

BEFORE THE WEST VIRGINIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
DIVISION OF AIR QUALITY

In re: 45CSR40 - CONTROL OF OZONE SEASON
NITROGEN OXIDES EMISSIONS

Transcript of proceedings had at a public hearing in the above-styled matter taken at the West Virginia Department of Environmental Protection, Division of Air Quality, Conference Room, 601 57th Street, S. E. Charleston, West Virginia, commencing at 6:12 p.m., on the 6th day of July, 2015, pursuant to notice.

MISSY L. YOUNG, C.C.R.
POST OFFICE BOX 13622
SISSONVILLE, WEST VIRGINIA 25360
304-539-6192

P R O C E E D I N G S

MS. JENNINGS: This public hearing will now come to order on this 6th day of July 2015, at the West Virginia Department of Environmental Protection Headquarters. Comments and testimony will be accepted until the close of this hearing and will be made part of the rulemaking record. Any relevant question regarding revisions to the rules will be included with your comments, and any such question will be addressed as part of the response to comments in the rulemaking record.

The purpose of this public hearing is to satisfy state rulemaking requirements by accepting comments on proposed revisions to rule 45CSR40 - *Control of Ozone Season Nitrogen Oxides Emissions*. This rule is the ozone season CAIR NOx, rule. Revisions to the rule remove CAIR Provisions. Upon authorization and promulgation of 45CSR40, the Division will submit the rule to the EPA as a revision to the State Implementation Plan pursuant to the federal Clean Air Act.

The floor is now open for comments.

There being nothing further, this public hearing for proposed rule 45CSR40 is concluded.

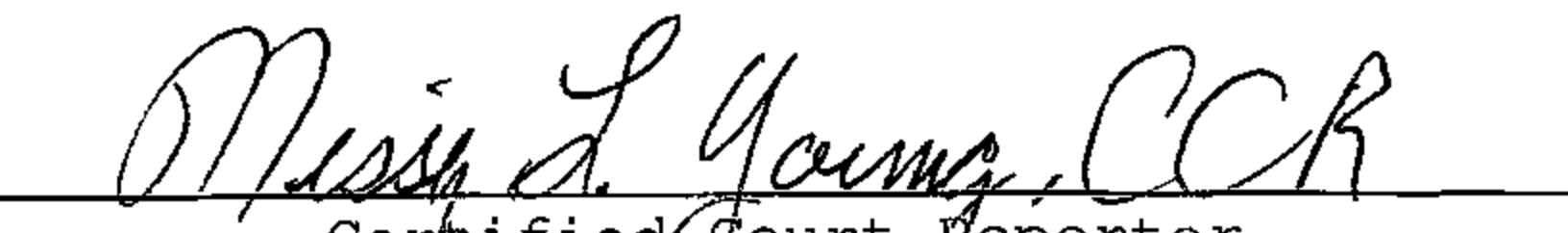
(WHEREUPON, the hearing was concluded at 6:32 p.m.)

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

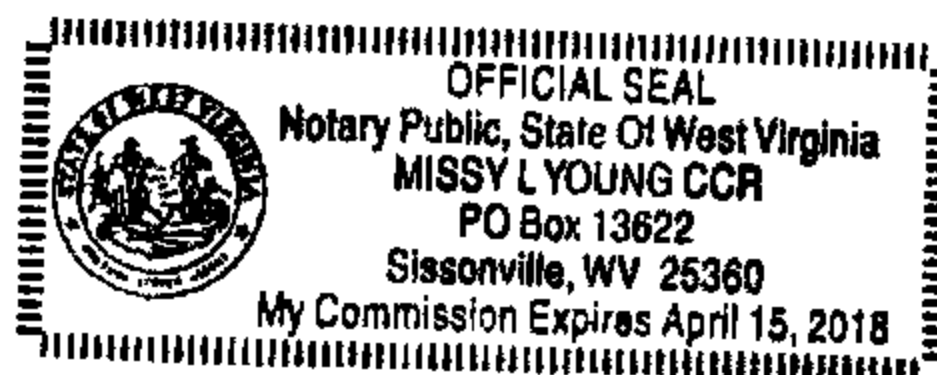
I, the undersigned, Missy L. Young, a
Certified Court Reporter and Notary Public within and for
the State of West Virginia, duly commissioned and
qualified, do hereby certify that the foregoing, was taken
to the best of my skill and ability, a true and accurate
transcript of all the proceedings had in the aforementioned
matter.

Given under my hand and official seal this
8th day of July 2015.



Certified Court Reporter
Notary Public for the State of West Virginia

My commission expires April 15, 2018.





west virginia department of environmental protection

SIGN-IN SHEET

Public Hearing on proposed 2016 Division of Air Quality Rules 45CSR16, 45CSR18, 45CSR25, 45CSR34, 45CSR39, 45CSR40, and 45CSR41.

July 6, 2015, 6:00 p.m.

The Department of Environmental Protection asks for the information below so that agency staff may provide responses and information about decisions to you. The information you voluntarily provide on this sheet becomes part of the public record related to this topic and may be released if requested under the Freedom of Information Act.

Name (please print)	Address	Organization	Phone	E-mail	Comment Y/N
Jon Moser	WV DEP				N
Jake Glance	WV DEP				N
Laura Jennings	WV DEP				N
Cami Gratephew	WV Enviro Council	E	543-5811		
Sean W. Morrison	.	WCHS/WVATH			
Elbert Masley		WOWK	(304) 720-6559		
Dave Lausky	Spilner Thoman	Spilner	304 552 6658	dylaussy@spilnerlaw.com	N

Promoting a healthy environment.

Jennings, Laura M

From: DEP Comments
Sent: Monday, July 06, 2015 4:14 PM
To: Jennings, Laura M; Mason, James L
Subject: FW: FirstEnergy Comments on Proposed Rule Language West Virginia 45CSR40 -- Control of Ozone Season Nitrogen Oxides Emissions "SERIES 40 CONTROL OF OZONE SEASON NITROGEN OXIDES EMISSIONS"
Importance: High

From: Hromulak, Donald C. [<mailto:dchromulak@firstenergycorp.com>]
Sent: Monday, July 06, 2015 3:43 PM
To: DEP Comments
Cc: Jirousek, Michael J.; Evans, Raymond L.; Weber, Douglas J.
Subject: FirstEnergy Comments on Proposed Rule Language West Virginia 45CSR40 -- Control of Ozone Season Nitrogen Oxides Emissions "SERIES 40 CONTROL OF OZONE SEASON NITROGEN OXIDES EMISSIONS"
Importance: High

Public Information Office
West Virginia Department of Environmental Protection

Comments on the proposed rule language West Virginia 45CSR40 -- Control of Ozone Season Nitrogen Oxides Emissions "SERIES 40 CONTROL OF OZONE SEASON NITROGEN OXIDES EMISSIONS"

FirstEnergy Corp. hereby submits the following comments on 45CSR40 -- Control of Ozone Season Nitrogen Oxides Emissions "SERIES 40 CONTROL OF OZONE SEASON NITROGEN OXIDES EMISSIONS"

FirstEnergy Corp. fully supports the West Virginia DEP's decision to exempt units covered under CSAPR and to align West Virginia's rules with the Federal regulations

Paragraph 4.1 on pg. 18 should be written such that it clearly states that paragraph 4.1 does not apply to any unit that is subject to the federal Cross-State Air Pollution Rule NOx Ozone Season Trading Program established under 40 CFR Part 97, Subpart BBBBBB, or an equivalent trading program established under regulations approved as a state implementation plan revision pursuant to 40 CFR §52.38(b)(5). This would avoid the misinterpretation that §45-40-7 and §45-40-8 apply to units subject to Cross-State Air Pollution Rule NOx Ozone Season Trading Program or equivalent trading program.

It is suggested that the paragraph 4.1 be reworded as follows:

4.1. The owner or operator of a unit that has a maximum design heat input greater than 250 mmBtu/hr, ***except for any unit subject to the federal Cross-State Air Pollution Rule NOx Ozone Season Trading Program established under 40 CFR Part 97, Subpart BBBBBB, or an equivalent trading program established under regulations approved as a state implementation plan revision pursuant to 40 CFR §52.38(b)(5),*** shall comply with the ozone season NOX emission limitation, and monitoring, recordkeeping and reporting requirements for ozone season emissions of NOX set forth in sections 5 and 6 ***except for any unit subject to***

~~the federal Cross-State Air Pollution Rule NOx Ozone Season Trading Program established under 40 CFR Part 97, Subpart BBBBBB, or an equivalent trading program established under regulations approved as a state implementation plan revision pursuant to 40 CFR §52.38(b)(5).~~

To increase clarity, verbiage should be added to Paragraphs 5.1, 6.1, 7.1, 8.1, 8.2, and 8.3, to state that the requirement does not apply to any unit subject to the federal Cross-State Air Pollution Rule NOx Ozone Season Trading Program established under 40 CFR Part 97, Subpart BBBBBB, or an equivalent trading program established under regulations approved as a state implementation plan revision pursuant to 40 CFR §52.38(b)(5),

Sincerely,
Donald C. Hromulak
Supervisor, Air Permitting & Performance
Environmental Dept.
330-436-2781

The information contained in this message is intended only for the personal and confidential use of the recipient(s) named above. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately, and delete the original message.

45CSR40

CONTROL OF OZONE SEASON NITROGEN OXIDE EMISSIONS

RESPONSE TO COMMENTS

On June 5, 2015, the Division of Air Quality (DAQ) commenced a thirty day public comment period and subsequently held a public hearing on July 6, 2015 to accept oral comments on proposed revisions to legislative rule 45CSR40. Written comments were also accepted through 6:00 PM on Monday, July 6, 2015. One commenter submitted written comments regarding proposed revisions to rule 45CSR40, and no one provided verbal comments. DAQ addresses the written comments below.

I. COMMENTER: FirstEnergy

COMMENT A. The commenter states, *“FirstEnergy Corp. fully supports the West Virginia DEP's decision to exempt units covered under CSAPR and to align West Virginia's rules with the Federal regulations*

Paragraph 4.1 on pg. 18 should be written such that it clearly states that paragraph 4.1 does not apply to any unit that is subject to the federal Cross-State Air Pollution Rule NOx Ozone Season Trading Program established under 40 CFR Part 97, Subpart BBBBBB, or an equivalent trading program established under regulations approved as a state implementation plan revision pursuant to 40 CFR §52.38(b)(5). This would avoid the misinterpretation that §45-40-7 and §45-40-8 apply to units subject to Cross-State Air Pollution Rule NOx Ozone Season Trading Program or equivalent trading program.

It is suggested that the paragraph 4.1 be reworded as follows:

4.1. The owner or operator of a unit that has a maximum design heat input greater than 250 mmBtu/hr, except for any unit subject to the federal Cross-State Air Pollution Rule NOx Ozone Season Trading Program established under 40 CFR Part 97, Subpart BBBBBB, or an equivalent trading program established under regulations approved as a state implementation plan revision pursuant to 40 CFR §52.38(b)(5), shall comply with the ozone season NOX emission limitation, and monitoring, recordkeeping and reporting requirements for ozone season emissions of NOX set forth in sections 5 and 6 except for any unit subject to the federal Cross-State Air Pollution Rule NOx Ozone Season Trading Program established under 40 CFR Part 97, Subpart BBBBBB, or an equivalent trading program established under regulations approved as a state implementation plan revision pursuant to 40 CFR §52.38(b)(5).

RESPONSE A. DAQ has revised subsection 4.1 accordingly.

COMMENT B. The commenter states, *“To increase clarity, verbiage should be added to*

Paragraphs 5.1, 6.1, 7.1, 8.1, 8.2, and 8.3, to state that the requirement does not apply to any unit subject to the federal Cross-State Air Pollution Rule NOx Ozone Season Trading Program established under 40 CFR Part 97, Subpart BBBBBB, or an equivalent trading program established under regulations approved as a state implementation plan revision pursuant to 40 CFR §52.38(b)(5) ”

RESPONSE B. DAQ believes the revision to subsection 4.1 under Comment A provides adequate clarity with respect to applicability. However, DAQ does not believe adding exception verbiage to subsections 5.1, 6.1, 7.1 8.1, 8.2 and 8.3 would further increase clarity.