

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

FORM #6

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MAY 19 9 33 AM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

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

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 12

TITLE OF RULE BEING AMENDED: "Ambient Air Quality Standard for Nitrogen
Dioxide"

IF NO, SERIES NUMBER OF NEW 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) HB 4223

SECTION 64-3-1(b) , PASSED ON March 11, 2000

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: June 1, 2000

Carrie J. Chambers

Authorized Signature



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



West Virginia Bureau of Environment

Cecil H. Underwood
Governor

Michael C. Castle
Commissioner

May 17, 2000

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

RE: 45CSR12 - "Ambient Air Quality Standard for Nitrogen Dioxide"

Dear Ms. Cooper:

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

Your cooperation in the above request is very much appreciated. If you should have any questions or require additional information, please call Carrie Chambers in my office at 759-0515.

Sincerely,

Michael C. Castle
Commissioner

MCC:cc

cc: Karen Watson
Carrie Chambers

LEGISLATIVE HISTORY ABSTRACT 45CSR12

Ambient Air Quality Standards for Nitrogen Dioxide

Bureau of Environment
Division of Environmental Protection
Office of Air Quality
House Bill 4223 Section 64-3-1(b)

- 6/16/99 Filed Notice of Public Hearing with Secretary of State.
- 6/16/99 Initial Filing with Legislative Rule-Making Review Committee.
- 7/14/99 Filed Notice of Extension of Public Comment Period.
- 7/19/99 Held Public Hearing.
- 7/28/99 End of Public Comment Period.
- 8/5/99 Agency Approved Rule Filed with Secretary of State and Legislative Rule-Making Review Committee.
- 10/19/99 Rule Approved by Legislative Rule-Making Review Committee.
- 3/11/00 Passed the West Virginia Legislature.
- 4/3/00 Signed by the Governor.
- 5/19/00 Rule Final Filed with Secretary of State.
- 6/1/00 Effective Date of Rule.

FILED

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

MAY 19 9 35 AM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 12
AMBIENT AIR QUALITY STANDARD FOR NITROGEN DIOXIDE

§45-12-1. General.

1.1. Scope. -- The purpose of this rule is to establish ambient air quality standards for nitrogen dioxide 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. -- May 19, 2000

1.4. Effective Date. -- June 1, 2000

1.5. Former Rules. -- This legislative rule amends 45CSR12 "Ambient Air Quality Standard for Nitrogen Dioxide" which was filed February 2, 1972, and which became effective March 15, 1972.

§45-12-2. 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.

§45-12-3. 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 Standard" 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.

§45-12-4. Ambient Air Quality Standard.

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

Nitrogen Dioxide

Annual Arithmetic Mean - 100 micrograms per cubic meter (0.053 parts per million)

§45-12-5. Methods of Measurement.

5.1. Nitrogen dioxide concentrations shall be measured in the ambient air by:

5.1.a. a reference method based on Appendix F 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.