

**45CSR40**  
**CONTROL OF OZONE SEASON NITROGEN OXIDES EMISSION**  
**RESPONSE TO COMMENTS**

The WV Department of Environmental Protection (DEP), Division of Air Quality (DAQ) commenced the public comment period for proposed legislative rule 45CSR40 on June 3, 2022. The public comment period concluded July 5, 2022, after satisfying the 30-day period. A public hearing was held virtually on July 5, 2022. The purpose of the public comment period and hearing was to accept oral and written comments on the proposed revisions to 45CSR40.

There were not any written comments received during the public comment period regarding proposed revisions to 45CSR40. One person provided oral comments during the public hearing. A summary of the comment along with the response is provided below. The public hearing transcript is provided as part of the formal rulemaking record. The hearing for 45CSR40 begins on page 23 of the transcript.

There were no changes made to 45CSR40 as a result of the comments.

Commenter: James Kotcon, Conservation Chair, WV Chapter of Sierra Club

COMMENT: We support the routine update. I would also add that having followed ozone levels in West Virginia for many years, air quality is improving fairly significantly, and I urge DEP to keep up the good work. Obviously, we can do more but we are definitely headed in the right direction.

RESPONSE: Thank you for your comment, a response is not necessary.

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DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF AIR QUALITY

PUBLIC HEARING  
PROPOSED 2023 LEGISLATIVE RULES

July 5, 2022 6:00 P.M.  
Held Remotely via Google Meet

In Attendance:

Stephanie Hammonds  
Laura Jennings  
Terry Fletcher  
Sandra Adkins

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## PROCEEDINGS

MR. FLETCHER: Good evening, everyone. Thank you for participating in the public hearings this evening. My name is Terry Fletcher. I am the Chief Communications Officer with the West Virginia Department of Environmental Protection.

I want to welcome everyone to the public hearings for the Division of Air Quality's Five Proposed Rules for the upcoming 2023 West Virginia legislative session. There will be a separate public hearing for each of the five DAQ proposed rules.

The hearings will be held sequentially and will commence immediately following the conclusion of the hearing for the previous proposed rule.

With me this evening from the Division of Air Quality are Stephanie Hammonds, an Environmental Resource Specialist with the Compliance and Enforcement Section; and Laura Jennings, a Technical Analyst with the Planning Section. Court reporter Kristina Guthrie is also participating this evening.

The purpose of each of the public hearings is to receive public comments on the record regarding each of the proposed DAQ rules. Each public hearing is being recorded and a court reporter is in attendance to meet

1 Clean Air Act requirements and to consider comments in  
2 the rulemaking process.

3           Because the purpose of the public hearing is  
4 to listen to your comments, it is not a forum to engage  
5 the DAQ in open discussion or debate about the proposed  
6 rules. Unlike a public meeting, the DAQ will not be  
7 responding to questions during the hearing. All  
8 comments received will be addressed in a response to  
9 comment document that will be part of the official rule  
10 making record made available on the Secretary of State's  
11 website.

12           All participants have been muted upon entry  
13 into the meeting to ensure we are not interrupting  
14 others or talking over one another. Participants were  
15 asked to pre-register to speak and will be called upon  
16 by Stephanie Hammonds when it is their turn to provide  
17 their comments.

18           When called upon, you will be unmuted and told  
19 to go ahead with your comments. Please clearly state  
20 your name and indicate if you are representing any  
21 groups or organizations and we ask that you limit your  
22 comments to five minutes.

23           Please specify when your comment is finished  
24 so we can re-mute you and if you did not pre-register as

1 a speaker but would like to speak, please use the raise  
2 hand feature in Google Meets.

3 As a reminder, video demonstrations and screen  
4 sharing by witnesses is not permitted. The chat feature  
5 in Google Meets will be monitored during the public  
6 hearing to assist with any technical issues.

7 We ask that everyone be respectful and  
8 considerate of each other by refraining from using foul  
9 language and from name calling, interrupting others  
10 while they are speaking, and we ask that everyone keep  
11 their comments on the topic of the proposed rules so  
12 that our time together is used efficiently.

13 All that being said, I am now turning this  
14 over to Laura Jennings with the Division of Air Quality.  
15 Laura?

16 MS. JENNINGS: Thanks, Terry. Is the court  
17 reporter ready?

18 COURT REPORTER: Yes, ma'am. Thank you.

19 45CSR16

20 Standards of Performance for New Stationary Sources

21 Also In Attendance: Joseph Unger, James Kotcon

22 MS. JENNINGS: Okay. Thank you. Okay. Our  
23 first hearing this evening is for 45CSR16 (Standards of  
24 Performance for New Stationary Sources). The virtual

1 public hearing for the proposed legislative Rule 45CSR16  
2 - Standards of Performance for New Stationary Sources  
3 will now come to order on this 5th day of July, 2022.

4 Oral comments and testimony will be accepted  
5 until the close of this hearing and will be made part of  
6 the rulemaking record. Any questions regarding  
7 revisions to the rules should be included with your  
8 comments, and any such question will be addressed as  
9 part of the response to comments in the rulemaking  
10 record.

11 The purpose of this public hearing is to  
12 accept comments on proposed revisions to Rule 45CSR16 -  
13 Standards of Performance for New Stationary Sources.  
14 This rule establishes and adopts national standards of  
15 performance for new stationary sources and other  
16 regulatory requirements promulgated by the United States  
17 Environmental Protection Agency pursuant to Section  
18 111(b) of the Federal Clean Air Act.

19 This rule codifies general procedures and  
20 criteria to implement standards of performance for new  
21 stationary sources set forth in 40CFR Part 60. The rule  
22 also adopts associated appendices, reference methods,  
23 performance specifications and other test methods which  
24 are appended to such standards.

1           Revisions to this rule are necessary to  
2 maintain consistency with current federal regulations,  
3 and for the State to fulfill its responsibilities under  
4 the Clean Air Act and enable the West Virginia  
5 Department of Environmental Protection to continue to be  
6 the primary enforcement authority for such national  
7 standards promulgated by the U.S. EPA.

8           Revisions to the rule include the annual  
9 incorporation by reference of the Federal regulations as  
10 of June 1, 2022. Upon authorization and promulgation of  
11 45CSR16, the rule will be submitted to the U.S. EPA to  
12 fulfill delegation obligations in accordance with the  
13 Federal Clean Air Act.

14           The floor is now open for comments. As a  
15 reminder, please keep your comments on topic and limit  
16 them to five minutes.

17           Stephanie, has anyone pre-registered to  
18 provide comments on proposed rule 45CSR16? If so,  
19 please unmute their line & call on them now.

20           MS. HAMMONDS: Thanks, Laura and good evening,  
21 everyone. We had one person who registered to provided  
22 comments and that's Jim Kotcon. Mr. Kotcon, you can go  
23 ahead with your comments, please.

24           MR. KOTCON: My name is Jim Kotcon. I serve

1 as the Conversation Chair for the West Virginia Chapter  
2 of Sierra Club. I did in fact request an opportunity to  
3 speak to each of the rules because while I normally  
4 would be submitted written comments, I have not had a  
5 chance to do that yet and that period has elapsed.

6 At this point, my only comments on Reg 16 is  
7 that we certainly support any upgrades and approve the  
8 rule or support the rule as submitted and hope that it  
9 is adopted. Thank you.

10 MS. HAMMONDS: Thank you, Mr. Kotcon. Now, if  
11 anyone did not pre-register to comment but would like to  
12 do so now, please use the raise your hand feature.

13 Okay, Laura. I don't see any hands raised.

14 MS. JENNINGS: Okay, thanks, Stephanie.

15 MS. HAMMONDS: Thank you.

16 MS. JENNINGS: There being nothing further,  
17 this public hearing for proposed rule 45CSR16 is  
18 concluded. The public hearing for proposed rule 45CSR22  
19 will begin momentarily.

20 Kristina, are you ready to proceed?

21 Okay.

22 COURT REPORTER: Yes, ma'am. Thank you.

23 MS. JENNINGS: Thank you. Okay.

24 45CSR22

1 Air Quality Management Fee Program

2 Also In Attendance: Joseph Unger, James Kotcon

3 MS. JENNINGS: The virtual public hearing for  
4 proposed Legislative Rule 45CSR22 (Air Quality  
5 Management Fee Program) will now come to order on this  
6 5th day of July, 2022.

7 Oral comments and testimony will be accepted  
8 until the close of this hearing and will be made part of  
9 the rulemaking record. Any questions regarding  
10 revisions to the rule should be included with your  
11 comments, and any such question will be addressed as  
12 part of the response to comments in the rulemaking  
13 record.

14 The purpose of this public hearing is to  
15 accept comments on proposed revisions to Rule 45CSR22 -  
16 Air Quality Management Fee Program. This rule  
17 establishes a program to collect fees for Certificates  
18 to Operate (CTO) and for permits to construct, modify or  
19 relocate sources of statutory air pollution in  
20 accordance with 45CSR13, 14 and 19.

21 All sources subject to air emission rules  
22 promulgated under Title 45, including air permit or  
23 registration requirements, are subject to this rule.  
24 The fees collected under this rule fund the Division of

1 Air Quality's non-Title V program budget to maintain an  
2 effective air quality management program.

3 Revisions to the rule generally include  
4 updating the rule and increasing the fees since the rule  
5 was last revised over 30 years ago. Upon authorization  
6 and promulgation, there is no further action required  
7 for the state-only Rule 45CSR22.

8 The floor is now open for comments. As a  
9 reminder, please keep your comments on topic and limit  
10 them to five minutes.

11 Stephanie, has anyone pre-registered to  
12 provide comments on proposed rule 45CSR22? If so,  
13 please unmute their line and call on them now.

14 MS. HAMMONDS: Thanks, Laura. We had one  
15 person register to comment, Mr. Kotcon. You can go  
16 ahead with your comments, please.

17 MR. KOTCON: Thank you. I do have a few  
18 comments on 45CSR22. With respect to Section 1.1, one  
19 of the amendments that's being proposed is to add the  
20 word "statutory" to air pollution. The definition of  
21 statutory in Section 2.17 refers to Reg 13 where it has  
22 a very broad and inclusive definition. I think this is  
23 an important addition and very much support adding that  
24 to this section.

1           Second, you define in Section 1.5 the Sunset  
2 Provision and state that it does not apply. While that  
3 may seem to me at least as a little bit redundant, it is  
4 clear that that Sunset Provision should not apply to  
5 this rule. So long ago I was given the advice if given  
6 the choice between confusion and redundancy, pick  
7 redundancy. This seems a little redundant but it's fine  
8 with me.

9           On a broader topic, Section 3.3 identifies fee  
10 increases, especially those in Table 45CSR22(a) and  
11 22(b). We would certainly support those fee increases  
12 with the proviso that fees on these permits should fully  
13 reimburse the agency for the actual cost of reviewing  
14 those permit applications.

15           In particular, it is not clear that the  
16 proposed fee for the 111(b) requirements would be  
17 adequate to meet and fully reimburse the agency for the  
18 cost of those and I would encourage you to review that  
19 and be able to fully justify that.

20           Finally, with respect to Section 4.3(e), this  
21 establishes a Consumer Price Index riser. I think that  
22 that riser is a reasonable and prudent approach. It is  
23 certainly a useful and necessary business practice for  
24 any other business that I've run across and it would

1 help DEP avoid the need to revise these permit fees to  
2 meet up with the cost of inflation.

3 As I think everyone is well aware, inflation  
4 has been rising dramatically for the last year or two  
5 and that has left the agency in a difficult position and  
6 so we would fully support both that fee increase and the  
7 Consumer Price Index riser.

8 My only recommendation is that as that riser  
9 adjusts the fees on an annual basis, it might be helpful  
10 if DEP were to publish annually on their web page or  
11 elsewhere a table listing the current fees with that  
12 consumer price index riser.

13 Having the actual number would avoid any  
14 confusion on the part of the regulated community as to  
15 what the fee should be and it wouldn't necessarily have  
16 to be a rule modification each year but it would be very  
17 helpful to the regulated community.

18 So with that and those minor modifications, I  
19 certainly would support the rule. Thank you.

20 MS. HAMMONDS: Thank you, Mr. Kotcon.

21 If anyone did not pre-register to comment but  
22 would like to do so now, please use the raise hand  
23 feature.

24 Okay, Laura, I don't see anyone.

1 MS. JENNINGS: Okay. Thank you, Stephanie.  
2 There being nothing further, this public hearing for  
3 proposed Rule 45CSR22 is concluded. The public hearing  
4 for proposed Rule 45CSR30 will begin momentarily.

5 Is the court reporter ready to proceed to the  
6 next hearing?

7 COURT REPORTER: I am. Thank you.

8 45CSR30

9 Requirements for Operating Permits

10 Also In Attendance: James Kotcon, Joseph Unger, Robert  
11 Keatly

12 MS. JENNINGS: Okay. Thank you. The virtual  
13 public hearing for the proposed legislative Rule 45CSR30  
14 (Requirements for Operating Permits) will now come to  
15 order on this 5th day of July, 2022.

16 Oral comments and testimony will be accepted  
17 until the close of this hearing and will be made part of  
18 the rulemaking record. Any questions regarding  
19 revisions to the rules should be included with your  
20 comments, and any such question will be addressed as  
21 part of the response to comments in the rulemaking  
22 record.

23 The purpose of this public hearing is to  
24 accept comments on proposed revisions to Rule 45CSR30 -  
Requirements for Operating Permits. This rule provides

1 for the establishment of a comprehensive air quality  
2 permitting system consistent with the requirements of  
3 Title V of the Clean Air Act and the state operating  
4 permit program requirements of 40CFR Part 70.

5           The rule establishes: The obligation for a  
6 source to obtain a Title V operating permit;  
7 applicability for other sources, including exemptions  
8 and deferred sources; permit application, content,  
9 issuance, renewal, reopening, revision, review,  
10 suspension, modification, revocation and reissuance  
11 requirements; and Title V fee requirements.

12           All fees collected pursuant to this rule shall  
13 be expended solely to cover all reasonable direct and  
14 indirect costs required to administer the Title V  
15 operating permit program and accounted for in accordance  
16 with this rule.

17           There are three main purposes for revising the  
18 rule. First, the fee structure is being revised as  
19 recommended by the U.S. EPA. Federal regulations  
20 require that fees from Title V sources are sufficient to  
21 sustainably cover the Title V program costs.

22           Currently, the fee structure is based solely  
23 on the amount of pollutants emitted by a source. The  
24 proposed fee is being re-structured for diversification

1 and sustainability. The proposed fee will continue to  
2 include an emissions component; however, it will also  
3 include a base fee component and a complexity fee  
4 component.

5 Second, the rule is being revised to comport  
6 with federal counterpart regulations.

7 Lastly, obsolete transitional language is  
8 being removed and clarifications are being made.

9 Upon authorization and promulgation of  
10 45CSR30, the rule will be submitted to the U.S. EPA to  
11 fulfill obligations under the Federal Clean Air Act.

12 The floor is now open for comments. As a  
13 reminder, please keep your comments on topic and limit  
14 them to five minutes. Stephanie, has anyone  
15 pre-registered to provide comments on proposed Rule  
16 45CSR30? If so, please unmute their line and call on  
17 them now.

18 MS. HAMMONDS: Thanks, Laura. We had one  
19 person register, Mr. Kotcon. If you would like to go  
20 ahead with your comments now.

21 MR. KOTCON: Thank you. Let me start off by  
22 saying that my comments on this rule are quite extensive  
23 and then I'll be very brief on the remaining rules. I  
24 do hope there will be a little bit of flexibility in

1 that time limit.

2 With regard to Section 2.24, the definition  
3 for a "hazardous air pollutant" was redefined to match  
4 that of the Federal rule and resulting in the deletion  
5 of Table 45CSR38. I very much support that change.

6 Having separate lists of what is a hazardous  
7 air pollutant leads to confusion, duplication, and it's  
8 difficult to keep up with both of those. It will be  
9 simpler for the public and for the agency if we simply  
10 refer to that list as you have done here, so I support  
11 that change.

12 In Section 2.26(a), under Section 2.26(a)(1),  
13 there is certainly no need for the sentence striking the  
14 reference to Table 4530(a) if that table is deleted. I  
15 would also recommend striking the next sentence,  
16 Emissions from any oil or gas exploration or a  
17 production well and associated equipment and emissions  
18 from any pipeline compressor or pump stations shall not  
19 be aggregated with the emissions from other similar  
20 units, whether or not such units are in a contiguous  
21 area under common control, et cetera.

22 That particular new pool allows pipelines and  
23 their associated compressor stations to functionally be  
24 equivalent to a major source but not have to do the

1 major source reviews. That provides a real benefit to  
2 those oil and gas pipeline facilities in avoiding that  
3 kind of review but it leaves the public at risk of very  
4 significant air pollutants.

5 I reviewed a number of gas pipeline  
6 applications where every single compressor station is  
7 just below the limit for a major source. You know,  
8 instead of 100 percent of a major source, it's 95  
9 percent or 98 percent or 97 percent, and there's one  
10 after another of these along a major pipeline.

11 It is clear that the industry is designing  
12 their compressors and their associated facilities to  
13 circumvent the requirement for a major source review,  
14 and there are several rule changes that are needed but  
15 certainly this is one of those and I recommend striking  
16 that last sentence that any stationary source or group  
17 of stationary sources located within a contiguous area  
18 and under common control should be considered a major  
19 source.

20 The second change then is in 2.26 (b) under  
21 Subsection 22 where they list petroleum storage and  
22 transfer units with a total storage capacity exceeding  
23 300,000 barrels would be considered major sources and  
24 should consider fugitive remissions.

1 I think a similar exemption or definition  
2 using that general capacity would be appropriate such  
3 that fugitive remissions from gas facilities would also  
4 need to be considered. So I would recommend adding that  
5 provision, a new subsection there.

6 With regard to Section 6.(a) 3.(a), 4 and 5,  
7 there are a number of deletions there that deal with the  
8 public comment. I don't believe that the provision that  
9 was added, it gives the secretary a little bit too much  
10 discretion to define what is generally accepted methods  
11 for who is included and not included in a public mailing  
12 list.

13 And it gives the secretary a little bit too  
14 much discretion to delete the name of people who failed  
15 to respond in an adequate period of time. While I do  
16 recognize the need to update the mailing list, I would  
17 strongly encourage that there be explicit definitions  
18 that would assure the public that they would get this  
19 public notice and that this would not be required.

20 Three other suggestions, in Section 7.3, there  
21 is a 7.3(b), the final sentence says that a CPA must  
22 provide a permit applicant a copy of the objection. I  
23 recommend that that sentence be deleted. I don't think  
24 a state agency can mandate a requirement of a federal

1 agency.

2           Likewise, in Section 7.4(a), I would like to  
3 define what are the unusual circumstances that would  
4 preclude or allow the EPA to modify a permit or the  
5 secretary to issue that permit. I think that some of  
6 those provisions, especially the last section or  
7 sentence in 7.4(a) seems to be contradictory and that  
8 last sentence, the permittee will not be in violation of  
9 any requirements to submit a final and complete  
10 application, that could be deleted from that section.

11           I appreciate the change to give these comments  
12 and I will be happy to address anything that is unclear  
13 in these comments if you have any questions. Thank you.

14           (Following comments were added at the end but  
15 placed under the appropriate section 45CSR30  
16 by reporter.)

17           MR. FLETCHER: Mr. Kotcon, did you have  
18 another comment to add?

19           MR. KOTCON: Yes, thank you. I apologize. I  
20 missed a couple of comments on my review of 45CSR30 and  
21 I will just mention those.

22           In Section 6.8(a) 4(a) 5, the requirement is  
23 added to have contact info for the applicant. It does  
24 not, however, assure that that applicant or information,

1 person with information would respond, and I've had some  
2 issues with that in the past, specifically with a permit  
3 earlier this year from Marion Energy Partners. When we  
4 attempted to contact the applicant, you know, that  
5 information went into a black hole and I never did get  
6 anything back from that company.

7           In Section 6.8(a) 4(a) 3, there is a mandate  
8 for a description of the business to be operated. In  
9 that case, with Marion Energy Partners, their business  
10 description is really overly vague and did not  
11 communicate to the public what they were involved with,  
12 and so if there is a way to beef up those two sections,  
13 I would very much appreciate it because it's led to a  
14 lot of controversy up here in Northern county.

15           That's all I have and again, I apologize for  
16 not getting the item in the right place.

17           MS. HAMMONDS: Thank you, Mr. Kotcon. So we  
18 are at the end of the registered commenters list. If  
19 you did not pre-register to provide comment but would  
20 like to do so, please use the raise hand option.

21           Okay, Laura, I do not see any hands raised.

22           MS. JENNINGS: Okay. Thank you, Stephanie.  
23 There being nothing further, this public hearing for  
24 proposed Rule 45CSR30 is concluded. The public hearing

1 for proposed Rule 45CSR34 will begin momentarily.

2 Is the court reporter ready to proceed to the  
3 next hearing?

4 COURT REPORTER: Yes, ma'am. Thank you.

5 45CSR34

6 Emission Standards for Hazardous Air Pollutants

7 Also In attendance: James Kotcon, Joseph Unger, Robert  
8 Keatly

9 MS. JENNINGS: Okay. Thank you. The virtual  
10 public hearing for the proposed legislative Rule 45CSR34  
11 (Emission Standards for Hazardous Air Pollutants) will  
12 now come to order on this 5th day of July, 2022.

13 Oral comments and testimony will be accepted  
14 until the close of this hearing and will be made part of  
15 the rulemaking record. Any questions regarding  
16 revisions to the rules should be included with your  
17 comments, and any such question will be addressed as  
18 part of the response to comments in the rulemaking  
19 record.

20 The purpose of this public hearing is to  
21 accept comments on proposed revisions to Rule 45CSR34 -  
22 Emission Standards for Hazardous Air Pollutants. This  
23 rule incorporates and adopts national emission standards  
24 for hazardous air pollutants and other regulatory

1 requirements promulgated by the United States  
2 Environmental Protection Agency pursuant to the Federal  
3 Clean Air Act.

4 Promulgation of this rule is necessary for the  
5 State to fulfill its responsibilities under the Clean  
6 Air Act and will enable the West Virginia Department of  
7 Environmental Protection to continue to be the primary  
8 enforcement authority for such national emission  
9 standards promulgated by the U.S. EPA.

10 Revisions to the rule include the annual  
11 incorporation by reference of National Emission  
12 Standards for Hazardous Air Pollutants promulgated by  
13 the U.S. EPA under 40CFR Parts 61 and 63 as of June 1,  
14 2022.

15 Upon authorization and promulgation of  
16 45CSR34, the rule will be submitted to the U.S. EPA to  
17 fulfill delegation obligations in accordance with the  
18 Federal Clean Air Act.

19 The floor is now open for comments. As a  
20 reminder, please keep your comments on topic and limit  
21 them to five minutes. Stephanie, has anyone  
22 pre-registered to provide comments on proposed Rule  
23 45CSR34? If so, please unmute their line & call on them  
24 now.

1 MS. HAMMONDS: Thank you, Laura. We have one  
2 person who registered, Mr. Kotcon.

3 MR. KOTCON: Thank you. I confess that I have  
4 not reviewed every last line of the Federal counterpart  
5 updates but subject to any advice I might later get from  
6 National Sierra Club, we would support the ongoing  
7 updates. We think it's a good routine to follow. Thank  
8 you.

9 MS. HAMMONDS: Thank you, Mr. Kotcon. Is  
10 there anyone who did not register to speak but would  
11 like to do so now? Please use the raise hand feature.

12 Laura, I do not see any hands raised.

13 MS. JENNINGS: Okay. Thank you, Stephanie.  
14 There being nothing further, this public hearing for  
15 proposed Rule 45CSR34 is concluded. The public hearing  
16 for proposed Rule 45CSR40 will begin momentarily.

17 Is the court reporter ready to proceed to the  
18 next hearing?

19 COURT REPORTER: Yes, ma'am.

20 45CSR40

21 Control of Ozone Season Nitrogen Oxides Emissions

22 Also in attendance: James Kotcon, Joseph Unger, Robert  
23 Keatly

24 MS. JENNINGS: Okay, thank you. The virtual

1 public hearing for the proposed legislative Rule 45CSR40  
2 (Control of Ozone Season Nitrogen Oxides Emissions) will  
3 now come to order on this 5th day of July, 2022.

4 Oral comments and testimony will be accepted  
5 until the close of this hearing and will be made part of  
6 the rulemaking record. Any question regarding revisions  
7 to the rules should be included with your comments, and  
8 any such question will be addressed as part of the  
9 response to comments in the rulemaking record.

10 The purpose of this public hearing is to  
11 accept comments on proposed revisions to Rule 45CSR40 -  
12 Control of Ozone Season Nitrogen Oxides Emissions.

13 This rule establishes nitrogen oxides (or NOX)  
14 ozone season emission limitation, monitoring,  
15 recordkeeping, reporting, excess emissions, and NOX  
16 budget demonstration requirements for large industrial  
17 boilers and combustion turbines that have a maximum  
18 design heat input greater than 250 mmBTU/hr, in  
19 accordance with 40CFR 51.121; NOX ozone season emission  
20 reduction, compliance plan, monitoring, recordkeeping  
21 and reporting requirements for affected stationary  
22 internal combustion engines; and NOX ozone season  
23 control standards, compliance plan, monitoring,  
24 recordkeeping, and reporting requirements for applicable

1 cement manufacturing kilns.

2 The rule is being revised to update the  
3 characterization of units that are not subject to this  
4 rule because they are subject to a Federal NOX ozone  
5 season trading program. Upon authorization and  
6 promulgation of 45CSR40, the rule will be submitted to  
7 the U.S. EPA to fulfill federal obligations in  
8 accordance with the Clean Air Act.

9 The floor is now open for comments. As a  
10 reminder, please keep your comments on topic and limit  
11 them to five minutes. Stephanie, has anyone  
12 pre-registered to provide comments on proposed Rule  
13 45CSR40? If so, please unmute their line & call on them  
14 now.

15 MS. HAMMONDS: Thank you, Laura. Mr. Kotcon  
16 has registered to provide oral comments and Mr. Kotcon,  
17 if you'd like to go ahead, please.

18 MR. KOTCON: Thank you. The -- again, I will  
19 apologize at not having reviewed the updates on all of  
20 those Federal requirements and so subject to any  
21 contradiction from National Sierra Club, we would  
22 certainly support the routine update.

23 I would also add that having followed ozone  
24 levels in West Virginia for many years, air quality is

1 improving fairly significantly and I urge DEP to keep up  
2 the good work and, obviously, we can do more but we are  
3 definitely heading in the right direction. Thank you.

4 MS. HAMMONDS: Thank you, Mr. Kotcon. If you  
5 did not pre-register to provide oral comments but would  
6 like to do so now, please use the raise your hand  
7 feature.

8 Laura, I do not see any hands raised.

9 MS. JENNINGS: Okay. Thank you, Stephanie.  
10 There being nothing further, this public hearing for  
11 proposed Rule 45CSR40 is concluded. There are no  
12 further public hearings this evening.

13 I would like to thank everyone in attendance  
14 for your interest and your participation in the public  
15 hearings and public comment process this evening and I  
16 wish you all a good evening. Thank you.

17 MR. FLETCHER: Okay. All right. Well, if  
18 that is it, then we will go ahead and close the  
19 proceedings. All right. Thanks, everyone, for  
20 attending.

21 COURT REPORTER: Thank you. Have a great  
22 night.

23 MS. JENNINGS: Thanks.

24 (Proceeding was concluded at 6:49 p.m.)

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 [] day of [], 2021.

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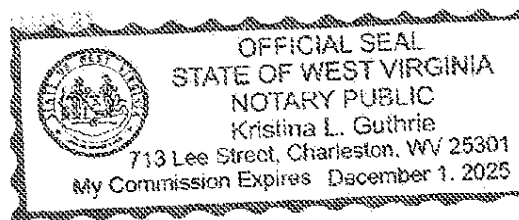
*Kristina Guthrie*

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Kristina Guthrie, Professional  
Reporter and Notary Public

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