

**Public Notice  
2018 Proposed Legislative Rules**

The West Virginia Division of Air Quality has scheduled a public hearing for its 2018 proposed legislative rules on Tuesday, July 11, 2017 at the Division of Environmental Protection's Charleston headquarters, 601 57th Street S.E., Charleston, WV 25304. The public hearing will take place beginning at 6 p.m. in the Dolly Sods Conference Room. Oral and written comments will be made a part of the rulemaking record.

Copies of the rules are available from the Secretary of State's office or from the DEP at <http://www.dep.wv.gov/plo/Pages/Rules.aspx>. You may also obtain hard copies of the information by calling the phone number listed below. Written comments may also be submitted to the Public Information Office at the above address or e-mailed to [dep.comments@wv.gov](mailto:dep.comments@wv.gov). The public comment period begins on June 9, 2017 and ends at the conclusion of the public hearing, July 11, 2017.

**Division of Air Quality:**

- 45CSR8 - Ambient Air Quality Standards
- 45CSR16 - Standards of Performance for New Stationary Sources
- 45CSR18 - Control of Air Pollution from Combustion of Solid Waste
- 45CSR23 - Control of Air Pollution from Municipal Solid Waste Landfills
- 45CSR25 - Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities
- 45CSR34 - Emission Standards for Hazardous Air Pollutants

Upon authorization and promulgation, rules 45CSR16, 45CSR25 and 45CSR34 will be submitted to the United States EPA (EPA) to fulfill federal obligations under the Clean Air Act (CAA), including delegations and authorizations. Upon authorization and promulgation of 45CSR8, the DAQ will submit the rule to the EPA as a revision to the State Implementation Plan pursuant to the federal CAA. Upon authorization and promulgation of 45CSR18, the DAQ will submit the rule to the EPA as a revision to the State 111(d)/129 Plan pursuant to the federal CAA and to fulfill obligations regarding delegation of the federal New Source Performance Standards. Upon authorization and promulgation of 45CSR23, the DAQ will submit the rule to the EPA as a revision to the State 111(d) Plan pursuant to the federal CAA and to fulfill obligations regarding delegation of the federal New Source Performance Standards.

For more information on any of the DAQ rules call 304-926-0475.

(658831)



# WEST VIRGINIA REGISTER

Published by the Office of the Secretary of State

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Volume XXXIV

Issue 23

June 9, 2017

A Weekly Publication

Administrative Law Division  
Judy Cooper, Manager

Mac Warner  
Secretary of State  
Administrative Law Division  
Bldg. 1, Suite 157K  
1900 Kanawha Blvd. E.  
Charleston, WV 25305-0770

(304) 558-6000  
www.wvsos.com

Chronological Index

Rule Monitor

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- a. Legislative Rules
- b. Interpretive Rules
- c. Procedural Rules
- d. Emergency Rules
- e. Legislative Rule-Making Review Committee

Legislative Interims

Orders

Ethics Commission Opinions

Office of Tax Appeal Decisions

Other Documents or Information Filed

**This week's publication includes documents submitted by the following agencies:**

Air Quality

Auditor

Counseling

Dentistry

Dietitians

Environmental Protection – Secretary's Office

Ethics Commission

Executive Order

Grievances Report

Health Care Authority

Medicine

Mining and Reclamation

Natural Resources

Optometry

Physical Therapy

Waste Management, Div. of Water & Waste Mgmt.

**CHRONOLOGICAL INDEX, VOLUME XXXIV ISSUE 23**

**NEW PROPOSED RULES FILED FOR PUBLIC COMMENT THIS WEEK**

| <u>AGENCY</u>          | <u>RULE/TYPE</u>  | <u>AUTHORITY</u> | <u>HEARING/COMMENT PERIOD/LOCATION</u>  |
|------------------------|---|------------------|---|
| Air Quality<br>(45-8)  | Ambient Air Quality Standards<br>Legislative                              | §22-5-4          | Public Hearing:<br>July 11, 2017, 6:00 pm<br>Dept. of Environmental Protection<br>Dolly Sod's Conference Room #1125<br>601 57 <sup>th</sup> Street SE<br>Charleston, WV 25304<br>Written Comments :<br>July 11, 2017, 7:00 pm<br>Dept. of Environmental Protection<br>Public Information Office<br>601 57 <sup>th</sup> Street SE<br>Charleston, WV 25304 |
| Air Quality<br>(45-16) | Standards of Performance for New Stationary<br>Sources<br>Legislative     | §22-5-4          | Public Hearing:<br>July 11, 2017, 6:00 pm<br>Dept. of Environmental Protection<br>Dolly Sod's Conference Room #1125<br>601 57 <sup>th</sup> Street SE<br>Charleston, WV 25304<br>Written Comments:<br>July 11, 2017, 7:00 pm<br>Dept. of Environmental Protection<br>Public Information Office<br>601 57 <sup>th</sup> Street SE<br>Charleston, WV 25304  |
| Air Quality<br>(45-18) | Control of Air Pollution from Combustion of<br>Solid Waste<br>Legislative | §22-5-4          | Public Hearing:<br>July 11, 2017, 6:00 pm<br>Dept. of Environmental Protection<br>Dolly Sod's Conference Room #1125<br>601 57 <sup>th</sup> Street SE<br>Charleston, WV 25304<br>Written Comments:<br>July 11, 2017, 7:00 pm<br>Dept. of Environmental Protection<br>Public Information Office<br>601 57 <sup>th</sup> Street SE<br>Charleston, WV 25304  |

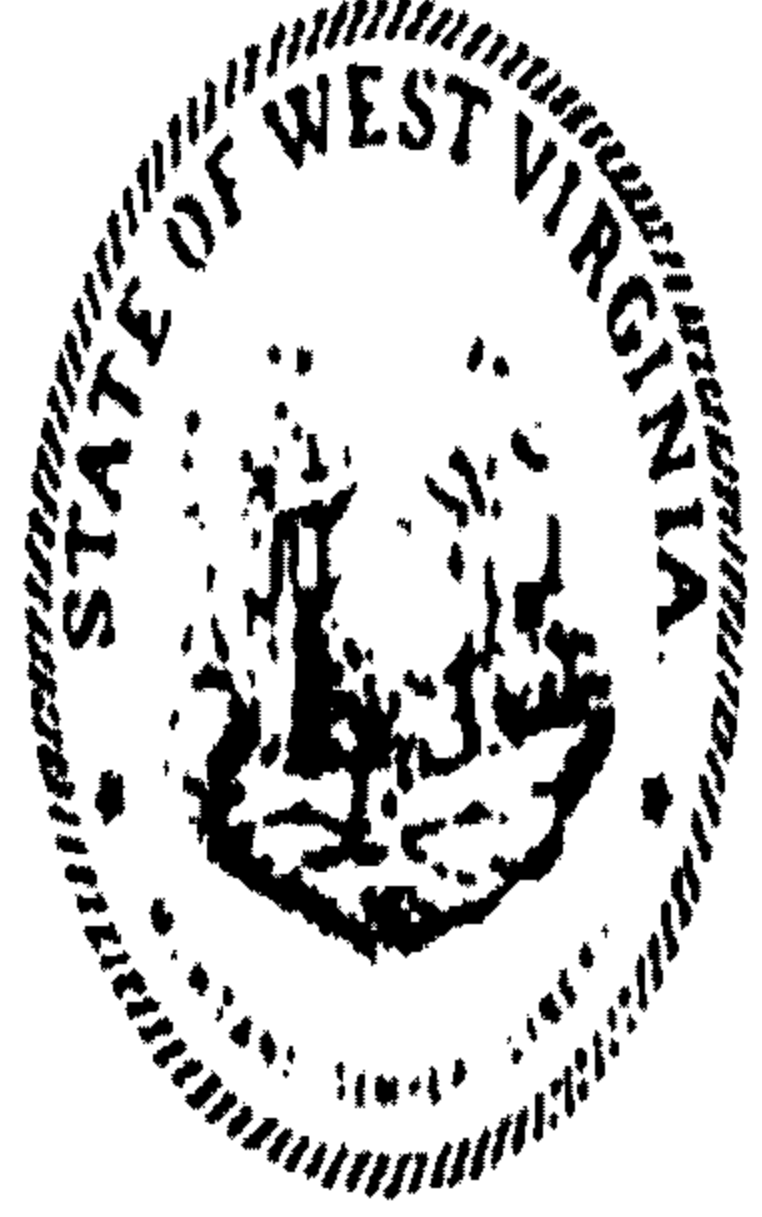
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| Air Quality<br>(45-23) | Control of Air Pollution from Municipal Solid Waste Landfills<br>Legislative                            | §22-5-4              | Public Hearing:<br>July 11, 2017, 6:00 pm<br>Dept. of Environmental Protection<br>Dolly Sod's Conference Room #1125<br>601 57 <sup>th</sup> Street SE<br>Charleston, WV 25304<br>Written Comments:<br>July 11, 2017, 7:00 pm<br>Dept. of Environmental Protection<br>Public Information Office<br>601 57 <sup>th</sup> Street SE<br>Charleston, WV 25304 |
| Air Quality<br>(45-25) | Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities<br>Legislative | §§22-5-4 and 22-18-6 | Public Hearing:<br>July 11, 2017, 6:00 pm<br>Dept. of Environmental Protection<br>Dolly Sod's Conference Room #1125<br>601 57 <sup>th</sup> Street SE<br>Charleston, WV 25304<br>Written Comments:<br>July 11, 2017, 7:00 pm<br>Dept. of Environmental Protection<br>Public Information Office<br>601 57 <sup>th</sup> Street SE<br>Charleston, WV 25304 |
| Air Quality<br>(45-34) | Emission Standards for Hazardous Air Pollutants<br>Legislative  | §22-5-4              | Public Hearing:<br>July 11, 2017, 6:00 pm<br>Dept. of Environmental Protection<br>Dolly Sod's Conference Room #1125<br>601 57 <sup>th</sup> Street SE<br>Charleston, WV 25304<br>Written Comments:<br>July 11, 2017, 7:00 pm<br>Dept. of Environmental Protection<br>Public Information Office<br>601 57 <sup>th</sup> Street SE<br>Charleston, WV 25304 |

**RULE MONITOR**

| <b>AGENCY/SERIES NO</b>                  | <b>RULE</b>   | <b>NOTICE</b> | <b>HEARING</b> | <b>EMER RULE</b> | <b>SEC/STATE</b> | <b>LRMRC-ACTION</b>   | <b>LEGIS</b>                           | <b>FINAL FILE</b> | <b>EFFECTIVE</b> |
|--|---|---------------|----------------|------------------|------------------|---|--|-------------------|------------------|
| Air Quality (45-8)                       | Ambient Air Quality Standards Legislative   | 6/6/2017      | 7/11/2017      |                  |                  |   |  |                   |                  |
| Air Quality (45-16)                      | Standards of Performance for New Stationary Sources Legislative   | 6/6/2017      | 7/11/2017      |                  |                  |   |  |                   |                  |
| Air Quality (45-18)                      | Control of Air Pollution from Combustion of Solid Waste Legislative   | 6/7/2017      | 7/11/2017      |                  |                  |   |  |                   |                  |
| Air Quality (45-23)                      | Control of Air Pollution from Municipal Solid Waste Landfills Legislative                                     | 6/7/2017      | 7/11/2017      |                  |                  |   |  |                   |                  |
| Air Quality (45-25)                      | Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities Legislative          | 6/6/2017      | 7/11/2017      |                  |                  |   |  |                   |                  |
| Air Quality (45-34)                      | Emission Standards for Hazardous Air Pollutants Legislative   | 6/6/2017      | 7/11/2017      |                  |                  |   |  |                   |                  |
| Architects (2-1)                         | Registration of Architect Legislative   | 7/7/2016      | 8/8/2016       |                  | 8/26/2016        | Modified & Approved 9/21/2016<br>Filed 10/5/2016                      | SB 86<br>HB 2235<br>Bundled<br>HB 2219 | 5/23/2017         | 7/1/2017         |
| Auditor (155-1)                          | Standards for Requisitions for Payment Issued by State Officers on the Auditor Legislative                    | 7/27/2016     | 8/26/2016      |                  | 8/26/2016        | Modified w/certain amendments & Approved 9/21/2016<br>Filed 9/21/2016 | SB 89<br>HB 2297<br>Bundled<br>HB 2219 | 6/5/2017          | 7/1/2017         |
| Auditor (155-8)                          | Procedure for Local Levying Bodies to Apply for Permission to Extend Time to Meet as Levying Body Legislative | 7/26/2016     | 8/26/2016      |                  | 8/26/2016        | Modified & Approved 9/21/2016<br>Filed 9/21/2016                      | SB 90<br>HB 2238<br>Bundled<br>HB 2219 | 6/5/2017          | 7/1/2017         |
| Comm. & Tech. College Education (135-25) | Residency Classification for Admission and Fee Purposes Procedural  | 4/25/2017     | 5/25/2017      |                  |                  |   |  | 5/31/2017         | 7/1/2017         |
| Comm. & Tech. College Education (135-35) | Correspondence, Business, Occupational and Trade Schools Legislative  | 12/12/2016    | 1/13/2017      |                  |                  |   | HB 2706                                |                   |                  |
| Comm. & Tech. College Education (135-52) | Annual Reauthorization of Degree-Granting Institutions Legislative  | 12/12/2016    | 1/13/2017      |                  |                  |   | HB 2706                                |                   |                  |



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**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

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FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 1)

AGENCY Air Quality  
RULE TYPE Legislative AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 45-08  
RULE NAME Ambient Air Quality Standards

CITE AUTHORITY W.Va. Code § 22-5-4

COMMENTS LIMITED TO  
Oral And Written

DATE OF PUBLIC HEARING  
Tuesday, July 11, 2017 6:00 PM

LOCATION OF PUBLIC HEARING  
Department of Environmental Protection  
Dolly Sod's Conference Room #1125  
601 57th Street S.E.  
Charleston, WV 25304

DATE WRITTEN COMMENT PERIOD ENDS  
Tuesday, July 11, 2017 7:00 PM

WRITTEN COMMENTS MAY BE MAILED TO  
Department of Environmental Protection  
Public Information Office  
601 57th Street, S.E.  
Charleston, WV 25304

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes  
Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 1)

AGENCY Air Quality  
RULE TYPE Legislative AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 45-16  
RULE NAME Standards of Performance for New Stationary Sources

CITE AUTHORITY W.Va. Code §22-5-4

COMMENTS LIMITED TO  
Oral And Written

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Title-Series: 45-08



Rule Id: 16464



Document: 49415



Title-Series: 45-16



Rule Id: 16471



Document: 49423



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**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

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LEGISLATIVE

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 1)**

AGENCY **Air Quality**  
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-18**  
RULE NAME **Control of Air Pollution from Combusion of Solid Waste**

CITE AUTHORITY **W. Va. Code § 22-5-4**

COMMENTS LIMITED TO  
**Oral And Written**

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Title-Series: 45-18



Rule Id: 16466



Document: 49425

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 1)**

AGENCY **Air Quality**  
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-23**  
RULE NAME **Control of Air Pollution from Municipal Solid Waste Landfills**

CITE AUTHORITY **W. Va. Code § 22-5-4**

COMMENTS LIMITED TO  
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Title-Series: 45-23



Rule Id: 16467



Document: 49427





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**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

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**ADMINISTRATIVE LAW DIVISION**

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WEST VIRGINIA SECRETARY OF STATE

FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 1)

AGENCY Air Quality  
RULE TYPE Legislative AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 45-25  
RULE NAME Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities

CITE AUTHORITY W.Va. Code §§ 22-5-4 and 22-18-6

COMMENTS LIMITED TO  
Oral And Written

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(Page 1)

AGENCY Air Quality  
RULE TYPE Legislative AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 45-34  
RULE NAME Emission Standards for Hazardous Air Pollutants

CITE AUTHORITY W.Va. Code §22-5-4

COMMENTS LIMITED TO  
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Title-Series: 45-25



Rule Id: 16468



Document: 49419



Title-Series: 45-34



Rule Id: 16469



Document: 49421

Public Notice  
2018 Proposed Legislative Rules

The West Virginia Division of Air Quality has scheduled a public hearing for its 2018 proposed legislative rules on Tuesday, July 11, 2017 at the Department of Environmental Protection's Charleston headquarters, 601 57<sup>th</sup> Street S.E., Charleston, WV 25304. The public hearing will take place beginning at 6 p.m. in the Dolly Sods Conference Room. Oral and written comments will be made a part of the rulemaking record.

Copies of the rules are available from the Secretary of State's office or from the DEP at <http://www.dep.wv.gov/pio/Pages/Rules.aspx>. You may also obtain hard copies of the information by calling the phone number listed below. Written comments may also be submitted to the Public Information Office at the above address or e-mailed to [dep.comments@wv.gov](mailto:dep.comments@wv.gov). The public comment period begins on June 9, 2017 and ends at the conclusion of the public hearing, July 11, 2017.

**Division of Air Quality:**

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- 45CSR16 - *Standards of Performance for New Stationary Sources*
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For more information on any of the DAQ rules call 304-926-0475.

FILED  
2017 JUN - 5 P 1:46  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

WEST VIRGINIA HEALTH CARE AUTHORITY  
CERTIFICATE OF NEED  
100 Dee Drive  
Charleston, West Virginia 25311-1600

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2017 JUN - 5 A 11:52

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

OTHER

June 5, 2017

**LEGAL NOTICE**

Sonia D. Chambers, Chair, West Virginia Health Care Authority, announces the following Certificate of Need activities for the week ending **June 2, 2017**.

**CERTIFICATE OF NEED APPLICATION RECEIVED**

June 1, 2017 – Good Samaritan Society Barbour County, Belington, Barbour County, CON File #17-7-11104-P, for the establishment of outpatient therapy services at 216 Samaritan Circle, Belington; capital expenditure: \$4,000.

**APPLICATION DECLARED COMPLETE AND UNDER REVIEW**

An application declared complete is one in which there is sufficient information for the Authority to make an informed decision. It does not mean that the approval of the application is warranted.

**EXPEDITED APPLICATION**

May 31, 2017 - Lifetree Medical Services, LLC, Cabin Creek, Kanawha County, CON File #17-1/2/3/4/6/7/8/10-11091-P, for the development of ambulatory health care services through the provision of mid-level practitioner services at nursing homes located in the following counties: Boone, Braxton, Cabell, Clay, Fayette, Greenbrier, Hardy, Harrison, Lincoln, Marshall, McDowell, Mercer, Summers, Wayne, Webster and Wyoming; capital expenditure: \$10,000.

The review cycle for the above-referenced project is as follows:

May 31, 2017 – Review cycle begins;

June 30, 2017 – Last date for an affected person to request a public hearing on the project. If a public hearing is requested, notice of date, time and place will be issued to affected persons;

July 5, 2017 – If no public hearing is requested, the file will close and no further information or evidence will be accepted by the Authority for the remainder of the review of the application;

July 31, 2017 – Decision on the project will be issued by the Authority.



west virginia department of environmental protection

# SIGN-IN SHEET

Public Hearing on proposed 2018 Division of Air Quality Rules 45CSR8, 45CSR16, 45CSR18, 45CSR23, 45CSR25, and 45CSR34.

July 11, 2017, 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<br>Y/N |
|------------------------|---------|-------------------------|-------|--------|----------------|
| <i>Wally [unclear]</i> |         | <i>County [unclear]</i> |       |        |                |
| <i>[unclear]</i>       |         |                         |       |        |                |
|                        |         |                         |       |        |                |
|                        |         |                         |       |        |                |
|                        |         |                         |       |        |                |
|                        |         |                         |       |        |                |

P R O C E E D I N G S

1  
2 MS. JENNINGS: This public hearing will now come  
3 to order on this 11th day of July, 2017 at the West  
4 Virginia Department of Environmental Protection  
5 Headquarters. Comments and testimony will be accepted  
6 until the close of this hearing and will be made part of  
7 the rulemaking record. Any question regarding revisions to  
8 the rules should be included with your comments, and any  
9 such question will be addressed as part of the response to  
10 comments in the rulemaking record.

11 The purpose of this public hearing is to accept  
12 comments on proposed revisions to rule 45CSR18 - Control of  
13 Air Pollution from Combustion of Solid Waste.

14 This rule adopts standards of performance, and  
15 establishes emission guidelines pursuant to Sections 111(d)  
16 and 129 of the Clean Air Act for the control of certain  
17 designated pollutants from solid waste combustors,  
18 combustion units, incinerators and incineration units in  
19 West Virginia. Revisions to the rule are consistent with  
20 the federal regulations as of June 1, 2017. Upon  
21 authorization and promulgation of 45CSR18, the rule will be  
22 submitted to the EPA as a revisions to the State Plan  
23 pursuant to the federal Clean Air Act.

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The floor is now open for comments.

There being nothing further, this public hearing  
for proposed rule 45CSR18 is concluded.

(WHEREUPON, the hearing was  
concluded at 6:18 p.m.)

Proceedings

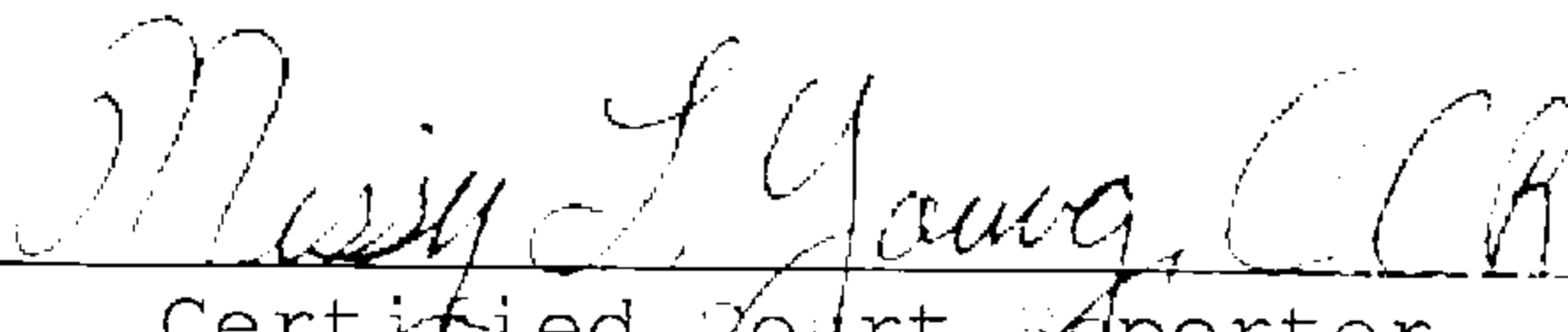
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STATE OF WEST VIRGINIA,

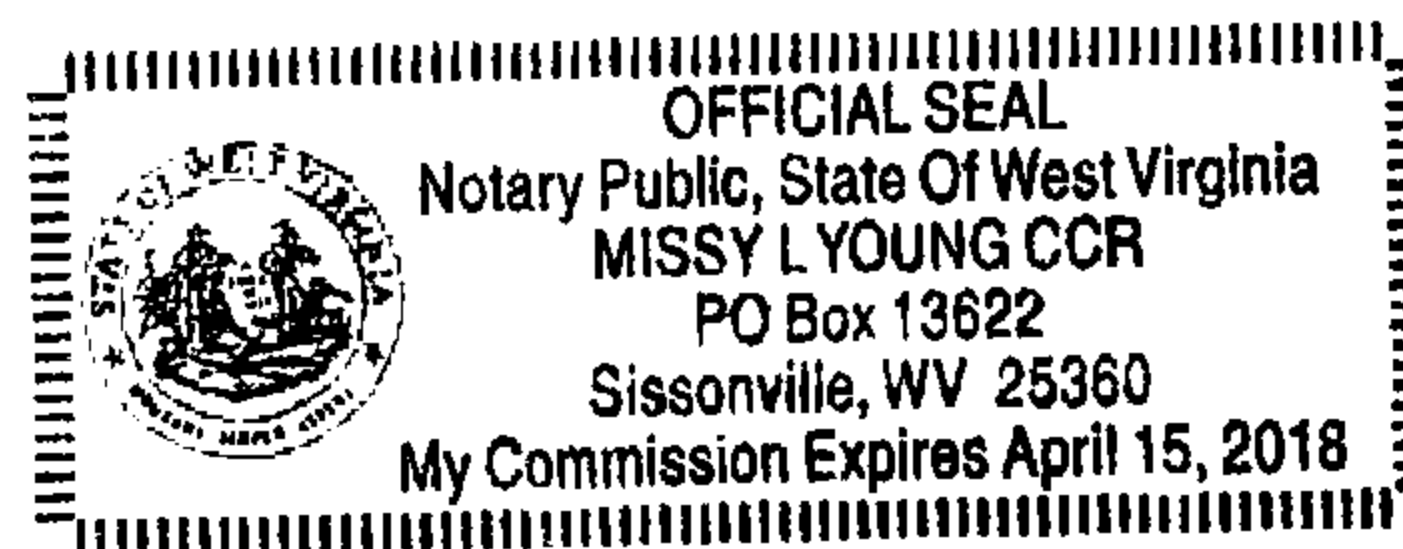
COUNTY OF KANAWHA, to-wit:

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 14th day of July, 2016.

  
\_\_\_\_\_  
Certified Court Reporter  
Notary Public for the State of West Virginia

My commission expires April 15, 2018.



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

**45CSR18**  
**CONTROL OF AIR POLLUTION FROM COMBUSTION OF SOLID WASTE**  
**RESPONSE TO COMMENTS**

On June 9, 2017, the Division of Air Quality (DAQ) commenced a public comment period for a minimum of 30 days and subsequently held a public hearing on July 11, 2017 to accept oral comments on proposed revisions to legislative rule 45CSR18. Written comments were accepted through the conclusion of the public hearing on Tuesday, July 11, 2017. No written comments were received regarding proposed revisions to rule 45CSR18, and no attendee of the public hearing provided relevant verbal comment.