

45CSR16
STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES
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. 16 on June 7, 2019. The public comment period concluded on July 9, 2019 after satisfying the minimum 30-day period. A public hearing was held at the DEP Headquarters located at 601 57th Street SE, Charleston WV in the Dolly Sods Conference Room on July 9, 2019 to accept oral and written comments regarding the proposed revisions to legislative rule 45 C.S.R. 16. Any comments received after this time are considered ex parte communications and cannot be considered in accordance with WV Code Chapter 29A Article 3.

No written comments were received regarding proposed revisions to rule 45 C.S.R. 16. One attendee present at the public hearing provided verbal comments. A summary of the verbal comments presented by Daniel Lutz, Conservation District Supervisor of Jefferson County, are provided below along with the response. The full comment can be found in the public hearing transcript, also part of the formal rulemaking record.

There were no changes made to 45 C.S.R. 16 as a result of the comments.

COMMENT A: It is clear that this regulation is being revised for one entity and to weaken the existing regulations. This entity proposes to be self-monitored. There is no good reason for a modification to this rule.

RESPONSE A: This rule applies to any source in West Virginia that meets the applicability criteria provided in any New Source Performance Standards (NSPS) within the scope of the rule and is not being revised for “one entity”. This regulation is being revised to meet West Virginia DEP’s obligations to the U.S. EPA to maintain delegation of authority for implementation and enforcement of NSPS by legally adopting new NSPS. The WV DEP initially received delegation from the U.S. EPA to implement and enforce NSPS under the Clean Air Act in 1984. The proposed revision to 45 C.S.R. 16 does not weaken the existing regulation.

COMMENT B: The commenter stated that no one from the WV DEP would consider his request and didn’t respond to his request to put this proceeding on Skype or conference call so that others from Jefferson County could participate. One can only infer that public participation is not desired.

RESPONSE B: As stated in the public notice published in the WV State Register, both oral and written comments were solicited. Written comments were accepted at any time during the public comment period and could either be mailed to the physical address provided in the public notice or e-mailed to the e-mail address provided in the public notice. Oral comments for anyone

choosing to attend the public hearing were also an option to provide comment. All requirements of the Administrative Procedures Act (W. Va. Code Chapter 29A) regarding public notice were satisfied.

THERE WEREN'T ANY WRITTEN COMMENTS RECEIVED FOR 45CSR16. ORAL COMMENTS
RECEIVED AT THE PUBLIC HEARING ARE PROVIDED IN THE TRANSCRIPT FOR 45CSR16
(STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES)

ORIGINAL

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

In re: 45CSR16 - Standards of Performance for New
Stationary Sources

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 6:25 p.m., on the
9th day of July 2019, pursuant to notice.

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

PROCEEDINGS

MS. JENNINGS: This public hearing for the proposed legislative rule 45CSR16 Standards of Performance for New Stationary Sources, will now come to order on this 9th day of July, 2019 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 question regarding revisions to the rules should 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 accept comments on proposed revisions to rule 45CSR16 - Standards of Performance for New Stationary Sources.

This rule establishes and adopts national standards of performance for new stationary sources and other regulatory requirements promulgated by the United States Environmental Protection Agency pursuant to section 111(b) of the federal Clean Air Act.

This rule codifies general procedures and criteria to implement standards of performance for new stationary sources set forth in 40CFR Part 60. The rule

1 also adopts associated appendices, reference methods,
2 performance specifications and other test methods which are
3 appended to such standards.

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

11 Revisions to this rule include annual
12 incorporation by reference of the federal regulations as of
13 June 1, 2019. Upon authorization and promulgation of
14 45CSR16, the rule will be submitted to the U.S. EPA to
15 fulfill delegation obligations in accordance with the
16 federal Clean Air Act.

17 The floor is now open for comments. Please stage4
18 your name and any affiliation.

19 MR. LUTZ: As before, Daniel Lutz,
20 Conservation District Supervisor from Jefferson County.

21 I'm not going to go back through the other
22 testimony that I gave, however, it is clear that this
23 particular regulation is being revised for one entity,

1 which I will not mention, and it is to weaken the existing
2 regulations. This entity proposes to be self-monitored,
3 which is like having a fox guarding the hen house. There is
4 no good reason for modification to this rule.

5 Also, there are people in Jefferson County who
6 would have participated in this and have far more knowledge
7 than I on it if they would have taken the time to be here.
8 However, no one from the West Virginia DEP would even
9 consider and didn't even respond to my request to have this
10 procedure put out on skye, or on conference call, so that
11 others could participate.

12 So, once again, one can only infer that the
13 public participation is not desired. Thank you.

14 MS. JENNINGS: Thank you for your comments.
15 There being nothing further, this public hearing for
16 proposed rule 45CSR16 is concluded.

17 (WHEREUPON, the hearing was
18 concluded.)
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Proceedings

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STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

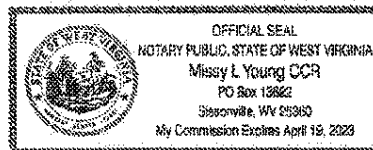
I, the undersigned, Missy L. Young, a
Certified Court Reporter and Notary Public within and for
the State of West Virginia, duly commissioned and
qualified, do hereby certify that the foregoing, was taken
to the best of my skill and ability, a true and accurate
transcript of all the proceedings had in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

Given under my hand and official seal this
12th day of July, 2019.

Missy L. Young, CCR

Certified Court Reporter
Notary Public for the State of West Virginia

My commission expires April 19, 2023.



MISSY L. YOUNG, C.C.R. 304-539-6192



west virginia department of environmental protection

**Public Hearing: July 9, 2019 at 6:00 PM,
DEP Building 601 57th Street SE, Charleston, WV - Dolly Sods Conference Room
Proposed Division of Air Quality 2020 Legislative Rules
45CSR8, 45CSR16, 45CSR25, 45CSR34 and 45CSR40
SIGN-IN SHEET**

The information provided below becomes part of the public record related to this topic.

Name (please print)	Address	Organization	Phone	E-mail	Comment
Danny Lutz	175 Wheelbarrow Rd	CT	304/725-0866 304/886-5771	p.lutz@ct.gov	701 CT
Missy					702 PA
Laura Crowder		DAQ		Laura.M.Crowder@wv.gov	N
Pam Kendrick		DAQ			
Stephanie Hammonds		DAQ			N
Laura Jennings		DAQ			N