

**WEST VIRGINIA
SECRETARY OF STATE
Betty Ireland
ADMINISTRATIVE LAW DIVISION**

Form #1

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2007 NOV 14 PM 3:53

OFFICE OF THE
SECRETARY OF STATE

NOTICE OF A PUBLIC HEARING ON A PROPOSED RULE

AGENCY: WVDEP - Division of Air Quality TITLE NUMBER: 45

RULE TYPE: Legislative 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: 9

TITLE OF RULE BEING AMENDED: Repeal - - Ambient Air Quality Standards for Carbon Monoxide and Ozone.

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

DATE OF PUBLIC HEARING: December 17, 2007 TIME: 6:00 P.M.

LOCATION OF PUBLIC HEARING: West Virginia Department of Environmental Protection

Dolly Sods Conference Room - Room # 1125

601 57th Street, SE
Charleston, WV 25304

COMMENTS LIMITED TO: ORAL WRITTEN BOTH

DATE WRITTEN COMMENT PERIOD ENDS: December 17, 2007 TIME: 6:00 P.M.

WRITTEN COMMENTS MAY BE MAILED TO:

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.


John Benedict, Director
WVDEP - Division of Air Quality

601 57th Street, SE

Charleston, WV 25304

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL


Authorized Signature

\$3.70

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BRIEFING DOCUMENT

The Department of Environmental Protection, Division of Air Quality, is proposing to repeal 45CSR9 as a part of its rule consolidation and streamlining efforts. These efforts will result in consolidating several existing rules addressing the same general subject into a fewer number of rules to provide a more efficient and user-friendly set of rules for the regulated community and the general public.

The substantive provisions of 45CSR9 have been updated and included in the provisions of the agency-approved rule 45CSR8, previously filed with the Secretary of State on July 26, 2007, and proposed for authorization by the 2008 Legislature.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 45CSR9 - "Ambient Air Quality Standards For Carbon Monoxide And Ozone"

Type of Rule: X Legislative Interpretive Procedural

Agency: Division of Air Quality

Address: 601 57th Street SE
Charleston, WV 25304

Phone Number: 926-0475

Email: tmowrer@wvdep.org

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The Department of Environmental Protection, Division of Air Quality, is proposing to repeal 45CSR9 as a part of its rule consolidation and streamlining efforts. These efforts will result in consolidating several existing rules addressing the same general subject into a fewer number of rules to provide a more efficient and user-friendly set of rules for the regulated community and the general public.

The substantive provisions of 45CSR9 have been updated and included in the provisions of the agency-approved rule 45CSR8, previously filed with the Secretary of State on July 26, 2007, and proposed for authorization by the 2008 Legislature. The proposed repeal of this rule should cause no additional impact on costs and revenues of state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR

Effect of Proposal	2008 Increase/Decrease (use "-")	2009 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	\$ 0	\$ 0	\$ 0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs & Alterations	0	0	0
Assets	0	0	0
Equipment	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

Rule Title: 45CSR9 - "Ambient Air Quality Standards For Carbon Monoxide And Ozone"

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

The proposed repeal of this rule will have no effect on the costs to the Division of Air Quality. Refer to above explanation.

MEMORANDUM


Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The Department of Environmental Protection, Division of Air Quality, is proposing to repeal 45CSR9 as a part of its rule consolidation and streamlining efforts. These efforts will result in consolidating several existing rules addressing the same general subject into a fewer number of rules to provide a more efficient and user-friendly set of rules for the regulated community and the general public.

The substantive provisions of 45CSR9 have been updated and included in the provisions of the agency-approved rule 45CSR8, previously filed with the Secretary of State on July 26, 2007, and proposed for authorization by the 2008 Legislature. The proposed repeal of this rule should cause no additional impact on costs and revenues of state government.

Date: November 14, 2007

Signature of Agency Head or Authorized Representative



John A. Benedict, Director

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

SERIES 9
AMBIENT AIR QUALITY STANDARDS FOR
CARBON MONOXIDE AND OZONE

~~§45-9-1. General:~~

~~— 1.1. Scope. -- The purpose of this rule is to establish ambient air quality standards for carbon monoxide and ozone, 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 45CSR9 "Ambient Air Quality Standards for Carbon Monoxide and Ozone" which was filed on May 19, 2000 and became effective on June 1, 2000.~~

~~§45-9-2. Anti-Degradation Policy:~~

~~— 2.1. In 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 such 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.~~

~~§45-9-3. 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. "Ozone" means the triatomic oxygen molecule (O_3), a very reactive form of oxygen.~~

~~3.5. "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.~~

~~§45-9-4. Ambient Air Quality Standards:~~

~~4.1. The following ambient air pollutant concentrations shall not be exceeded:~~

~~4.1.a. Carbon Monoxide~~

~~4.1.a.1. Maximum eight (8) hour concentration, ten (10) milligrams per cubic meter (9 ppm) - not to be exceeded more than once per year.~~

~~4.1.a.2. Maximum one (1) hour concentration, forty (40) milligrams per cubic meter (35 ppm) - not to be exceeded more than once per year.~~

~~4.1.b. Ozone~~

~~4.1.b.1. The level of the one (1) hour primary and secondary ambient air quality standards for ozone is 0.12 parts per million (ppm) (235 micrograms per cubic meter [$\mu\text{g}/\text{m}^3$]).~~

~~4.1.b.2. The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 parts per million (ppm) (235 micrograms per cubic meter [$\mu\text{g}/\text{m}^3$]) is equal to or less than one (1), as determined by Appendix H to 40 CFR Part 50.~~

~~§45-9-5. Methods of Measurement:~~

~~5.1. Carbon Monoxide concentrations shall be measured in the ambient air by:~~

~~5.1.a. a reference method based on Appendix C 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. Ozone concentrations shall be measured in the ambient air by a reference method based on Appendix D to 40 CFR Part 50 and designated in accordance with 40 CFR Part 53.~~