

**FORM #4**

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OFFICE OF THE GOVERNOR  
SECRETARY OF STATE

## NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Division of Environmental Protection, Office of Air Quality TITLE NUMBER: 45

CITE AUTHORITY: W. Va. Code §22-5-1 et seq.

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 NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED:\_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Carrie J. Chambers  
Authorized Signature

Authorized Signature



Executive Office  
#10 McJunkin Road  
Nitro, WV 25143-2506  
Telephone No: (304)759-0575  
Fax No: (304)759-0526



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## West Virginia Bureau of Environment

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Cecil H. Underwood  
Governor

Michael C. Castle  
Commissioner

January 25, 2000

Ms. Judy Cooper  
Director, Administrative Law  
Division  
Secretary of State's Office  
Capitol Complex  
Charleston, WV 25305

RE: 45CSR8 – "Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter"

Dear Ms. Cooper:

This letter will serve as my approval to file the above-referenced rule as a "Notice of Rule Modification" with your office and the Legislative Rule-Making Review Committee.

Your cooperation in this regard is very much appreciated. If you should have questions or require additional information, please contact Carrie Chambers in my office at 759-0515.

Sincerely yours,

Michael C. Castle  
Commissioner

MCC:cc

Attachment

cc: Karen Watson  
Carrie Chambers

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

SERIES 8  
AMBIENT AIR QUALITY STANDARDS FOR SULFUR OXIDES  
AND PARTICULATE MATTER

FILED

JAN 25 2 58 PM '00

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE**§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. -- ~~June 1, 1999.~~

1.4. Effective Date. -- ~~August 30, 1999.~~

1.5. Former Rules -- This legislative rule amends 45CSR8 - "Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter" which was filed on June 1, 1999 and became effective on August 30, 1999.

**§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 Director 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 Director 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 Director 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', ~~has~~ shall have the meaning ascribed to it in W. Va. Code §22-5-2.

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

~~3.4. "PM<sub>2.5</sub>" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.~~

3.54. "PM<sub>10</sub>" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers.

3.65. "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.

#### §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. PM<sub>2.5</sub>~~

~~4.1.b.1.A. Annual arithmetic mean concentration of 15 micrograms per cubic~~

~~meter (ug/m<sup>3</sup>), attained when the annual arithmetic mean concentration, as determined in accordance with Appendix N of 40 CFR Part 50, is less than or equal to 15.0 micrograms per cubic meter (15.0 ug/m<sup>3</sup>).~~

~~4.1.b.1.B. Average 24-hour concentration of 65 micrograms per cubic meter (ug/m<sup>3</sup>), attained when the 98<sup>th</sup> percentile 24-hour concentration, as determined in accordance with Appendix N of 40 CFR Part 50, is less than or equal to 65 micrograms per cubic meter (65 ug/m<sup>3</sup>).~~

##### 4.1.b.21. PM<sub>10</sub>

~~4.1.b.2.A. Annual arithmetic mean concentration of 50 micrograms per cubic meter (ug/m<sup>3</sup>), attained when the annual arithmetic mean concentration, as determined in accordance with Appendix N of 40 CFR Part 50, is less than or equal to 50 micrograms per cubic meter (50 ug/m<sup>3</sup>).~~

~~4.1.b.2.B. Average 24-hour concentration of 150 micrograms per cubic meter (ug/m<sup>3</sup>), attained when the 99<sup>th</sup> percentile 24-hour concentration, as determined in accordance with Appendix N of 40 CFR Part 50, is less than or equal to 150 micrograms per cubic meter (150 ug/m<sup>3</sup>).~~

4.1.b.21.A. Annual Arithmetic Mean Concentration - 50 micrograms per cubic meter (ug/m<sup>3</sup>). 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/m<sup>3</sup>.

4.1.b.21.B. Maximum 24 Hour Concentration - 150 micrograms per cubic meter (150 ug/m<sup>3</sup>). The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 ug/m<sup>3</sup>, 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. PM<sub>2.5</sub> concentrations shall be measured in the ambient air as particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers by:~~

~~5.1.a. a reference method based on Appendix L 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.~~

5.21. PM<sub>10</sub> 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:

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

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

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

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

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

#### **§45-8-6. Inconsistency Between Rules.**

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