



ENERGY AND ENVIRONMENT CABINET
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Division for Air Quality

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U.S. Environmental Protection Agency
EPA Docket Center (EPA/DC), Mailcode 28221T
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
Submitted via online docket at www.regulations.gov

Attention: Docket ID No. EPA-HQ-OAR-2015-0090

Re: 80 FR 81234, Revisions to the Public Notice Provisions in
Clean Air Act Permitting Programs, Proposed Rule (December 29, 2015)

The Division for Air Quality (Division) respectfully submits the following comments in response to the December 29, 2015 *Federal Register* notice soliciting comments on the "Revisions to the Public Notice Provisions in Clean Air Act Permitting Programs, Proposed Rule," 80 FR 81234. The Administrator proposes to revise the requirements to publish notices of permit actions in newspapers to allow for the option of using a modern system of internet based electronic notices on a publically available web site.

The Division supports this rulemaking as a more effective and cost savings means of providing real and timely notice of pending permit actions to the public. In 2015, the Division expended approximately \$24,000 in costs associated with publication fees for public notices in various news publications across the Commonwealth. The Division anticipates that the elimination of newspaper notification for permit actions could provide a direct cost savings of a similar amount in future years, depending on the number of public notices required in a given year.

The Division already provides electronic access and notification to the public of the agency's permitting actions via our website, air.ky.gov, in addition to the newspaper notification currently required by our state administrative regulations and State Implementation Plan (SIP). The Division does not have the authority to immediately begin implementing the e-notice or e-access provisions of this proposed rule as the primary and sole means of achieving adequate public notice for permitting actions under our current state administrative regulations, which are incorporated into the Kentucky SIP. To switch to the

e-notice and e-access system proposed as the “consistent noticing method” would require amendments to our regulations through Kentucky’s regulatory promulgation process and subsequent approval from EPA of the changes as a revision to the approved SIP.

Therefore, the Division urges EPA to include provisions for expedited approval of the required regulatory changes in the SIP necessary to implement the e-notice and e-access specified in the final rule. Specific language that expedites the approval of this SIP revision under 40 CFR Parts 51 and 52, and sets a timely deadline for EPA action to approve or disapprove these amended regulations, once submitted as SIP revisions, should be added to the appropriate sections of the rule.

The Division supports the flexibility afforded under the “method reasonably likely to provide routine and ready access to the public” as compared to only one “consistent noticing method,” as technical issues or web outages may occur. As long as there is adequate notice to the public by an alternate means, the notice requirements should be met by the alternate method. The Division also supports a list of criteria for temporary use of an alternative noticing method. Additionally, the final rule should allow the public notice required for a change in the “consistent noticing method,” to be addressed by the state or local agency public notice provisions required for the promulgation process to change the regulations. The Division recommends that the proposed rule specifically require the selection of the “consistent noticing method” be made by state or local agency regulatory promulgation, the change of which would trigger the agency’s promulgation public notice process.

The Division also supports the language in the preamble that details the recommended best practices for e-notice without incorporating those practices into the actual rule; providing a clear and consistent approach for addressing the Notice Requirements for PSD permit rescissions, as well as minor NSR permit actions; and adding the flexibility for not requiring e-access to draft permit or large documents contained in the permit record, as some agencies may not have the computer systems necessary to support the document hosting.

If you have any questions or need clarification regarding the Division’s comments, please contact Mr. Jarrod Bell, Environmental Scientist Consultant, Division for Air Quality, at (502)564-3999 or by email at jarrod.bell@ky.gov.

Sincerely,



Sean Alteri,
Director