

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

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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: 9

TITLE OF RULE BEING AMENDED: "Ambient Air Quality Standards for Carbon Monoxide
and Ozone"

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

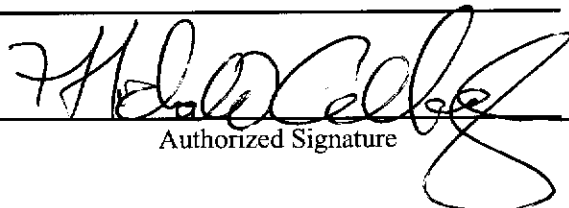
TITLE OF RULE BEING PROPOSED: _____

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(b), 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

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

**SERIES 9
AMBIENT AIR QUALITY STANDARDS FOR
CARBON MONOXIDE AND OZONE**

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OFFICE WEST VIRGINIA
SECRETARY OF STATE**§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 (O₃), 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.