7. Permits.

7.1. No person shall construct, modify or relocate any source of sulfur dioxide without first obtaining a permit in accordance with the provisions of W. Va. Code §22-5-1 et seq., and Series 13, 14, 19 and 30 of Title 45.

§45-10-8. Testing, Monitoring, Recordkeeping and Reporting.

8.1. Testing.

8.1.a. At such reasonable times as the Director may designate, the owner or operator of any fuel burning unit(s), manufacturing process source(s) or combustion source(s) may be required to conduct or have conducted tests to determine the compliance of such source(s) with the emission limitations of sections 3, 4 or 5. Such tests shall be conducted in accordance with the appropriate test method set forth in 40 CFR Part 60, Appendix A, Method 6, Method 15 or other equivalent EPA testing method approved by the Director. The Director, or his or her duly authorized representative, may at his or her option witness or conduct such tests. Should the Director exercise his or her option to conduct such tests, the operator will provide all necessary sampling connections and sampling ports to be located in such manner as the Director may require, power for test equipment, and the required safety equipment such as scaffolding, railings, and ladders to comply with generally accepted good safety practices.

8.1.b. The Director, or his duly authorized representative, may conduct such other tests as he or she may deem necessary to evaluate air pollution emissions other than those noted in section 3.

8.2. Monitoring.

8.2.a. At the request of the Director the owner and/or operator of a source shall install such stack gas monitoring devices as the Director deems necessary to determine compliance with the provisions of this rule. The data from such devices shall be readily available at the source location or such other reasonable location that the Director may specify. At the request of the Director, or his or her duly authorized representative, such data shall be made available for inspection or copying. Failure to promptly provide such data shall constitute a violation of this rule.

8.2.b. Prior to the installation of calibrated stack gas monitoring devices, sulfur dioxide emission rates shall be calculated on an equivalent fuel sulfur content basis.

8.2.c. The owner or operator of fuel burning unit(s), manufacturing process source(s) or combustion source(s) shall demonstrate compliance with sections 3, 4 and 5 of this rule by testing and /or monitoring in accordance with one or more of the following: 40 CFR Part 60, Appendix A, Method 6, Method 15, continuous emissions monitoring systems (CEMS) or fuel sampling and analysis as set forth in an approved monitoring plan for each emission unit.

8.2.c.1. The installation, operation and maintenance of a continuous monitoring system meeting the requirements of 40 CFR 60, Appendix B, Performance Specification 2 (PS2) or Performance Specification 7 (PS7) shall be deemed to fulfill the requirements of a monitoring plan for a fuel burning unit(s), manufacturing process source(s) or combustion source(s). CEMS meeting the requirements of 40 CFR Part 75 (Acid Rain) will be deemed to have satisfied the requirements of PS2.

8.2.c.1.A. The owner or operator of a continuous emissions monitoring system installed pursuant to this rule shall follow the quality assurance requirements as set forth in 40 CFR Part 60, Appendix F.

8.2.c.2. Monitoring plans pursuant to subsection 8.2.c shall be submitted to the Director within six (6) months of the effective date of this rule. Approval or denial of such plans shall be within twelve (12) months of the effective date of this rule.

8.2.c.3. A fuel sampling and analysis program, including a record of fuel consumption, may fulfill the requirements of a monitoring plan for a fuel burning unit(s). The minimum requirements for a fuel sampling and analysis program, including fuel consumption records, shall be established by the Director.

8.2.d. Excursions outside the range of operating parameters associated with control or process equipment which are established in an

approved monitoring plan will not necessarily constitute a violation of this rule.

8.3. Recordkeeping and Reporting.

8.3.a. The owner or operator of fuel burning unit(s), manufacturing process source(s) or combustion source(s) subject to sections 3, 4 or 5 shall maintain on-site a record of all required monitoring data as established in a monitoring plan pursuant to subdivision 8.2.c. Such records shall be made available to the Director or his duly authorized representative upon request. Such records shall be retained on-site for a minimum of five years.

8.3.b. The owner or operator shall submit a periodic exception report to the Director, in a manner specified by the Director. Such an exception report shall provide details of all excursions outside the range of measured emissions or monitored parameters established in an approved monitoring plan and shall include, but not be limited to, the time of the excursion, the magnitude of the excursion, the duration of the excursion, the cause of the excursion and the corrective action taken.

8.3.c. The owner or operator of a fuel burning unit(s) or a combustion source(s) shall maintain records of the operating schedule and the quantity and quality of fuel consumed in each unit in a manner specified by the Director. Such records are to be maintained on-site and made available to the Director or his duly authorized representative upon request.

8.3.c.1. The owner or operator of a fuel burning unit(s) utilizing CEMS to fulfill the requirements of subdivision 8.2.c shall be exempt from the requirements of subdivision 8.3.c.

8.3.d. Where appropriate the owner or operator of a fuel burning unit(s), manufacturing process unit(s) or combustion source(s) may maintain such records in electronic form.

8.3.e. Requests for Information.

8.3.e.1. The Director shall respond within five working days to requests for information generated or required under this rule. Requests for information not in the Director's custody shall be promptly forwarded to the appropriate federal or state agency known to have such information.

8.3.e.2. Data regarding the compliance reporting of electric utility SO_2 emissions is available from the U.S. Environmental Protection Agency (EPA). Requests for EPA emissions data should be sent to: EPA Clean Air Marketing Division, 501 3rd Street NW, Washington, D.C. 20001 or online at http://www. epa.gov/acidrain/edata.html. Data relating to fuel quality and costs of fuels are available at the Federal Energy Regulatory Commission (FERC) and the West Virginia Public Service Commission. Requests for FERC data should be sent to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, D.C. 20426 or online at http://www.ferc.fed.us/ electric/f423/form423.htm. Requests for PSC data should be sent to: The West Virginia Public Service Commission, Utility Division, P. O. Box 812, Charleston, W. Va. 25323-0812.

§47-10-9. Variance.

9.1. Due to unavoidable malfunction of equipment or inadvertent fuel shortages, emissions exceeding those provided for in this rule may be permitted by the Director for periods not to exceed ten (10) days upon specific application to the Director. Such application shall be made within twenty-four (24) hours of the equipment malfunction or fuel shortage. In cases of major equipment failure or extended shortages of conforming fuels, additional time periods may be granted by the Director provided a corrective program has been submitted by the owner or operator and approved by the Director.

§45-10-10. Exemptions and Recommendations.

10.1. Any fuel burning units having a design heat input under ten (10) million BTU's per hour will be exempt from section 3 and sections 6

through 8. However, failure to attain acceptable air quality in parts of some urban areas may require the mandatory control of these sources at a later date.

10.2. In an effort to avoid the necessity for such mandatory controls the Director strongly recommends that specific fuel quality objectives be met. In Priority I and Priority II regions and in cities in Priority III regions with a population of more than 10,000 (based on the latest census) the Director recommends that no person use or provide for sale fuel having a sulfur content greater than that listed in the following table (at the end of this rule) Table 45-10B for use in residential and other fuel burning units not otherwise restricted by this rule.

10.3. The owner or operator of a fuel burning unit(s) which combusts natural gas, wood or distillate oil, alone or in combination, shall be exempt from the requirements of section 8. Manufacturing operations in which the process is to partially combust wood during the manufacture of charcoal shall be exempt from the requirements of section 8.

§45-10-11. Circumvention.

11.1 No owner or operator subject to the provisions of this rule shall build, erect, install, modify or use any article, machine, equipment or process, the use of which purposely conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere.

§45-10-12. Inconsistency Between Rules.

12.1. In the event of any inconsistency between this rule and any other rule of the West Virginia Division of Environmental Protection, such inconsistency shall be resolved by the determination of the Director and such determination shall be based upon the application of the more stringent provision, term, condition, method or rule.

TABLE 45-10A

Priority Classification	Federal Air Quality Control Region	Included West Virginia Counties
I	Region I, Steubenville-Weirton-Wheeling Interstate Air Quality Control Region (Ohio - West Virginia)	Brooke Hancock Marshall Ohio
	Region VII, Cumberland-Keyser Interstate Air Quality Control Region (West Virginia - Maryland)	Grant (Union District only) Mineral (Elk, New Creek, and Piedmont Districts)
II	Region II, Parkersburg-Marietta Interstate Air Quality Control Region (West Virginia - Ohio)	Jackson Pleasants Tyler Wetzel Wood
III	All other regions	All other counties or districts not listed above

TABLE 45-10B

EFFECTIVE DATE	PERCENT SULFUR CONTENT OF FUELS	
	Coal	Oil
June 30, 1972	3.0	2.0
June 30, 1975	2.0	1.5
June 30, 1978	1.0	0.5