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. -- April 4, 2014.

1.4. Effective Date. -- June 1, 2014.

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, 2013."

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