

45CSR40
CONTROL OF OZONE SEASON NITROGEN OXIDES EMISSIONS

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. 40 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 on the proposed revisions to legislative rule 45 C.S.R. 40. 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 for the proposed revisions to rule 45 C.S.R. 40. 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. 40 as a result of the comments.

COMMENT A: Issues with ozone will interfere with Kreb's cycle in the hills with legumes, clover, peas, green beans, etc. and rendered unproduceable with high levels of ozone allowed to be permitted. Research just coming in from Penn State for soil microbes - what does the increase in this oxygenation due to the ground water penetration and soil microbe activity?

RESPONSE A: Proposed revisions to 45 C.S.R. 40 do not include an increase in the nitrogen oxides (NO_x) ozone season budget established by the U.S. EPA in 1998 to reduce the level of ozone from large industrial boilers greater than 250 MMBtu/hr.

COMMENT B: At Penn State, they have just isolated several hundred previously unknown soil microbes. What does this increase in oxygenation do to the ground water penetration due to these microbes and to the soil activity?

RESPONSE B: The proposed revisions to 45 C.S.R. 40 do not include an increase in the nitrogen oxides (NO_x) ozone season budget established by the U.S. EPA in 1998 to reduce the level of ozone from large industrial boilers greater than 250 MMBtu/hr.

COMMENT C: In the case of these boilers, the firm that is proposing to locate in Jefferson County is going to use an 18th Century Bessemer process to create their material. Instead, why can't they retrofit to an electric arc or heliarc process? This is a regulation that shouldn't even be touched. Need to have an economic analysis to see who is benefitting.

RESPONSE C: A boiler as defined in section 2.2 of 45 C.S.R. 40 means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium. The processes identified in this comment pertain to furnaces, not boilers. This comment is not germane to proposed rule 45 C.S.R. 40.

THERE WEREN'T ANY WRITTEN COMMENTS RECEIVED FOR 45CSR40. ORAL COMMENTS RECEIVED AT THE PUBLIC HEARING ARE PROVIDED IN THE TRANSCRIPT FOR 45CSR40 (CONTROL OF OZONE SEASON NITROGEN OXIDES EMISSIONS)

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

MISSY L. YOUNG, C.C.R.
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PROCEEDINGS

1
2 MS. JENNINGS: This public hearing for
3 45CSR40 (Control of Ozone Season Nitrogen Oxides Emissions)
4 will now come to order on this 9th day of July 2019, at the
5 West Virginia Department of Environmental Protection
6 Headquarters.

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

13 The purpose of this public hearing is to accept
14 comments on the proposed revisions to rule 45CSR40 -
15 Control of Ozone Season Nitrogen Oxides Emissions. This
16 rule establishes: (a) nitrogen oxides (NOx), ozone season
17 emission limitation, monitoring, recordkeeping, reporting,
18 excess emissions, and NOx budget demonstration requirements
19 for large industrial boiler and combustion turbines that
20 have a maximum design heat input greater the 25mmBTU/hr, in
21 accordance with 40CFR §51.121; (b) NOx ozone season
22 emission reduction, compliance plan, monitoring, record-
23 keeping, and reporting requirements for affected stationary

1 internal combustion engines; and (c) NOx ozone season
2 control standards, compliance plan, monitoring,
3 recordkeeping, and reporting requirements for applicable
4 cement manufacturing kilns.

5 This rule is being revised to reference the
6 current federal Cross-State Air Pollution Rule under 40CFR
7 Part 97, Subpart EEEEE and to revise the monitoring,
8 recordkeeping, and reporting requirements under section 6
9 as a result of federal amendments to the "Emissions
10 Monitoring Provisions in State Implementation Plans
11 Required Under the NOx SIP Call" published March 8, 2019.

12 Upon authorization and promulgation of 5CSR40,
13 the rule will be submitted to the U.S EPA as a revision to
14 the State Implementation Plan pursuant to the federal Clean
15 Air Act.

16 The floor is now open for comments. Please state
17 your name and any affiliation.

18 MR. LUTZ: Again, Daniel Lutz, Conservation
19 Supervisor for Jefferson County, West Virginia. It's
20 interesting -- I've touched upon some of the issues in the
21 first comment, and if the Reporter will indulge me I shall
22 ask that my comments be included in this section to reflect
23 the comments I made earlier about ozone, unless you want me

1 to repeat them, which I will.

2 MS. JENNINGS: That should be fine.

3 COURT REPORTER: I don't know exactly which
4 portion, if you want to just do it quickly.

5 MR. LUTZ: Okay, the issue with ozone is in
6 particular, as I mentioned in the first discourse. Ozone
7 will interfere with the Krebs cycle in the hills. And in the
8 hills, as I mentioned earlier, are soy beans, clover - -
9 that is the little flat-like clover, the durana white
10 clover you see in your yard that the bees like to
11 pollinate; red top clover, which is a wonderful hay product
12 and outside clover which is another - - it's a wild clover
13 that is also good for pollinators. Then you have legumes
14 such as sugar pod peas, June peas, green beans, lima beans,
15 black beans, kidney beans. All of the these will be
16 rendered unproduceable if with high levels of ozone allowed
17 to be permitted.

18 The research just happened to come in and I just
19 thought of this. At Penn State they have just isolated
20 several hundred previously unknown soil microbes. Now, the
21 ozone is heavier than air so it goes to the soil
22 ultimately, with rain and all, it is absorbed by the soil.
23 What does this increase in oxygenation do to the ground

1 water penetration due to these microbes and to the soil
2 activity? I've got a request in to Penn State to get this
3 information and I'm still waiting. I don't think they have
4 had time to do much work in it, but that's another story.

5 In the case of these boilers, the firm that is
6 proposing to locate in Jefferson County, it's going to be
7 using an 18th century Bessemer process to create their
8 material. That's B-e-s-s-e-m-e-r. The man invented it to
9 create pig iron. I didn't mean to insult your intelligence.

10 Instead, why can't this firm, that is coming out
11 of the ground and other firms, retrofit to the electric
12 arch or the Heliarc process that they use in Europe? The
13 electric Heliarc process was brought in by the United
14 States to the war-torn states of Europe following World War
15 II under the Marshall Plan.

16 But in West Virginia we're stuck with the 18th
17 century Bessemer process that is going to keep poisoning
18 us? This doesn't make any sense. This is a regulation that
19 shouldn't even touch or allow operations such as this to
20 have more latitude. We do not need that and it is not
21 sensible and it is not practical. The Heliarc process is a
22 hundred times as efficient as the Bessemer process. Yet,
23 why they will not use it and why other firms that operate,

1 and are continuing to operate in West Virginia, continue to
2 do so. Probably the reason they continue to do it is they
3 have just about run their tax breaks out and are going to
4 leave anyway.

5 So, all of these regulations, we need to have
6 some economic analysis done on them to find out exactly who
7 is benefitting and to what extent. I have a feeling that
8 it's considerable. There are ways that everyone can win if
9 people will sit and listen. So far I haven't had much luck
10 getting anyone to do that. Thank you.

11 MS. JENNINGS: Thank you for your comments.
12 There being nothing further, this public hearing for
13 proposed rule 45CSR40 is concluded.

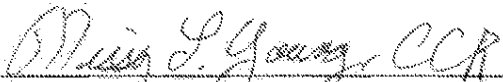
14 (WHEREUPON, the hearing was concluded.)

15

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to-wit:

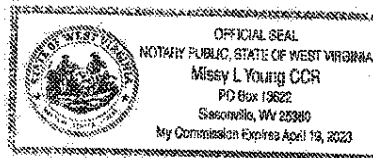
I, the undersigned, Missy L. Young, a Certified Court Reporter and Notary Public within and for the State of West Virginia, duly commissioned and qualified, do hereby certify that the foregoing, was taken to the best of my skill and ability, a true and accurate transcript of all the proceedings had in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

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



Certified Court Reporter
Notary Public for the State of West Virginia

My commission expires April 19, 2023.





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	304/8265071	p.lutz@ct.gov	701 OK
Missy					702 P22
Laura Crowder		DAQ		Laura.M.Crowder@wv.gov	N
Pam Kendrick		DAQ			
Stephanie Hammonds		DAQ			N
Laura Jennings		DAQ			N