

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: WV Air Pollution Control Commission TITLE NUMBER: 45

CITE AUTHORITY WV Code, Chapter 16, Article 20, Section 5

AMENDMENT TO AN EXISTING RULE: YES NO

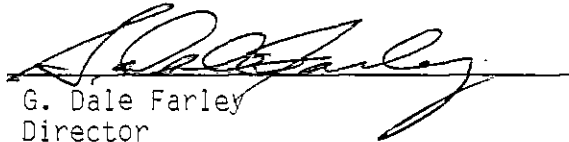
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 8

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.


G. Dale Farley
Director

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Chapter 16-20, Series 8 - "Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter"

Type of Rule: X Legislative Interpretive Procedural

Agency Air Pollution Control Commission Address 1558 Washington Street, East
Charleston, West Virginia 25305

| 1. Effect of Proposed Rule | ANNUAL | | FISCAL YEAR | | |
|----------------------------|-----------|----------|-------------|-----------|------------|
| | Increase | Decrease | Current | Next | Thereafter |
| Estimated Total Cost | \$ 36,300 | \$ | \$ | \$ 36,300 | \$ |
| Personal Services | | | | | |
| Current Expense | | | | | |
| Repairs and Alterations | | | | | |
| Equipment | 36,300 | | | 36,300 | |
| Other | | | | | |

2. Explanation of above estimates:

Projected equipment cost for eleven (11) PM₁₀ air monitors to be phased into operation over two years pending adequate funding. APCC will request USEPA to provide funding for at least six (6) monitors.

3. Objectives of these rules:

This regulation adopts the National Ambient Air Quality Standards for Sulfur Oxides and Particulate. The revisions to this existing regulation are a result of EPA's promulgation of new PM₁₀ standards on July 1, 1987.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

PM₁₀ implementation plan development will require APCC staff time as mandated by the federal Clean Air Act. Monitoring of ambient PM₁₀ levels will require phased acquisition of PM₁₀ monitoring equipment.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.


No impact above any impacts ultimately resulting from federal promulgation of the National Ambient Air Quality Standards for PM₁₀.

C. Economic Impact on Citizens/Public at Large.

No impact above any impacts ultimately resulting from federal promulgation of the National Ambient Air Quality Standards for PM₁₀.

Date: September 6, 1989

Signature of Agency Head or Authorized Representative



G. Dale Farley
Director

FILED
1989 SEP -6 PM 4:16
OFFICE OF THE SECRETARY OF STATE

DATE: September 6, 1989

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: G. Dale Farley, Director - WVAPCC

LEGISLATIVE RULE TITLE: Regulation 8 - "Ambient Air Quality Standards For Sulfur Oxides and Particulate Matter"

1. Authorizing statute(s) citation Chapter 16, Article 20, Section 5

2. a. Date filed in State Register with Notice of Hearing:

June 1, 1989

b. What other notice, including advertising, did you give of the hearing?

Notice of hearing was provided in one newspaper in each of ten (10) designated air quality control regions in the state. (See attached list with dates of publication.)

c. Date of hearing (s): July 31, 1989

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received _____

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

September 6, 1989

f. Name and phone number of agency person to contact for additional information:

G. Dale Farley

Director

(304) 346-2275

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

_____ N/A _____

b. Date of hearing: _____ N/A _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

_____ N/A _____

d. Attach findings and determinations and reasons:

Attached _____ N/A _____

AMENDMENTS
January 10, 1990

ERRATA

CHANGES TO REGULATION 8
(45CSR8)

"Air Quality for Sulfur Oxides and Particulate Matter"

- Page 2, Line 6: Change "~~Section 2 of Chapter 16, Article 20 of the Code of West Virginia~~" to "WV Code 16-20-2"
- Page 5, Line 12: ADD: "the resolution of"

Regulation was amended as suggested by Legislative Rulemaking Review Committee.

AMENDMENTS

ERRATA

CHANGES TO REGULATION 8
(45CSR8)

"Air Quality Standards for Sulfur Oxides and Particulate Matter"

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- Page 2, Section 2.5. Delete definition of "TSP" or "Total Suspended Particulate Matter."
- Page 3, Section 3.1.a. Correction: Changed (0.05 ppm) to (0.5 ppm)
- Page 3, Section 3.1.b. Deleted reference to "Total Suspended Particulate Matter" (10 lines) and replaced with "PM₁₀" standards.
- Page 4, Section 4.1. Deleted Section 4.1., reference to "Total Suspended Particulate Matter" measurements.

Re-numbered subsections as required.

Regulation was amended as a result of public comment.

[PROPOSED]

45CSR8

SUMMARY

45CSR8 was promulgated by the Commission on January 19, 1972, amended on June 25, 1975 and on January 8, 1979. The latest amendment to the regulation became effective on May 1, 1979. This regulation adopts the national ambient air quality standards for sulfur oxides and particulate. The revisions to this regulation are a result of EPA's promulgation of the new PM₁₀ particulate standards on July 1, 1987.

[PROPOSED]

45CSR8

TITLE 45
LEGISLATIVE RULES
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

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

Index.

- §45-8-1. General.
- §45-8-2. Definitions.
 - 2.1. "Air Pollutants"
 - 2.2. "Air Pollution"
 - 2.3. "Commission"
 - 2.4. "Person"
 - 2.5. "Particulate Matter"
 - 2.6. "PM₁₀"
 - 2.7. "Standard Conditions"
 - 2.8. "Ambient Air Quality Standards"
- §45-8-3. Ambient Air Quality Standards.
- §45-8-4. Methods of Measurement.
- §45-8-5. Inconsistency Between Regulations.

[PROPOSED]

45CSR8

TITLE 45
LEGISLATIVE RULES
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

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

§45-8-1. Anti-Degradation-Policy General.

1.1. Scope. — In the best interests of the State of West Virginia it is the objective of the Commission to obtain and maintain the cleanest air possible, consistent with the best available technology.

Where the present ambient air is of better quality than the established standards, the Commission 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 such areas of high air quality.

The air quality of these areas will not be lowered unless it has been clearly demonstrated to the Commission 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.

1.2. Authority. — This regulation is issued under the authority of the West Virginia Code, Chapter 16, Article 20, Section 5. This regulation relates to West Virginia Code, Chapter 16, Article 20, Sections 1 through 13 inclusive.

1.3. Filing date. —

1.4. Effective Date. --

§45-8-2. Definitions.

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

2.2. "Air Pollution", 'statutory air pollution', has the meaning ascribed to it in ~~Section 2 of Chapter 16, Article 20 of the Code of West Virginia~~ WV Code 16-20-2, as amended.

2.3. "Commission" means the West Virginia Air Pollution Control Commission.

2.4. "Person" means any and all persons, natural or artificial, including any municipal, public, or private corporation organized or existing under the law of this or any other state or country, and any firm, partnership, or association of whatever nature.

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

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

~~2-6.~~2.7. "Standard Conditions" means, for the purposes of this regulation, a temperature of 25°C and a pressure of 760 millimeters of mercury column.

~~2-7.~~2.8. "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.

§45-8-3. Ambient Air Quality Standards.

3.1. The following ambient air quality standards shall not be exceeded at any sampling site:

a. Sulfur Dioxide

Primary Standard

Annual Arithmetic Mean Concentration - 80 micrograms per cubic meter (0.03 parts per million).

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

Secondary Standard

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

~~b. -- Particulate Matter~~

~~Primary Standard~~

~~Annual Geometric Mean Concentration -- 75 micrograms per cubic meter.~~

~~Maximum 24-Hour Concentration -- 260 micrograms per cubic meter -- not to be exceeded more than once per year.~~

~~Secondary Standard~~

~~Maximum 24-Hour Concentration -- 150 micrograms per cubic meter -- not to be exceeded more than once per year.~~

b. PM₁₀

Primary and Secondary Standards

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.

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.

§45-8-4. Methods of Measurement.

~~4.1. Suspended particulate matter concentrations shall be determined by high volume filtration or by such other methods approved as equally or more specific, accurate, sensitive, and reproducible by the West Virginia Air Pollution Control Commission.¹~~

~~4.2. Sulfur dioxide concentrations shall be determined by any of the methods listed below or by such other methods approved as equally or more specific, accurate, sensitive, and reproducible by the West Virginia Air Pollution Control Commission:~~

- ~~(a) Utilization of the West-Gaeke (pararosaniline) method as modified by Scaringell, et al.²~~
- ~~(b) The use of a continuous sampling and recording instrument based on coulometric, colorimetric, or an equivalent principle and utilizing the modified West-Gaeke analytical procedure as a standard means of calibration.~~

4.1. 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:

- a. reference method based on Appendix J of 40 CFR 50 and designated in accordance with 40 CFR 53, or
- b. an equivalent method designated in accordance with 40 CFR 53.

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

- a. reference method based on Appendix A of 40 CFR 50 and designated in accordance with 40 CFR 53, or

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

Section 5. Effective Date

~~Regulation Series VIII (1975) was amended by the Commission on the 8th day of January, 1979, and shall become effective the 1st day of May, 1979. Regulation Series VIII (1975), as amended, shall henceforth be cited as Regulation Series VIII (1979). Regulation Series VIII (1975) was adopted by the Commission on the 25th day of June, 1975, and became effective the 1st day of August, 1975, and superseded Regulation Series VIII (1972) which was adopted by the Commission on the 19th day of January, 1972, and became effective March 15, 1972.~~

§45-8-5. Inconsistency Between Regulations.

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

~~The foregoing is a true and correct copy of the West Virginia Air Pollution Control Commission Regulation Series VIII (1979) as adopted on the 8th day of January, 1979.~~

Carl G. Beard, II
Secretary
West Virginia Air Pollution
Control Commission

WEST-VIRGINIA-ADMINISTRATIVE-REGULATIONS

Subject: Regulation-VII--"Ambient-Air-Quality-Standards-for-Sulfur-Oxides-and
Particulate-Matter"

REFERENCES

¹"Air-Pollution-Measurements-of-the-National-Air-Sampling-Network:--Analysis-of
Suspended-Particulates,-1957-1961."--Public-Health-Service-Pub.-No.-978,-Washington,
D.-C.,-1962.

²Searingell, F. P., Saltzman, B. E., and Frey, S. A., "Spectrophotometric Determination
of-Atmospheric-Sulfur-Dioxide."--Analytical-Chemistry,-Vol.-39,-pp.-1709-1719,-December,
1967.



WEST VIRGINIA LEGISLATURE
 LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
 Room M-438, State Capitol
 Charleston, West Virginia 25305
 (304) 340-3286

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 1990 JAN 19 AM 11:46
 OFFICE OF THE CLERK OF THE WEST VIRGINIA LEGISLATURE
 SECRETARY OF STATE

Senator Lloyd Jackson, Co-Chairman
 Delegate Patrick H. Murphy, Co-Chairman

Debra A. Graham, Counsel
 Marie Nickerson, Receiving Clerk

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

January 8, 1990

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. G. Dale Farley, Director
 Air Pollution Control Commission
 1558 Washington Street, East
 Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Ambient Air Quality Standards for Sulfur
 Oxides and Particulate Matter

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.