

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

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2002 APR 16 P 4: 16

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: WV DEP - Division of Air Quality TITLE NUMBER: 45

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 8

TITLE OF RULE BEING AMENDED: "Ambient Air Quality Standards for Sulfur Oxides and
Particulate Matter"

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

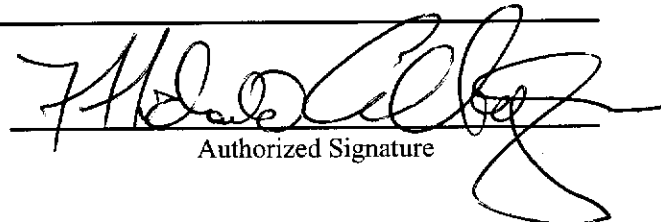
TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) H.B. 4163

SECTION 64-3-1(a), PASSED ON March 9, 2002

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: July 1, 2002


Authorized Signature

SCANNED

FILED

TITLE 45
LEGISLATIVE RULE
DEPARTMENT OF ENVIRONMENTAL PROTECTION 2002 APR 16 P 4: 16
DIVISION OF AIR QUALITY

SERIES 8
OFFICE WEST VIRGINIA
SECRETARY OF STATE
AMBIENT AIR QUALITY STANDARDS FOR SULFUR OXIDES
AND PARTICULATE MATTER

§45-8-1. General.

1.1. Scope. -- The purpose of this rule is to establish ambient air quality standards for sulfur oxides and particulate matter, equivalent to those national primary and secondary ambient air quality standards established by the U.S. EPA.

National primary ambient air quality standards define levels of air quality which the Administrator of the U.S. EPA judges are necessary, with an adequate margin of safety, to protect the public health. National secondary ambient air quality standards define levels of air quality which the administrator of the U.S. EPA judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant. Such standards are subject to revision, and additional primary and secondary standards may be promulgated as the Administrator of the U.S. EPA deems necessary to protect the public health and welfare.

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

1.3. Filing Date. -- April 16, 2002.

1.4. Effective Date. -- July 1, 2002.

1.5. Former Rules. -- This legislative rule amends 45CSR8 - "Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter" which was filed on May 19, 2000 and became effective on June 1, 2000.

§45-8-2. Anti-Degradation Policy.

2.1. Pursuant to the best interests of the State

of West Virginia, it is the objective of the Secretary to obtain and maintain the cleanest air possible, consistent with the best available technology.

2.2. Where the present ambient air is of better quality than the established standards, the Secretary will develop long-range plans to protect the difference between the present quality and the established standards. The plans will be based upon the best available forecasts of probable land and air uses in these areas of high air quality.

2.3. The air quality of these areas will not be lowered unless it has been clearly demonstrated to the Secretary that such a change is justifiable as a result of necessary economic or social development and will not result in statutory air pollution. This will require that any industrial, public, or private project or development which could constitute a new source of air pollutants, within an area of such high air quality, provide the best practicable control available under existing technology as part of the initial project or development.

§45-8-3. Definitions.

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

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

3.3. "Ambient Air Quality Standards" means the numerical expression of a specified concentration level for a particular air pollutant in

the ambient air and the time averaging interval over which that concentration level is measured.

3.4. "Particulate Matter" means any material, except uncombined water, that exists in a finely divided form as a liquid or solid.

3.5. "PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers.

3.6. "Secretary " means the secretary of the department of environmental protection or such other person to whom the secretary has delegated authority or duties pursuant to W. Va. Code §§22-1-6 or 22-1-8.

§45-8-4. Ambient Air Quality Standards.

4.1. The following ambient air quality standards shall not be exceeded:

4.1.a. Sulfur Dioxide

4.1.a.1. Primary Standard

4.1.a.1.A. Annual Arithmetic Mean Concentration - 80 micrograms per cubic meter (0.003 parts per million).

4.1.a.1.B. Maximum 24-Hour Concentration - 365 micrograms per cubic meter (0.14 ppm) - not to be exceeded more than once per year.

4.1.a.2. Secondary Standard

4.1.a.2.A. Maximum Three (3) Hour Concentration - 1300 micrograms per cubic meter (0.5 ppm) - not to be exceeded more than once per year.

4.1.b. Particulate Matter Primary and Secondary Standards

4.1.b.1. PM₁₀

4.1.b.1.A. Annual Arithmetic Mean Concentration - 50 micrograms per cubic

meter (ug/m³). The standards are attained where the expected annual arithmetic mean, in accordance with Appendix K of 40 CFR 50, is less than or equal to 50 ug/m³.

4.1.b.1.B. Maximum 24 Hour Concentration - 150 micrograms per cubic meter (150 ug/m³). The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 ug/m³, as determined in accordance with Appendix K of 40 CFR 50, is less than or equal to one.

§45-8-5. Methods of Measurement.

5.1. PM₁₀ concentrations shall be measured in the ambient air as particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers by:

5.1.a. a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53; or

5.1.b. an equivalent method designated in accordance with 40 CFR Part 53.

5.2. Sulfur dioxide concentrations shall be measured in the ambient air as sulfur dioxide by:

5.2.a. a reference method based on Appendix A of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53; or

5.2.b. an equivalent method designated in accordance with 40 CFR Part 53.

§45-8-6. Inconsistency Between Rules.

6.1. In the event of any inconsistency between this rule and any other rule of the Secretary, the resolution of such inconsistency shall be based upon the application of the more stringent provision, term, condition, method, or rule.