



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2013 11:28:36 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 3 -- NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY **Air Quality**

RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-08**

RULE NAME **Ambient Air Quality Standards**

CITE AUTHORITY **22-5-4**

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 45-08



Rule Id: 9080



Document: 25115



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2013 11:28:36 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

AGENCY **Air Quality**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-08**
RULE NAME **Ambient Air Quality Standards**

CITE AUTHORITY **22-5-4**

AUTHORIZING STATUTE(S) CITATION

W. Va. Code 22-5-4

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD

Thursday, June 06, 2013

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

Public Notice placed on Department of Environmental Protection's web site, distributed via the agency's mailing list, and in a Class I legal ad published in the Charleston Newspapers.

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED

Monday, July 08, 2013

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 45-08



Rule Id: 9080



Document: 25115



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2013 11:28:36 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 2)

AGENCY **Air Quality**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-08**
RULE NAME **Ambient Air Quality Standards**

CITE AUTHORITY **22-5-4**

ATTACH LIST OF PERSONS WHO APPEARED AT HEARING, COMMENTS RECEIVED,
AMENDMENTS, REASONS FOR AMENDMENTS.

Attached

DATE YOU FILED IN STATE REGISTER THE AGENCY APPROVED PROPOSED LEGISLATIVE RULE
FOLLOWING PUBLIC HEARING: (BE EXACT)

Monday, July 22, 2013

NAME, TITLE, ADDRESS AND PHONE FAX EMAIL NUMBERS OF AGENCY PERSON(S) TO RECEIVE
ALL WRITTEN CORRESPONDENCE REGARDING THIS RULE

**Public Information Office
WV Department of Environmental Protection
601 57th Street, SE
Charleston, WV 25304
Phone: (304) 926-0499
Fax: (304) 926-0447
E-Mail: dep.comments@wv.gov**

**Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 45-08



Rule Id: 9080



Document: 25115



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2013 11:28:36 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 3)

AGENCY **Air Quality**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-08**
RULE NAME **Ambient Air Quality Standards**

CITE AUTHORITY **22-5-4**

IF DIFFERENT FROM ABOVE, PLEASE GIVE NAME, TITLE, ADDRESS, AND PHONE NUMBER(S) OF AGENCY PERSON(S) WHO WROTE AND OR HAS RESPONSIBILITY FOR THE CONTENTS OF THIS RULE

John A. Benedict, Director
Division of Air Quality
WV Department of Environmental Protection
601 57th Street, SE
Charleston, WV 25304
Phone: (304) 926-0499
Fax: (304) 926-0488
E-Mail: tammy.l.mowrer@wv.gov

IF THE STATUTE UNDER WHICH YOU PROMULGATED THE SUBMITTED RULES REQUIRES CERTAIN FINDINGS AND DETERMINATIONS TO BE MADE AS A CONDITION PRECEDENT TO THE PROMULGATION, 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.

Thursday, June 06, 2013

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 45-08



Rule Id: 9080



Document: 25115



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2013 11:28:36 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 4)

AGENCY **Air Quality**

RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-08**

RULE NAME **Ambient Air Quality Standards**

CITE AUTHORITY **22-5-4**

DATE OF HEARING OR COMMENT PERIOD

Monday, July 08, 2013

ON WHAT DATE DID YOU FILE IN THE STATE REGISTER THE FINDINGS AND DETERMINATIONS
REQUIRED TOGETHER WITH THE REASONS THEREFOR?

Monday, July 22, 2013

ATTACH FINDINGS AND DETERMINATIONS AND REASONS

Attached

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

**Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 45-08



Rule Id: 9080



Document: 25115



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2013 11:28:36 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY Air Quality
RULE TYPE Legislative AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 45-08
RULE NAME Ambient Air Quality Standards

CITE AUTHORITY 22-5-4

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

The proposed revisions to this rule should cause no additional impact on costs and revenues of state government.

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 45-08



Rule Id: 9080



Document: 25115



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2013 11:28:36 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY **Air Quality**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-08**
RULE NAME **Ambient Air Quality Standards**

CITE AUTHORITY **22-5-4**

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.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES	0	0	0
CURRENT EXPENSES	0	0	0
REPAIRS AND ALTERATIONS	0	0	0
ASSETS	0	0	0
OTHER	0	0	0
ESTIMATED TOTAL REVENUES	0	0	0

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 45-08



Rule Id: 9080



Document: 25115



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2013 11:28:36 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

AGENCY **Air Quality**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-08**
RULE NAME **Ambient Air Quality Standards**

CITE AUTHORITY **22-5-4**

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

The proposed revisions to this rule will have a minimal effect on the costs to the Division of Air Quality because they impose no additional requirements beyond current federal requirements. Costs are covered under previous cost estimates.

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 45-08



Rule Id: 9080



Document: 25115



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2013 11:28:36 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

AGENCY **Air Quality**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-08**
RULE NAME **Ambient Air Quality Standards**

CITE AUTHORITY **22-5-4**

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.

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 45-08



Rule Id: 9080



Document: 25115



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2013 11:28:36 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY **Air Quality**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-08**
RULE NAME **Ambient Air Quality Standards**

CITE AUTHORITY **22-5-4**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

The rule incorporates by reference the ambient air quality standards in West Virginia for sulfur oxides, particulate matter, carbon monoxide, ozone, nitrogen dioxide and lead, equivalent to the national primary and secondary ambient air quality standards (NAAQS) established under §109 of the Clean Air Act, and promulgated by the United States Environmental Protection Agency under 40 CFR Part 50. 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.

The rule also incorporates by reference the ambient air monitoring reference methods and equivalent methods promulgated by the United States Environmental Protection Agency under 40 CFR Part 53. These reference methods are used to demonstrate attainment (or non-attainment) of the NAAQS.

The standards and methods under 40 CFR Parts 50 and 53 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.

In accordance with §109 of the Clean Air Act (CAA), U.S. EPA has promulgated

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 45-08



Rule Id: 9080



Document: 25115



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/22/2013 11:28:36 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 2)

AGENCY **Air Quality**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-08**
RULE NAME **Ambient Air Quality Standards**

CITE AUTHORITY **22-5-4**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

air quality criteria and NAAQS for sulfur oxides, particulate matter, carbon monoxide, ozone, nitrogen dioxide and lead. 45CSR8 will meet the requirements for State Implementation Plans under §110 of the CAA through the NAAQS for sulfur oxides, particulate matter, carbon monoxide, ozone, nitrogen dioxide and lead incorporated by reference in this rule.

Based on its review of the air quality criteria and the national ambient air quality standards for particulate matter, EPA has revised the standard for fine particles to provide requisite protection of public health, and to made corresponding revisions to the data handling conventions for particulate matter and to the ambient air monitoring, reporting, and network design requirements.

With regard to primary standards for fine particles (PM2.5), the EPA is revising the annual PM2.5 standard by lowering the level from 15.0 to 12.0 micrograms per cubic meter (g/m3) so as to provide increased protection against health effects associated with long and short-term exposures such as premature mortality, increased hospital admissions and emergency department visits, and development of chronic respiratory disease. The final rule retains the 24-hour PM2.5 standard at a level of 35 g/m3.

45CSR8 incorporates by reference these revised standards. In accordance with §110(a)(2) (H) of the CAA, the DAQ will submit final rule 45CSR8 as a revision to the State Implementation Plan.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 45-08



Rule Id: 9080



Document: 25115

45CSR8

TITLE 45
LEGISLATIVE RULE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AIR QUALITY

SERIES 8
AMBIENT AIR QUALITY STANDARDS

§45-8-1. General.

1.1. Scope. -- This rule establishes and adopts ambient air quality standards in West Virginia for sulfur oxides, particulate matter, carbon monoxide, ozone, nitrogen dioxide and lead, equivalent to the national primary and secondary ambient air quality standards established under Section 109 of the Clean Air Act, and promulgated by the United States Environmental Protection Agency under 40 CFR Part 50. National primary ambient air quality standards define levels of air quality which the Administrator 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 judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant. This rule also establishes and adopts ambient air monitoring reference methods and equivalent methods promulgated by the United States Environmental Protection Agency under 40 CFR Part 53. The Secretary hereby adopts these standards and methods by reference. The Secretary also adopts the appendices to these standards and methods. These standards and methods are subject to revision, and additional primary and secondary standards may be promulgated as the Administrator deems necessary to protect the public health and welfare.

1.2. Authority. -- W.Va. Code §22-5-4.

1.3. Filing Date. -- ~~May 1, 2012~~.

1.4. Effective Date. -- ~~June 1, 2012~~.

1.5. Incorporation by Reference. -- Federal Counterpart Regulation. The Secretary has determined that a federal counterpart regulation exists, and in accordance with the Secretary's recommendation this rule incorporates by reference 40 CFR Part 50, "National Primary and Secondary Ambient Air Quality Standards," and 40 CFR Part 53, "Ambient Air Monitoring Reference and Equivalent Methods, effective ~~June 1, 2011~~ June 1, 2013."

1.6. Former Rules. -- This legislative rule amends 45CSR8 - "Ambient Air Quality Standards" which was filed on ~~June 16, 2011~~ May 1, 2012 and became effective on ~~June 16, 2011~~ June 1, 2012.

§45-8-2. Definitions.

2.1. "Administrator" means the Administrator of the United States Environmental Protection Agency or his or her authorized representative.

2.2. "Clean Air Act" or "CAA" means the federal Clean Air Act, as amended, 42 U.S.C. §7401 et seq.

2.3. "Secretary" means the Secretary of the Department of Environmental Protection or such other

45CSR8

person to whom the Secretary has delegated authority or duties pursuant to W.Va. Code §§22-1-6 or 22-1-8.

2.4. Other words and phrases used in this rule, unless otherwise indicated, shall have the meaning ascribed to them in 40 CFR §50.1. Words and phrases not defined therein shall have the meaning given to them in the federal Clean Air Act.

§45-8-3. Adoption of Standards.

3.1. The Secretary hereby adopts and incorporates by reference the national primary and secondary ambient air quality standards promulgated by the United States Environmental Protection Agency under 40 CFR Part 50, effective ~~June 1, 2011~~ June 1, 2013. These standards are adopted for the purpose of establishing ambient air quality standards in West Virginia that are equivalent to those established under Section 109 of the Clean Air Act, as amended.

3.2. The Secretary hereby adopts and incorporates by reference the ambient air monitoring reference methods and equivalent methods promulgated by the United States Environmental Protection Agency under 40 CFR Part 53, effective ~~June 1, 2011~~ June 1, 2013. These standards are adopted for the purpose of establishing ambient air monitoring reference methods and equivalent methods in West Virginia.

§45-8-4. Inconsistency Between Rules.

4.1. In the event of any inconsistency between this rule and any other rule of the West Virginia Department of Environmental Protection, the inconsistency shall be resolved by the determination of the Secretary and the determination shall be based upon the application of the more stringent provision, term, condition, method, or rule.