

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 45CSR16 on June 2, 2023. The public comment period concluded July 6, 2023, after satisfying the 30-day period. A public hearing was held virtually on July 6, 2023. The purpose of the public comment period and hearing was to accept oral and written comments on the proposed revisions to 45CSR16.

There was one written comment received during the public comment period from Mr. Duane Nichols of Mon Valley Clean Air Coalition (MVCAC) who also provided oral comments during the public hearing. A summary of the consolidated comments and responses are provided below.

The original comments received and the public hearing transcript are provided as part of the formal rulemaking record. There were not any changes made to 45CSR16 after reviewing and considering the comments received.

Commenter 1: Mon Valley Clean Air Coalition

COMMENT 1: Written comment periods need to end no earlier than three days after a verbal comment period, to give all concerned time to revise and extend their thoughts, ideas, and written comments. This is both logical and necessary for a rational a rational approach to the public role.

RESPONSE 1: The purpose of a public hearing is different than that of a public meeting. A public hearing is regulatory in nature with the sole purpose of receiving oral comments on the record in addition to or in lieu of written comments, unlike a public meeting that includes an interactive and educational component in addition to taking comments. The requirement for public hearings is to provide a full 30-day public notice period prior to the public hearing. The rulemaking timeline is dictated by Office of the Secretary of State and does not require a public hearing, although the DAQ does so to meet other federal regulatory requirements. The public comment period commenced June 2, 2023 and concluded July 6, 2023, allowing more than 30-days required by federal regulations.

COMMENT 2: We simply want to reiterate our support for the tightening, for the modernization, and for the updating of the standards.

RESPONSE 2: Thank you for your comment, a response is not necessary.



Jennings, Laura M <laura.m.jennings@wv.gov>

Tonight's Hearing

Duane Nichols <nichols330@gmail.com>
To: Laura.M.Jennings@wv.gov
Cc: depadvocate@wv.gov

Thu, Jul 6, 2023 at 4:59 PM

Written comment periods need to end no earlier than three days after a verbal comment period, to give all concerned time to revise and extend their thoughts, ideas, and written comments.

This is both logical and necessary for a rational a rational approach to the public role.

Duane Nichols, MVCAC

Sent from my iPad

IN RE: DIVISION OF AIR QUALITY PUBLIC HEARING

RULE 45CSR16

07/06/2023



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Realtimereporters.net

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DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF AIR QUALITY
PUBLIC HEARING

IN RE:

DIVISION OF AIR QUALITY
PROPOSED 2024 LEGISLATIVE RULES
RULE 45CSR16

* * *

Thursday, July 6, 2023
Held remotely via Google Meets
7:05 p.m.

* * *

Appearing on behalf of the WV DEP

Nicole Ernest
Laura Jennings
Sandra Adkins

Tammie Trigg, Court Reporter

1 * * *

2 P R O C E E D I N G S

3 * * *

4 MS. JENNINGS: Is the court reporter ready
5 for the next hearing?

6 THE REPORTER: Yes.

7 MS. JENNINGS: Thank you.

8 The virtual public hearing for the proposed
9 legislative Rule 45CSR16, Standards of Performance for
10 New Stationary Sources, will now come to order on this
11 6th day of July 2023.

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

18 The purpose of this public hearing is to
19 accept comments on proposed revisions to 45CSR16. This
20 rule was last promulgated in the 2023 session and
21 establishes and adopts national standards of performance
22 for new stationary sources and other regulatory
23 requirements promulgated by the U.S. EPA pursuant to
24 Section 111(b) of the federal Clean Air Act.

25 This rule codifies general procedures and

1 criteria to implement standards of performance for new
2 stationary sources set forth in 40 CFR Part 60. The
3 rule also adopts associated appendices, reference
4 methods, performance specifications and other test
5 methods which are appended to such standards.

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

13 Revisions to the rule include updating the
14 annual incorporation by reference of the new source
15 performance standards, or NSPS, promulgated by EPA under
16 40 CFR Part 60 as of June 1st, 2023, by updating the IBR
17 dates in you be Subsections 1.6 and 4.1. The rule
18 numbering and text formats were revised to comport with
19 153CSR1.

20 The floor is now open for comments. As a
21 reminder, please keep your comments on topic and limit
22 them to five minutes. Nicole, has anyone preregistered
23 to provide comments on proposed rule 45CSR16? If so,
24 please unmute their line and call on them now.

25 MS. ERNEST: Thanks, Laura. For those who

1 have preregistered to speak, I will call your name.
2 Please unmute your line. I apologize in advance if I
3 mispronounce anyone's name incorrectly.

4 Duane Nichols, please unmute your line.
5 Please state clearly your name and indicate if you're
6 representing any group or organization.

7 MR. NICHOLS: Thank you.

8 We represent the Mon Valley Clean Air
9 Coalition and simply want to reiterate our support for
10 the tightening for the modernization for the updating of
11 the standards. So without further ado, that's all the
12 comments we have in this category.

13 MS. ERNEST: Thank you.

14 There are no other registered commenters. If
15 you did not preregister to speak, but would like to do
16 so, please use the "raise hand" option.

17 (Short Pause)

18 MS. ERNEST: There being nothing further,
19 this public hearing for proposed rule 45CSR16 is
20 concluded. The public hearing for proposed rule 45CSR21
21 will begin momentarily.

22 MS. JENNINGS: Thank you, Nicole.

23 * * *

24 (Whereupon, this hearing was concluded at 7:08 p.m.)

25 * * *

1 THE STATE OF :
WEST VIRGINIA : SS: C E R T I F I C A T E
2 COUNTY OF OHIO :

3 I, TAMMIE TRIGG, Registered Professional
Reporter and Notary Public within and for the State of
4 West Virginia, duly commissioned and qualified, do
hereby certify that the proceedings within were by me
5 reduced to stenotype; afterwards reduced to Computer
Aided Transcription under my direction and control; that
6 the foregoing is a true and correct transcription of the
proceedings.
7

8 I do further certify that these proceedings
were taken at the time and place in the foregoing
9 caption specified, and was completed without
adjournment.
10

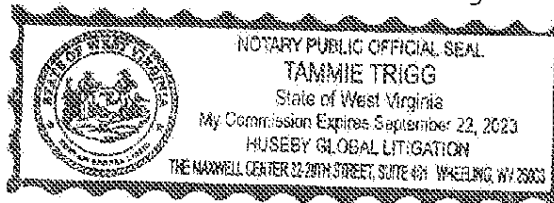
11 I do further certify that I am not a
relative, counsel or attorney of either party, or
12 otherwise interested in the event of this action.

13
14 IN WITNESS THEREOF, I have hereunto set my
hand and affixed my seal of office at Wheeling, West
Virginia, on the _____ day of _____, 2023.

Tammie Trigg

TAMMIE TRIGG, Registered
Professional Reporter and
18 Notary Public within and
for the State of West Virginia

20 My commission expires:
21 September 22, 2023



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<p>1</p> <hr/> <p>1.6 3:17 111(b) 2:24 153CSR1 3:19 1st 3:16</p> <hr/> <p>2</p> <hr/> <p>2023 2:11,20 3:16</p> <hr/> <p>4</p> <hr/> <p>4.1 3:17 40 3:2,16 45CSR16 2:9,19 3:23 4:19 45CSR21 4:20</p> <hr/> <p>6</p> <hr/> <p>60 3:2,16 6th 2:11</p> <hr/> <p>7</p> <hr/> <p>7:08 4:24</p> <hr/> <p>A</p> <hr/> <p>accept 2:19 accepted 2:12 Act 2:24 3:9 addressed 2:16 ado 4:11 adopts 2:21 3:3 advance 4:2 Air 2:24 3:9 4:8</p>	<p>annual 3:14 anyone's 4:3 apologize 4:2 appended 3:5 appendices 3:3 authority 3:11</p> <hr/> <p>B</p> <hr/> <p>begin 4:21</p> <hr/> <p>C</p> <hr/> <p>call 3:24 4:1 category 4:12 CFR 3:2,16 Clean 2:24 3:9 4:8 close 2:13 Coalition 4:9 codifies 2:25 commenters 4:14 comments 2:12, 15,17,19 3:20,21, 23 4:12 comport 3:18 concluded 4:20, 24 consistency 3:7 continue 3:10 court 2:4 criteria 3:1 current 3:7</p> <hr/> <p>D</p> <hr/> <p>dates 3:17 day 2:11</p>	<p>Department 3:10 Duane 4:4</p> <hr/> <p>E</p> <hr/> <p>enable 3:9 enforcement 3:11 Environmental 3:10 EPA 2:23 3:12,15 ERNEST 3:25 4:13,18 establishes 2:21</p> <hr/> <p>F</p> <hr/> <p>federal 2:24 3:7 floor 3:20 formats 3:18 fulfill 3:8</p> <hr/> <p>G</p> <hr/> <p>general 2:25 group 4:6</p> <hr/> <p>H</p> <hr/> <p>hand 4:16 hearing 2:5,8,13, 18 4:19,20,24</p> <hr/> <p>I</p> <hr/> <p>IBR 3:16 implement 3:1 include 3:13 included 2:15 incorporation 3:14</p>	<p>incorrectly 4:3</p> <hr/> <p>J</p> <hr/> <p>JENNINGS 2:4,7 4:22 July 2:11 June 3:16</p> <hr/> <p>L</p> <hr/> <p>Laura 3:25 legislative 2:9 limit 3:21</p> <hr/> <p>M</p> <hr/> <p>made 2:13 maintain 3:7 methods 3:4,5 minutes 3:22 mispronounce 4:3 modernization 4:10 momentarily 4:21 Mon 4:8</p> <hr/> <p>N</p> <hr/> <p>national 2:21 3:11 Nichols 4:4,7 Nicole 3:22 4:22 NSPS 3:15 numbering 3:18</p> <hr/> <p>O</p> <hr/> <p>open 3:20</p>	<p>option 4:16 Oral 2:12 order 2:10 organization 4:6</p> <hr/> <p>P</p> <hr/> <p>p.m. 4:24 part 2:13,16 3:2,16 Pause 4:17 performance 2:9, 21 3:1,4,15 preregister 4:15 preregistered 3:22 4:1 primary 3:11 procedures 2:25 promulgated 2:20,23 3:12,15 proposed 2:8,19 3:23 4:19,20 Protection 3:10 provide 3:23 public 2:8,18 4:19, 20 purpose 2:18 pursuant 2:23</p> <hr/> <p>Q</p> <hr/> <p>question 2:14,16</p> <hr/> <p>R</p> <hr/> <p>raise 4:16 ready 2:4 record 2:14,17 reference 3:3,14</p>
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registered 4:14	stationary 2:10,22 3:2
regulations 3:7	Subsections 3:17
regulatory 2:22	support 4:9
reiterate 4:9	
reminder 3:21	<hr/> T <hr/>
reporter 2:4,6	test 3:4
represent 4:8	testimony 2:12
representing 4:6	text 3:18
requirements 2:23	tightening 4:10
response 2:17	topic 3:21
responsibilities 3:8	<hr/> U <hr/>
revised 3:18	U.S. 2:23 3:12
revisions 2:14,19 3:6,13	unmute 3:24 4:2,4
rule 2:9,15,20,25 3:3,6,13,17,23 4:19,20	updating 3:13,16 4:10
rulemaking 2:14, 17	<hr/> V <hr/>
<hr/> S <hr/>	Valley 4:8
Section 2:24	Virginia 3:9
session 2:20	virtual 2:8
set 3:2	<hr/> W <hr/>
short 4:17	West 3:9
simply 4:9	
source 3:14	
sources 2:10,22 3:2	
speak 4:1,15	
specifications 3:4	
standards 2:9,21 3:1,5,12,15 4:11	
state 3:8 4:5	