

**45CSR8**  
**AMBIENT AIR QUALITY STANDARDS**

**RESPONSE TO COMMENTS**

The WV Department of Environmental Protection (DEP), Division of Air Quality (DAQ) commenced the public comment period for proposed legislative rule 45 C.S.R. 8 on June 26, 2020. The public comment period concluded July 28, 2020 after satisfying the minimum 30-day period. The public hearing was held virtually to prevent the spread of COVID-19 in accordance with the Governor's Safer at Home Order and the WV DEP COVID-19 Policy on July 28, 2020 to accept oral and written comments on the proposed revisions to legislative rule 45 C.S.R. 8. Any comments received after this time are considered *ex parte* communications and cannot be considered in accordance with West Virginia Code Chapter 29A Article 3.

No written or verbal comments were received regarding the proposed revisions to rule 45 C.S.R. 8.

There were no changes made to 45 C.S.R. 8 as a result of the comments.

*DEPARTMENT OF ENVIRONMENTAL PROTECTION PUBLIC HEARING*

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*AMBIENT AIR QUALITY STANDARDS*

*07/28/2020*

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*"Because your time matters"*

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Charleston, WV 25301

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DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF AIR QUALITY

PUBLIC HEARING TEXT - VIRTUAL HEARING

PROPOSED 2021 LEGISLATIVE RULES

July 28, 2020 - 6:00 PM

Held via Microsoft TEAMS

45CSR8, Ambient Air Quality Standards

REALTIME REPORTERS, LLC  
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713 Lee Street  
Charleston, West Virginia 25271  
(304) 344-8463  
realtimereporters.net

1 45CSR8, Ambient Air Quality Standards

2 -- oOo --

3 MR. FLETCHER: Good evening everyone. My  
4 name is Terry Fletcher and I am with the West  
5 Virginia Department of Environmental Protection's  
6 Public Information Office. Welcome to the public  
7 hearings for the Division of Air Quality's seven  
8 proposed rules for the 2021 West Virginia  
9 Legislative Session.

10 There will be a separate public hearing  
11 for each of the seven rules. The hearings will be  
12 held sequentially and will commence immediately  
13 following the conclusion of the hearing for the  
14 previous proposed rule.

15 With me this evening are members of the  
16 DEP's Division of Air Quality, including Stephanie  
17 Hammonds, an Environmental Resource Specialist with  
18 the Compliance and Enforcement Section; Laura  
19 Jennings, a Technical Analyst with the Planning  
20 Section; and Administrative Professionals Sandie  
21 Adkins and Pam Kendrick, as well as Christina  
22 Richmond from the DEP's Business & Technology  
23 Office. We also have the court reporter, Kristina  
24 Guthrie, who is also with us.

1           The purpose of each of these public  
2 hearing is to receive public comments on the record  
3 regarding each of the seven proposed DAQ rules.  
4 Each public hearing is being recorded and a court  
5 reporter is in attendance so that the comments you  
6 share can be taken into consideration and entered  
7 into the public record.

8           Because the purpose of the public hearing  
9 is to listen to your comments and make them public  
10 record, it is not a forum to engage the DEP in open  
11 discussion or debate about the proposed rules.

12           Please note that everyone has been muted  
13 upon entry into the meeting and this is to ensure  
14 we are not interrupting others while they are  
15 speaking or trying to talk over one another.

16           Everyone was requested to pre-register for  
17 this public hearing so that we have a public record  
18 of the hearing participants as required under the  
19 federal air quality regulations.

20           Anyone wishing to speak was instructed to  
21 pre-register in advance and will be called upon by  
22 Stephanie Hammonds when it is their turn to speak.  
23 When called upon, you will be unmuted, and told to  
24 go ahead with your comment.

1           Please state clearly your name and  
2 indicate if you are representing any groups or  
3 organizations. Please keep the comments on topic  
4 and limit the comments to five minutes each.

5           We ask that you specify when your comment  
6 is finished so we can re-mute you. All comments  
7 received will be addressed in a formal response to  
8 comment document that will be part of the official  
9 rule making record and made available on the West  
10 Virginia Secretary of State's website.

11           Christina Richmond and I, along with other  
12 DAQ staff, will be monitoring the TEAMS chat during  
13 the duration of the public hearing to assist with  
14 any technical issues or questions. All chat  
15 communications also become part of the public  
16 record.

17           We ask that everyone be respectful and  
18 considerate of each other by refraining from using  
19 foul language, refraining from name calling, and  
20 refraining from interrupting others while they are  
21 speaking and we also ask that you keep your  
22 comments on the topic of the proposed DAQ rule so  
23 that our time together is used efficiently.

24           Now that the introductory remarks have

1 been made, I am turning this over to Laura Jennings  
2 with the Division of Air Quality.

3 MS. JENNINGS: Thank you, Terry.

4 I am going to ask the court reporter,  
5 Kristina, are you ready to proceed?

6 COURT REPORTER: I am.

7 MS. JENNINGS: Okay. Thank you.

8 The public hearing for the proposed  
9 Legislative Rule 45CSR8, our Ambient Air Quality  
10 Standards rule will now come to order on this 28th  
11 day of July, 2020, held virtually to prevent the  
12 spread of COVID-19 in accordance with the  
13 Governor's Safer at Home Order and the West  
14 Virginia DEP COVID-19 Policy.

15 Comments and testimony will be accepted  
16 until the close of this hearing and will be made  
17 part of the rule-making record. Any question  
18 regarding revisions to the rules should be included  
19 with your comments, and any such question will be  
20 addressed as part of the response to comments in  
21 the rule-making record on the West Virginia  
22 Secretary of State's website.

23 The purpose of this public hearing is to  
24 accept comments on proposed revisions to rule

1 45CSR8, Ambient Air Quality Standards. This rule  
2 establishes and adopts ambient air quality  
3 standards for sulfur oxides, particulate matter,  
4 carbon monoxide, ozone, nitrogen dioxide, and lead  
5 equivalent to those primary and secondary National  
6 Ambient Air Quality Standards established under the  
7 Clean Air Act and promulgated by the United States  
8 Environmental Protection Agency under 40 CFR Part  
9 50.

10 This rule also establishes and adopts  
11 ambient air monitoring reference methods and  
12 equivalent methods promulgated by the U.S. EPA  
13 under 40 CFR Part 53.

14 Revisions to the rule include amendments  
15 promulgated by the EPA under 40 CFR Parts 50 and 53  
16 as of June 1st, 2020. Upon authorization and  
17 promulgation of 45CSR8, the rule will be submitted  
18 to the EPA as a revision to the State  
19 Implementation Plan, or SIP, pursuant to the  
20 Federal Clean Air Act.

21 Stephanie, has anyone pre-registered to  
22 provide comment or testimony in regard to proposed  
23 Rule 45CSR8? If so, please unmute their line and  
24 call on them now and ask them to state clearly



1 their name and any affiliation.

2 As a reminder, please limit testimony to  
3 one witness for each organization and limit  
4 testimony to five minutes for each witness.

5 MS. HAMMONDS: Thanks, Laura. Good  
6 evening everyone.

7 Cross examination of commenters is not  
8 allowed tonight. As Laura stated, DAQ will not be  
9 responding to comments tonight. If you are joining  
10 us online, we will call your name and unmute your  
11 line.

12 If you are joining us by telephone, please  
13 unmute your line by pressing \*6 when your name is  
14 called and press \*6 again at the conclusion of your  
15 comment to re-mute your line.

16 If we do not hear from you when called  
17 upon, we will proceed to the next commenter and  
18 call on you again at the end. I apologize in  
19 advance if I pronounce anyone's name incorrectly.

20 We have one commenter registered, Alieen  
21 Curfman. Ms. Curfman?

22 MS. CURFMAN: My name is Alieen Curfman.  
23 I withdraw my request to comment of 45CSR8.

24 MS. HAMMONDS: Thank you, Ms. Curfman.

1           If you did not register to comment but  
2 would like to at this time, please use the Raise  
3 Your Hand feature or comment on the Chat and we  
4 will recognize you to provide comments.

5           Laura, I see no one.

6           MS. JENNINGS: All right. Thank you.

7           There being nothing further, this public  
8 hearing for proposed rule 45CSR8 is concluded. The  
9 public hearing for proposed rule 45CSR16 will begin  
10 momentarily.

11                           -- oOo --

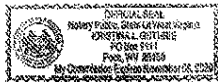
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1 STATE OF WEST VIRGINIA  
2 COUNTY OF KANAWHA, to wit:

3 I, Kristina Guthrie, Professional Reporter and  
4 Notary Public within and for the County and State  
5 aforesaid, duly commissioned and qualified, do hereby  
6 certify that the foregoing proceedings were duly  
7 transcribed by me from stenographic notes taken in the  
8 foregoing proceedings to the best of my skill and  
9 ability.

10 I do further certify that the said proceedings  
11 were correctly taken by me in shorthand notes, and that  
12 the same were accurately written out in full and reduced  
13 to typewriting by means of computer-aided transcription.

14 Given under my hand this 4th day of August,  
15 2020.



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Kristina Guthrie, Professional  
Reporter and Notary Public

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| <p><b>1</b></p> <hr/> <p><b>1st</b> 6:16</p> <hr/> <p><b>2</b></p> <hr/> <p><b>2020</b> 5:11 6:16</p> <p><b>2021</b> 2:8</p> <p><b>28th</b> 5:10</p> <hr/> <p><b>4</b></p> <hr/> <p><b>40</b> 6:8,13,15</p> <p><b>45CSR8</b> 2:1 5:9<br/>6:1,17,23 7:23</p> <hr/> <p><b>5</b></p> <hr/> <p><b>50</b> 6:9,15</p> <p><b>53</b> 6:13,15</p> <hr/> <p><b>6</b></p> <hr/> <p><b>6</b> 7:13,14</p> <hr/> <p><b>A</b></p> <hr/> <p><b>accept</b> 5:24</p> <p><b>accepted</b> 5:15</p> <p><b>accordance</b> 5:12</p> <p><b>Act</b> 6:7,20</p> <p><b>addressed</b> 4:7<br/>5:20</p> <p><b>Adkins</b> 2:21</p> <p><b>Administrative</b><br/>2:20</p> <p><b>adopts</b> 6:2,10</p> <p><b>advance</b> 3:21 7:19</p> <p><b>affiliation</b> 7:1</p> | <p><b>Agency</b> 6:8</p> <p><b>ahead</b> 3:24</p> <p><b>air</b> 2:1,7,16 3:19<br/>5:2,9 6:1,2,6,7,11,<br/>20</p> <p><b>Alien</b> 7:20,22</p> <p><b>allowed</b> 7:8</p> <p><b>ambient</b> 2:1 5:9<br/>6:1,2,6,11</p> <p><b>amendments</b> 6:14</p> <p><b>Analyst</b> 2:19</p> <p><b>anyone's</b> 7:19</p> <p><b>apologize</b> 7:18</p> <p><b>assist</b> 4:13</p> <p><b>attendance</b> 3:5</p> <p><b>authorization</b><br/>6:16</p> <hr/> <p style="text-align: center;"><b>B</b></p> <hr/> <p><b>Business</b> 2:22</p> <hr/> <p style="text-align: center;"><b>C</b></p> <hr/> <p><b>call</b> 6:24 7:10,18</p> <p><b>called</b> 3:21,23<br/>7:14,16</p> <p><b>calling</b> 4:19</p> <p><b>carbon</b> 6:4</p> <p><b>CFR</b> 6:8,13,15</p> <p><b>chat</b> 4:12,14</p> <p><b>Christina</b> 2:21<br/>4:11</p> <p><b>Clean</b> 6:7,20</p> <p><b>close</b> 5:16</p> <p><b>commence</b> 2:12</p> <p><b>comment</b> 3:24 4:5,<br/>8 6:22 7:15,23</p> | <p><b>commenter</b> 7:17,<br/>20</p> <p><b>commenters</b> 7:7</p> <p><b>comments</b> 3:2,5,9<br/>4:3,4,6,22 5:15,19,<br/>20,24 7:9</p> <p><b>communications</b><br/>4:15</p> <p><b>Compliance</b> 2:18</p> <p><b>conclusion</b> 2:13<br/>7:14</p> <p><b>considerate</b> 4:18</p> <p><b>consideration</b> 3:6</p> <p><b>court</b> 2:23 3:4 5:4,<br/>6</p> <p><b>COVID-19</b> 5:12,14</p> <p><b>Cross</b> 7:7</p> <p><b>Curfman</b> 7:21,22,<br/>24</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p><b>DAQ</b> 3:3 4:12,22<br/>7:8</p> <p><b>day</b> 5:11</p> <p><b>debate</b> 3:11</p> <p><b>DEP</b> 3:10 5:14</p> <p><b>Department</b> 2:5</p> <p><b>DEP'S</b> 2:16,22</p> <p><b>dioxide</b> 6:4</p> <p><b>discussion</b> 3:11</p> <p><b>Division</b> 2:7,16 5:2</p> <p><b>document</b> 4:8</p> <p><b>duration</b> 4:13</p> <hr/> <p style="text-align: center;"><b>E</b></p> <hr/> <p><b>efficiently</b> 4:23</p> | <p><b>end</b> 7:18</p> <p><b>Enforcement</b> 2:18</p> <p><b>engage</b> 3:10</p> <p><b>ensure</b> 3:13</p> <p><b>entered</b> 3:6</p> <p><b>entry</b> 3:13</p> <p><b>Environmental</b><br/>2:5,17 6:8</p> <p><b>EPA</b> 6:12,15,18</p> <p><b>equivalent</b> 6:5,12</p> <p><b>established</b> 6:6</p> <p><b>establishes</b> 6:2,10</p> <p><b>evening</b> 2:3,15 7:6</p> <p><b>examination</b> 7:7</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p><b>federal</b> 3:19 6:20</p> <p><b>finished</b> 4:6</p> <p><b>Fletcher</b> 2:3,4</p> <p><b>formal</b> 4:7</p> <p><b>forum</b> 3:10</p> <p><b>foul</b> 4:19</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>Good</b> 2:3 7:5</p> <p><b>Governor's</b> 5:13</p> <p><b>groups</b> 4:2</p> <p><b>Guthrie</b> 2:24</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>Hammonds</b> 2:17<br/>3:22 7:5,24</p> <p><b>hear</b> 7:16</p> <p><b>hearing</b> 2:10,13<br/>3:2,4,8,17,18 4:13</p> | <p>5:8,16,23</p> <p><b>hearings</b> 2:7,11</p> <p><b>held</b> 2:12 5:11</p> <p><b>Home</b> 5:13</p> <hr/> <p style="text-align: center;"><b>I</b></p> <hr/> <p><b>Immediately</b> 2:12</p> <p><b>Implementation</b><br/>6:19</p> <p><b>include</b> 6:14</p> <p><b>Included</b> 5:18</p> <p><b>including</b> 2:16</p> <p><b>Incorrectly</b> 7:19</p> <p><b>Information</b> 2:6</p> <p><b>instructed</b> 3:20</p> <p><b>interrupting</b> 3:14<br/>4:20</p> <p><b>Introductory</b> 4:24</p> <p><b>issues</b> 4:14</p> <hr/> <p style="text-align: center;"><b>J</b></p> <hr/> <p><b>Jennings</b> 2:19 5:1,<br/>3,7</p> <p><b>joining</b> 7:9,12</p> <p><b>July</b> 5:11</p> <p><b>June</b> 6:16</p> <hr/> <p style="text-align: center;"><b>K</b></p> <hr/> <p><b>Kendrick</b> 2:21</p> <p><b>Kristina</b> 2:23 5:5</p> <hr/> <p style="text-align: center;"><b>L</b></p> <hr/> <p><b>language</b> 4:19</p> <p><b>Laura</b> 2:18 5:1 7:5,<br/>8</p> |
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**DAQ Public Hearing - Proposed 2021 Legislative Rules**  
**Registration to Virtually Attend - July 28, 2020**

| ID | Start time                 | Completion time | First Name | Last name  | Email Address                     | Organization (if not affiliated with a group, type "Self") | Street Address                  | City, State and Zip Code |
|----|----------------------------|-----------------|------------|------------|-----------------------------------|--|---------------------------------|--------------------------|
| 1  | 6/15/2020 12:56            | 6/15/2020 12:56 | Stephanie  | Hammonds   | Stephanie.E.Hammonds@wv.gov       | WVDEP-DAQ  | 601 57th Street, SE             | Charleston, WV 25304     |
| 2  | 6/22/2020 17:52            | 6/22/2020 17:54 | Edward     | Andrews    | edward.s.andrews@wv.gov           | WVDEP/Division of Air Quality                              | 601 57th Street, SE             | Charleston, WV 25304     |
| 3  | 6/29/2020 11:52            | 6/29/2020 12:04 | Kaitlin    | Meszaros   | meszaros@pinyon-env.com           | Pinyon Environmental, INC.                                 | 3222 S. Vance Street, Suite 200 | Lakewood, CO 80227       |
| 4  | 7/7/2020 10:44             | 7/7/2020 10:46  | Todd       | Shrewsbury | todd.h.shrewsbury@wv.gov          | West Virginia Division of Air Quality                      | 601 57th Street SE              | Charleston, WV 25304     |
| 5  | 7/7/2020 10:51             | 7/7/2020 10:53  | Laura      | Crowder    | Laura.M.Crowder@wv.gov            | WVDEP DAQ  | 601 57th Street, SE             | Charleston, WV 25304     |
| 6  | 7/7/2020 13:53             | 7/7/2020 13:54  | Laura      | Jennings   | laura.m.jennings@wv.gov           | WV DAQ   | 601 57th Street, SE             | Charleston, WV 25304     |
| 7  | 7/9/2020 16:56             | 7/9/2020 16:58  | Trevor     | Galley     | trevor_galley@tcenergy.com        | TC Energy  | 1700 MacCorkle Ave SE           | Charleston, WV 25314     |
| 8  | 7/13/2020 14:52            | 7/13/2020 14:54 | David      | Flannery   | dave.flannery@steptoe-johnson.com | Steptoe & Johnson PLLC                                     | Chase Plaza 17th Floor          | 25302                    |
| 9  | 7/20/2020 8:43             | 7/20/2020 8:45  | David      | Fewell     | david.r.fewell@wv.gov             | WVDAQ  | 601 57th Street, SE             | Charleston, WV 25304     |
| 10 | 7/20/2020 16:58            | 7/20/2020 16:59 | Aileen     | Curfman    | acurfman@gmail.com                | West Virginia Sierra Club                                  | 1067 Comstock Dr.               | Shepherdstown, WV 25443  |
| 11 | 7/27/2020 14:15            | 7/27/2020 14:16 | Aileen     | Curfman    | acurfman@gmail.com                | West Virginia Sierra Club                                  | 1067 Comstock Dr.               | Shepherdstown, WV 25443  |
| 12 | 7/27/2020 16:34            | 7/27/2020 16:35 | Jason      | Wandling   | jason.e.wandling@wv.gov           | WVDEP  | 601 57th St. SE                 | Charleston, WV 25301     |
| 13 | 7/27/2020 17:58            | 7/27/2020 17:58 | Kaitlin    | Meszaros   | meszaros@pinyon-env.com           | Pinyon Environmental, Inc.                                 | 3222 S. Vance Street Suite 200  | Lakewood, CO 80227       |
| 14 | 7/28/2020 11:08            | 7/28/2020 11:09 | Bev        | McKeone    | beverly.d.mckeone@wv.gov          | WVDEP, DAQ   | 601 57th Street SE              | Charleston WV 25304      |
| 15 | 7/28/2020 11:51            | 7/28/2020 11:52 | David      | White      | envattorney2013@gmail.com         | Appalachian and Atlantic Defense Council                   | 179 Church Street               | Chillicothe, Ohio 45601  |
| 16 | 7/28/2020 12:12            | 7/28/2020 12:13 | James      | Kotcon     | jkotcon@gmail.com                 | West Virginia Chapter of Sierra Club                       | PO Box 4142                     | Morgantown, WV 26504     |
| 17 | 7/28/2020 13:38            | 7/28/2020 13:40 | Sandra     | Adkins     | sandra.k.adkins@wv.gov            | WVDEP  | 601 57th Street, SE             | Charleston, WV 25304     |
| 18 | 7/28/2020 14:23            | 7/28/2020 14:28 | Fred       | Tipane     | frederick.tipan@wv.gov            | WV DEP/DAQ   | 601 57th ST SE                  | Charleston, WV 25304     |
| 19 | 7/28/2020 15:35            | 7/28/2020 15:36 | Terry      | Fletcher   | terry.a.fletcher@wv.gov           | WVDEP  | 123 Swarthmore Ave.             | Charleston, WV 25302     |
| 20 | n/a - Added by LMJ 7/29/20 |                 | Angie      | Rosser     |                                   | West Virginia Rivers Coalition                             | 3501 MacCorkle Ave SE #129      | Charleston, WV 25304     |