



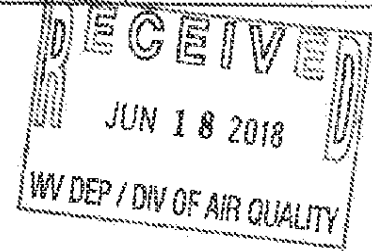
**CHARLESTON NEWSPAPERS**

P.O. Box 2993  
Charleston, West Virginia 25330  
Billing 348-4898  
Classified 348-4848  
1-800-WVA-NEWS

**LEGAL ADVERTISING INVOICE**

INVOICE DATE	06/11/18
ACCOUNT NBR	094808103
SALES REP ID	0026
INVOICE NBR	070888001

S# 2458245  
DATE RECEIVED 6/21/18  
SIGN Franklin Kimball  
**PAID BY VISA**



BILLED TO

AIR QUALITY--WV DEP  
601 57TH STREET SE  
CHARLESTON WV 25304 USA

Please return this portion with your payment.  
Make checks payable to: Charleston Newspapers

AMOUNT PAID: .....



**CHARLESTON NEWSPAPERS**

P.O. Box 2993  
Charleston, West Virginia 25330  
Billing 348-4898  
Classified 348-4848  
1-800-WVA-NEWS  
FERN 55-0676079

INVOICE DATE	06/11/18
ACCOUNT NBR	094808103
SALES REP ID	0026
INVOICE NBR	070888001

Legal pricing is based upon 65 words per column inch.

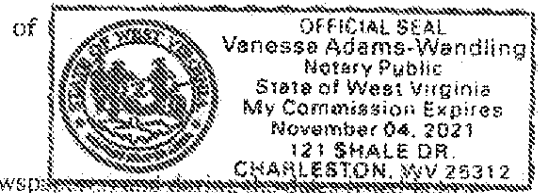
Each successive insertion is discounted by 25% of the first insertion rate.

The Charleston Gazette Mail rate is \$.14 per word.

ISSUE DATE	AD TYPE	PUB	DESCRIPTION	AD NUMBER	AD SIZE TOTAL LIN	RATE	GROSS AMOUNT	NET AMOUNT
06/08	LEG	GZ	PUBLICNOTICE2019PROPO	0683340	1X0950	8.40	79.80	79.80
			070888001		9.50			
TOTAL INVOICE AMOUNT								79.80

State of West Virginia, **AFFIDAVIT OF PUBLICATION**

I, \_\_\_\_\_ of  
CHARLESTON GAZETTE MAIL,  
do solemnly swear that the legal notice of:  
PUBLICNOTICE2019PROPOSED  
was duly published in said newspaper(s) at the stated price for the respective newsps



Subscribed and sworn to before me this 12 day of June 2018

06/08/18-06/08/18

Notary Public of Kanawha County, West Virginia





# WEST VIRGINIA REGISTER

Published by the Office of the Secretary of State

Volume XXXV

Issue 23

June 8, 2018

A Weekly Publication:

Administrative Law Division  
Judy Cooper, Manager

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

(604) 858-6000  
www.wv.gov

## CONTENTS

Chronological Index

Rule Monitor

Notices

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

Legislative Interims

Orders

Elder Commission Opinions

Office of Tax Appeal Decisions

Other Documents or Information Filed

**CHRONOLOGICAL INDEX, VOLUME XXXV, ISSUE 23**

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

<b>AGENCY</b>	<b>RULE TYPE</b>	<b>AUTHORITY</b>	<b>HEARING/COMMENT PERIOD/LOCATION</b>
Air Quality (45-08)	Subicun Air Quality Standards Legislative	§21-5-4	Public Hearing: July 10, 2018, 4:00 pm 601 57 <sup>th</sup> Street SE Dolly Sod's Conference Room #1125 Charleston, WV Written Comments: July 10, 2018, 6:00 pm Public Information Office Dept. of Environmental Protection 601 57 <sup>th</sup> Street SE Charleston, WV 25304 <a href="mailto:dep.comments@wv.gov">dep.comments@wv.gov</a>
Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	§22-5-4	Public Hearing: July 10, 2018, 6:00 pm 601 57 <sup>th</sup> Street SE Dolly Sod's Conference Room #1125 Charleston, WV Written Comments: July 10, 2018, 6:00 pm Public Information Office Dept. of Environmental Protection 601 57 <sup>th</sup> Street SE Charleston, WV 25304 <a href="mailto:dep.comments@wv.gov">dep.comments@wv.gov</a>
Air Quality (45-25)	Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities Legislative	§§22-5-4, 22-18-6	Public Hearing: July 10, 2018, 6:00 pm 601 57 <sup>th</sup> Street SE Dolly Sod's Conference Room #1125 Charleston, WV Written Comments: July 10, 2018, 6:00 pm Public Information Office Dept. of Environmental Protection 601 57 <sup>th</sup> Street SE Charleston, WV 25304 <a href="mailto:dep.comments@wv.gov">dep.comments@wv.gov</a>

**CHRONOLOGICAL INDEX, VOLUME XXXV ISSUE 23**

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

<b>AGENCY</b>	<b>RULE/TYPE</b>	<b>AUTHORITY</b>	<b>HEARING/COMMENT PERIOD/LOCATION</b>
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	§22-5-4	Public Hearing: July 10, 2018, 6:00 pm 601 57 <sup>th</sup> Street SE Dolly Sod's Conference Room #1125 Charleston, WV Written Comments: July 19, 2018, 6:00 pm Public Information Office Dept. of Environmental Protection 601 57 <sup>th</sup> Street SE Charleston, WV 25304 dep.comments@wv.gov
Air Quality (45-36)	Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved under Title 23 CNC or the Federal Transit Laws, to Applicable Air Quality Implementation Plan (Transportation Conformity) Legislative	§22-5-4	Public Hearing: July 10, 2018, 6:00 pm 601 57 <sup>th</sup> Street SE Dolly Sod's Conference Room #1125 Charleston, WV Written Comments: July 16, 2018, 6:00 pm Public Information Office Dept. of Environmental Protection 601 57 <sup>th</sup> Street SE Charleston, WV 25304 dep.comments@wv.gov
Air Quality (45-38)	Provisions for Determination of Compliance with Air Quality Management Rule Legislative	§22-5-4	Public Hearing: July 10, 2018, 6:00 pm 601 57 <sup>th</sup> Street SE Dolly Sod's Conference Room #1125 Charleston, WV Written Comments: July 10, 2018, 6:00 pm Public Information Office Dept. of Environmental Protection 601 57 <sup>th</sup> Street SE Charleston, WV 25304 dep.comments@wv.gov

**CHRONOLOGICAL INDEX, VOLUME XXXV ISSUE 23**

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

<b>AGENCY</b>	<b>RULE/TYPE</b>	<b>AUTHORITY</b>	<b>HEARING/COMMENT PERIOD/LOCATION</b>
Air Quality (45-43)	Cross-State Air Pollution Rule to Control Annual Nitrogen Oxides Emissions, Annual Sulfur Dioxide Emissions, and Ozone Season Nitrogen Oxides Emissions Legislative	§22-5-4	Public Hearing: July 10, 2018, 6:00 pm 601 57 <sup>th</sup> Street SE Dolly Sudd's Conference Room #1125 Charleston, WV Written Comments: July 10, 2018, 6:00 pm Public Information Office Dept. of Environmental Protection 601 57 <sup>th</sup> Street SE Charleston, WV 25304 dep.enr@wv.gov
Natural Resources (55-75)	State Park Controlled Deer Hunts Procedural	§30-1-7	Written Comments Only July 5, 2018, 1:00 pm Dept. of Natural Resources Wendy L. Greene 724 4 <sup>th</sup> Avenue, Room 343 den.dnr@wv.gov
Secretary of State (53-06)	Filing and Formatting Rules and Related Documents and Other Documents for Publication in the State Register Legislative	§629A-2-6(c), 29A-2-7 et. seq.	Written Comments Only July 5, 2018, 12:00 pm Maurice Lewis Secretary of State's Office Building 1 Suite 157K State Capitol Complex Charleston, WV 25305 ML2018070508.com

**NO NEW EMERGENCY RULES WERE FILED THIS WEEK**

<b>AGENCY</b>	<b>RULE/TYPE</b>	<b>AUTHORITY</b>	<b>EFFECTIVE DATE</b>	<b>DATE NOTICE FOR HEARING</b>



LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Air Quality TITLE SERIES: 45-08  
 RULE TYPE: Final Rule Assessed for Existing Rule: Yes Recal of existing rule: No  
 RULE NAME: Ambient Air Quality Standards  
 CITE STATUTORY AUTHORITY: W. Va. Code § 22-5-4  
 COMMENTS LIMITED TO:  
 Oral and Written

DATE OF PUBLIC HEARING: 07/11/2018 9:00 PM

LOCATION OF PUBLIC HEARING:

801 5th Street SE, Dolly Sods Conference Room #1128, Charleston, WV

DATE WRITTEN COMMENT PERIOD ENDS: 07/10/2018 0:00 PM

COMMENTS MAY BE MADE ON THESE 3 ICS:

NAME: Public Information Office  
 ADDRESS: Department of Environmental Protection  
 601 5th Street, SE, Charleston, WV 25304  
 EMAIL: dep.comments@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: Yes

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Air Quality TITLE SERIES: 45-16  
 RULE TYPE: Legislative Assessed for Existing Rule: Yes Recal of existing rule: No  
 RULE NAME: Standards of Performance for New Highway  
 Sources  
 CITE STATUTORY AUTHORITY: W. Va. Code § 22-5-4  
 COMMENTS LIMITED TO:  
 Oral and Written

DATE OF PUBLIC HEARING: 07/10/2018 9:00 PM

LOCATION OF PUBLIC HEARING:

801 5th Street, SE, Dolly Sods Conference Room #1128, Charleston, WV

DATE WRITTEN COMMENT PERIOD ENDS: 07/10/2018 9:00 PM

COMMENTS MAY BE MADE ON THESE 2 ICS:

NAME: Public Information Office  
 ADDRESS: 801 5th Street, SE, Charleston, WV 25304  
 CHARLESTON, WV 25304  
 EMAIL: dep.comments@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: Yes

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)



LEGISLATIVE



NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Air Quality TITLE/REF: 45-2F  
 RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeat of existing rule: No  
 RULE NAME: Control of Air Pollution from "Nonroad" Motor  
 Treatment, Storage and Disposal Facilities  
 STATUTORY AUTHORITY: W. Va. Code §§ 22-5-4 and 22-10-4  
 COMMENTS LIMITED TO:  
 Civil and Medical

DATE OF PUBLIC HEARING: 07/18/2018 8:00 PM

LOCATION OF PUBLIC HEARING:

801 57th Street, SE, Dolly Sods Conference Room #025 Charleston, WV

DATE WRITTEN COMMENT PERIOD ENDS: 08/10/2018 8:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Public Information Office  
 ADDRESS: DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 801 57th Street, SE, Charleston, WV 25304  
 EMAIL: dea.comments@wv.gov

PLEASE INDICATE IF THE RULE IS INCLUDED:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE CITE IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: Yes

(IF YES, PLEASE CITE IN THE SUPPORTING DOCUMENTS FIELD)

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Air Quality TITLE/REF: 45-2F  
 RULE TYPE: Legislative Amendment to Existing Rule: No Repeat of existing rule: No  
 RULE NAME: Emission Standards for Hazardous Air Pollutants  
 STATUTORY AUTHORITY: W. Va. Code § 22-5-4  
 COMMENTS LIMITED TO:  
 Civil and Medical

DATE OF PUBLIC HEARING: 07/18/2018 8:00 PM

LOCATION OF PUBLIC HEARING:

Department of Environmental Protection, Dolly Sods Conference Room #025 801 57th Street, SE, Charleston, WV 25304

DATE WRITTEN COMMENT PERIOD ENDS: 07/18/2018 8:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Public Information Office, Department of Environmental Protection  
 ADDRESS: 801 57th Street, SE  
 Charleston, WV 25304  
 EMAIL: dea.comments@wv.gov

PLEASE INDICATE IF THE RULE IS INCLUDED:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE CITE IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: Yes

(IF YES, PLEASE CITE IN THE SUPPORTING DOCUMENTS FIELD)



LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Air Quality TITLE NUMBER: 45-26  
 BILL TYPE: Legislation Amendment to Existing Rule: No Repeat of existing rule: No  
 RULE NAME: Requirements for Selecting Conformity of Infrastructure Plans, Programs, and Projects Developed Pursuant to Agreements with Title 20 U.R.C. or the Federal Transit Law, to Applicable Air Quality Implementation Plans (Transportation Conformity)  
 CITE STATUTORY AUTHORITY: WV Code § 22-2-4  
 COMMENTS LIMITED TO:  
 Oral and Written  
 DATE OF PUBLIC HEARING: 7/19/2018 8:00 PM  
 LOCATION OF PUBLIC HEARING:  
 601 5TH Street, SE, Dolly Soda Conference Room#1125, Charleston, WV  
 DATE WRITTEN COMMENTS PERIOD ENDS: 07/19/2018 8:00 PM  
 COMMENTS MAY BE MAILED OR FAXED TO:  
 NAME: Public Information Office  
 ADDRESS: Department of Environmental Protection  
 601 5TH Street, SE Charleston WV 25304  
 EMAIL: dep.comments@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No  
 (IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)  
 INCORPORATED BY REFERENCE: No  
 (IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Air Quality TITLE NUMBER: 45-26  
 BILL TYPE: Legislation Amendment to Existing Rule: No Repeat of existing rule: No  
 RULE NAME: Provisions for Determination of Compliance with Air Quality Management Plans  
 CITE STATUTORY AUTHORITY: WV Code § 20-2-4  
 COMMENTS LIMITED TO:  
 Oral and Written  
 DATE OF PUBLIC HEARING: 07/19/2018 8:00 PM  
 LOCATION OF PUBLIC HEARING:  
 601 5TH Street, SE, Dolly Soda Conference Room#1125, Charleston, WV  
 DATE WRITTEN COMMENTS PERIOD ENDS: 07/19/2018 8:00 PM  
 COMMENTS MAY BE MAILED OR FAXED TO:  
 NAME: Public Information Office  
 ADDRESS: Department of Environmental Protection  
 601 5TH Street, SE, Charleston, WV 25304  
 EMAIL: dep.comments@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No  
 (IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)  
 INCORPORATED BY REFERENCE: No  
 (IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)



LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

**AGENCY:** Air Quality **TITLE OR BILL:** 45-25  
**RULE TYPE:** Legislative **Amendment to Existing Rule:** N/A **Report of existing rule:** No

**RULE NAME:** Clean State Air Pollution Rule to Control Annual Nitrogen Oxides Emissions, Annual Sulfur Dioxide Emissions, and Ozone Season Nitrogen Oxide Emissions

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

**COMMENTS LIMITED TO:**

Cost and Value

**DATE OF PUBLIC HEARING:** 07/19/2018 8:00 AM

**LOCATION OF PUBLIC HEARING:**

601 57th Street, SE, Only 300's Conference Room #1125, Charleston, WV

**DATE WRITTEN COMMENT PERIOD ENDS:** 07/19/2018 8:00 PM

**COMMENTS MAY BE MADE OR EXAMINED AT:**

**NAME:** Public Information Office

**ADDRESS:** Department of Environmental Protection

601 57th Street, SE, Charleston, WV 25304

**EMAIL:** dep.cominfo@wv.gov

**PLEASE INDICATE IF THIS FILING INCLUDES:**

**RELEVANT FEDERAL STATUTES OR REGULATIONS:** No

**IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD:**

**INCORPORATED BY REFERENCE:** Yes

**IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD:**

NOTICE OF TECHNICAL AMENDMENT

**AGENCY:** Health And Human Resources **TITLE SERIES:** 24-17

**RULE TYPE:** Legislative

**RULE NAME:** Medication-Assisted Treatment (MAT) Treatment Programs

**LICENSING AUTHORITY:** W. Va. Code § 24-5-1, et seq.

LIST WITH DETAIL EACH SHOULD CHANGE MADE TO THE RULE AND WHY IT CAN BE RATION-

8.3.3.5. Renewal license fee - fewer than 500 patients - \$521.12,  
 8.3.3.4. Renewal license fee - 500 to 1,000 patients - \$1,042.24, 318  
 8.3.3.5. Renewal license fee - more than 1,000 patients - \$1,563.36  
 Other changes include: (1) expand the rule to include technical assistance practitioners, (2) add attorney, (3) amend the numbering, (4) amend the title, and (5) amend the subtitle.

**FILING DATE:** 8/30/2018

**EFFECTIVE DATE:** 08/17/2017

**BY CHOOSING "YES", I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

Yes

**Heather J McDaniel -** By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code § 22A-9-1 and § 22A-9-2.

Public Notice  
2019 Proposed Legislative Rules

The West Virginia Department of Environmental Protection (DEP), Division of Air Quality (DAQ) has scheduled a public hearing for its 2019 proposed legislative rules on Tuesday, July 10, 2018 at the DEP Charleston headquarters located at 601 5<sup>th</sup> Street S.E., Charleston, WV 25304. The public hearing will begin at 6:00 p.m. in the Dolly Scott Conference Room 31125.

Oral and written comments will be made part of the rulemaking record. The public comment period begins on June 5, 2018 and ends at the conclusion of the public hearing. Written comments may be submitted at any time during the public comment period to the Public Information Office at the DEP address above or emailed to [publicinfo@wvdepro.org](mailto:publicinfo@wvdepro.org).

Copies of the proposed rules are available from the Secretary of State's office or from the DEP at <http://www.wvdepro.org/2019ProposedRules.aspx>.

Division of Air Quality:

- 42CSR9 - *Standard Air Quality Standards*
- 42CSR16 - *Standards of Performance for New Stationary Sources*
- 42CSR25 - *Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities*
- 42CSR36 - *Permitting Standards for Treatment, Air Pollution*
- 42CSR38 - *Methodology for Determining Compliance of Transportation Plans, Programs, and Projects Developed, Funded or Approved under Title 23 U.S.C. as per Federal Transit Law as Applied to Air Quality Improvement Plans (Transportation Compliance)*
- 42CSR39 - *Methodology for Determination of Compliance with Air Quality Management Rules*
- 42CSR41 - *Good-Neighbor Rule to Control Ground Nitrogen Oxide Emissions, Annual State Air Quality Standards, and Other State Air Quality Criteria Activities*

Upon identification and promulgation, 42CSR9, 42CSR16, and 42CSR36 will be submitted to the United States Environmental Protection Agency (EPA) for full federal obligations under the Clean Air Act (CAA), including delegations and authorizations. Upon authorization and promulgation, 42CSR38 and 42CSR39 will be submitted to the EPA as a reference to the State Implementation Plan pursuant to the federal CAA. 42CSR39 and 42CSR41 are proposed for repeal because they are no longer needed.

For more information, contact the DEP info desk at 304-261-6073.

FILED  
MAY 31 AM 10:25  
DEPT. OF ENVIRONMENTAL PROTECTION  
SECRETARY'S OFFICE

OTHER

PUBLIC NOTICE

WEST VIRGINIA MEDICAID PROGRAM

SNAP PLAN AMENDMENT 18-001

REGARDING

ALTERNATIVE TREATMENTS FOR CHRONIC PAIN MANAGEMENT

FILED

MAY 31 4 10 PM '18

SECRETARY'S OFFICE

Pursuant to 42 U.S.C. §1916(a)(1)(1987) and 42 C.F.R. §447.206, the Department of Health and Human Resources ("Department"), Bureau for Medical Services ("BMS") provides notice of the filing of a state plan amendment (SPA), identified as SPA 18-001, regarding rules for alternative treatments for chronic pain. The SPA provides for 23 combined visits of physical therapy, occupational therapy, chiropractic manipulation, chiropractic services, or other non-surgical, non-pharmaceutical treatments related to a chronic pain management program, without need for a referral. This SPA is prompted by Senate Bill 273, enacted by the Legislature and signed by the Governor in during the West Virginia 2018 Regular Legislative Session. Specifically, this new code provision W. Va. Code §6-54-8.

This SPA will be made effective on June 7, 2018, or as soon as CMS approves the SPA, whichever occurs first. The expenditure request for fiscal year 2018 and 2019 cannot be determined at this time.

The SPA and this notice will be available for public inspection in each county office of the Department of Health and Human Resources during normal business hours, 8:30 a.m. to 4:30 p.m., beginning Wednesday, June 6, 2018 through Friday, July 6, 2018, and on the web at: [www.dhhr.wv.gov/home](http://www.dhhr.wv.gov/home) then click "Public Notices" on the top toolbar.

Written comments may be sent to the West Virginia Department of Health and Human Resources, Bureau for Medical Services, 360 Capitol Street, Suite 251, Charleston, WV 25301-3708, or by email at [SPAComments@dhhr.gov](mailto:SPAComments@dhhr.gov). Any written comments received will be available for review at the above address during normal business hours, 8:30 a.m. to 4:30 p.m., beginning Wednesday, June 6, 2018 through Friday, July 6, 2018. Comments will also be posted on the BMS website page referenced above noted above for review as soon as possible.

## Public Notice

### 2019 Proposed Legislative Rules

The West Virginia Department of Environmental Protection (DEP), Division of Air Quality (DAQ) has scheduled a public hearing for its 2019 proposed legislative rules on Tuesday, July 10, 2018 at the DEP Charleston headquarters located at 601 57<sup>th</sup> Street S.E., Charleston, WV 25304. The public hearing will begin at 6:00 p.m. in the Dolly Sods Conference Room #1125.

Oral and written comments will be made part of the rulemaking record. The public comment period begins on June 8, 2018 and ends at the conclusion of the public hearing. Written comments may be submitted at any time during the public comment period to the Public Information Office at the DEP address above or e-mailed to [dep.comments@wv.gov](mailto:dep.comments@wv.gov).

Copies of the proposed rules are available from the Secretary of State's office or from the DEP at <http://www.dep.wv.gov/pio/Pages/Rules.aspx>.

#### **Division of Air Quality:**

- 45CSR8 - *Ambient Air Quality Standards*
- 45CSR16 - *Standards of Performance for New Stationary Sources*
- 45CSR25 - *Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities*
- 45CSR34 - *Emission Standards for Hazardous Air Pollutants*
- 45CSR36 - *Requirements for Determining Conformity of Transportation Plans, Programs, and Projects Developed, Funded or Approved under Title 23 U.S.C. or the Federal Transit Laws, to Applicable Air Quality Implementation Plans (Transportation Conformity)*
- 45CSR38 - *Provision for Determination of Compliance with Air Quality Management Rules*
- 45CSR43 - *Cross-State Air Pollution Rule to Control Annual Nitrogen Oxides Emissions, Annual Sulfur Dioxide Emissions, and Ozone Season Nitrogen Oxides Emissions*

Upon authorization and promulgation, 45CSR16, 45CSR25, and 45CSR34 will be submitted to the United States Environmental Protection Agency (EPA) to fulfill federal obligations under the Clean Air Act (CAA), including delegations and authorizations. Upon authorization and promulgation, 45CSR8 and 45CSR43 will be submitted to the EPA as a revision to the State Implementation Plan pursuant to the federal CAA. 45CSR36 and 45CSR38 are proposed for repeal because they are no longer needed.

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



west virginia department of environmental protection

Public Hearing: July 10, 2018 at 6:00 PM, Dolly Sods Conference Room  
Division of Air Quality 2019 Proposed Rules  
45CSR8, 45CSR16, 45CSR25, 45CSR34, 45CSR36, 45CSR38, and 45CSR43  
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 Y/N
Laura Jennings	601 57 <sup>th</sup> Street Charleston WV 25304	DEP/DAQ	(304) 926-0499	laura.m.jennings@wv.gov	
Pam Kadrick	"	"	"	pam.kadrick@wv.com	
Jennifer Wilson	14 Cassel Park Rd Martinsburg, WV 25758	Court reporter	(304) 550-8477	jennwilson206@gmail.com	305
Brad Scott	179 Summers St Charleston WV 25304	Sargents (Court reporter)	(606) 213-1177	bradsargentscourtreporter@gmail.com	
6305 Julie Szymank	Morgantown	Addvant	304-284-2214	julie.szymank@addvant.com	
William F. Dushan	Chas.	WVDAQ	304-926-0499	william.f.dushan@wv.gov	N

STATE OF WEST VIRGINIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF AIR QUALITY

\* \* \* \* \*

IN RE: PROPOSED REVISIONS TO RULE 45CSR8, RULE 45CSR16,  
RULE 45CSR25, RULE 45CSR34;  
PROPOSED REPEAL OF RULE 45CSR36, RULE 45CSR38;  
AND PROPOSED RULE 45CSR43

PUBLIC HEARING

\* \* \* \* \*

BEFORE: LINDA JENNINGS, Facilitator  
HEARING: Tuesday, July 10, 2018  
6:08 p.m.  
LOCATION: West Virginia Department of Environmental  
Protection  
601 57th Street  
Charleston, WV 25304

Reporter: Bradley Scott

Any reproduction of this transcript is prohibited  
without authorization by the certifying agency.

I N D E X

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

STATEMENT

By Ms. Jennings

4 - 12

E X H I B I T S

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

<u>Number</u>	<u>Description</u>	<u>Page</u> <u>Offered</u>	<u>Page</u> <u>Admitted</u>
---------------	--------------------	-------------------------------	--------------------------------

NONE OFFERED

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

-----

MS. JENNINGS: Okay. This public hearing will now come to order on the 10th day of July 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 hearing is to accept comments on proposed revisions to Rule 45CSR8, Ambient Air Quality Standards. This rule establishes and adopts ambient air quality standards for sulfur oxides, particulate matter, carbon monoxide, ozone, nitrogen dioxide and lead, equivalent to those primary and secondary National Ambient Air Quality Standards or NAAQS established under the Clean Air Act and promulgated by the U.S. Environmental Protection Agency under 40 CFR part 50. This rule also establishes and adopts ambient air monitoring reference methods and equivalent methods promulgated by the U.S. EPA under 40 CFR part 53.

Revisions to this rule include amendments

1 promulgated by EPA under 40 CFR parts 50 and 53 as of  
2 June 1st, 2018. Upon authorization and promulgation of  
3 45CSR8, the rule will be submitted to the EPA as a  
4 revision to the State Implementation Plan or SIP pursuant  
5 to the Federal Clean Air Act.

6 The floor is now open for comments.

7 That being nothing - there being nothing  
8 further, this public hearing for proposed Rule 45CRS8 is  
9 concluded.

10 ---

11 (WHEREUPON, AN OFF RECORD DISCUSSION WAS HELD)

12 ---

13 MS. JENNINGS: Okay. Okay. This public  
14 hearing will now come to order on this 10th day of July,  
15 2018 at the West Virginia Department of Environmental  
16 Protection Headquarters. Comments and testimony will be  
17 accepted until close of this hearing and will be made  
18 part of the rulemaking record. Any question regarding  
19 revisions to the rules should be included with your  
20 comments and any such question will be addressed as part  
21 of the response to comments in the rulemaking record.

22 The purpose of this public hearing is to  
23 accept comments on proposed revisions to Rule 45CSR16,  
24 standards of performance for new stationary sources.

1 This rule establishes and adopts national standards of  
2 performance for new stationary sources and other  
3 regulatory requirements promulgated by the EPA pursuant  
4 to the Federal Clean Air Act. This rule codifies general  
5 procedures and criteria to implement standards of  
6 performance for new stationary sources set forth in 40CFR  
7 part 60.

8                   Revisions to this rule are necessary to  
9 maintain consistency with current federal regulations and  
10 for the State to fulfill its responsibilities under the  
11 Clean Air Act and enable DEP to continue to be the  
12 primary enforcement authority for such national standards  
13 promulgated by EPA. Revisions to the rule include annual  
14 incorporation by reference of the federal regulations as  
15 of June 1st, 2018.

16                   The floor is now open for comments.

17                   There being nothing further this public  
18 hearing for proposed Rule 45CSR16 is concluded.

19                   The public hearing will now come to order  
20 on this 10th day of July 2018 at the West Virginia  
21 Department of Environmental Protection headquarters.  
22 Comments and testimony will be accepted until the close  
23 of this hearing and should be made part of the rule  
24 making record. Any question regarding revisions to the

1 rules will be included with your comments and any such  
2 question will be addressed as part of the response to  
3 comments in the rulemaking record.

4           The purpose of this public hearing is to  
5 accept comments on proposed revisions to Rule 45CSR25,  
6 control air pollution from hazardous waste treatment,  
7 storage and disposal facilities. This rule establishes  
8 and adopts emission standards for the treatment, storage,  
9 and disposal of hazardous waste promulgated by the EPA  
10 pursuant to the Resource Conservation and Recovery Act.  
11 Promulgation of this rule will enable the Department of  
12 Environmental Protection to continue to be the primary  
13 enforcement authority for the hazardous waste management  
14 system in West Virginia. Revisions to the rule include  
15 annual incorporation by reference updates.

16           The floor is now open for comments.

17           There being nothing further this public  
18 hearing for proposed Rule 45CSR25 is concluded.

19           This public hearing will now come to order  
20 on this 10th day of July 2018 at the West Virginia  
21 Department of Environmental Protection headquarters.  
22 Comments and testimony will be accepted until the close  
23 of this hearing and will be made part of the rulemaking  
24 record. Any question regarding revisions to the rules

1 should be included with your comments. And any such  
2 question will be addressed as part of the response to  
3 comments in the rulemaking record.

4           The purpose of this public hearing is to  
5 accept comments on proposed revisions to Rule 45CSR34,  
6 emission standards for hazardous air pollutants. This  
7 rule incorporates and adopts national emission standards  
8 for hazardous air pollutants and other regulatory  
9 requirements promulgated by the EPA pursuant to the  
10 Federal Clean Air Act. Promulgation of this rule is  
11 necessary for the State to fulfill its responsibilities  
12 under the Clean Air Act and will enable the DEP to  
13 continue to be the primary enforcement authority for such  
14 national emission standards promulgated by EPA.  
15 Revisions to the rule include annual incorporation by  
16 reference of the national emission standards for  
17 hazardous air pollutants promulgated by EPA under 40 CFR  
18 part 63 as of June 1st, 2018.

19           The floor is now open for comments.

20           There being nothing further this public  
21 hearing for proposed Rule 45CSR34 is concluded.

22           This public hearing will now come to order  
23 on this 10th day of July 2018 at the West Virginia  
24 Department of Environmental Protection headquarters.

1 Comments and testimony will be accepted until the close  
2 of this hearing and will be made part of the rulemaking  
3 record. Any question regarding revisions to the rules  
4 should be included with your comments. And any such  
5 question will be addressed as part of the response to  
6 comments in the rulemaking record.

7           The purpose of this public hearing is to  
8 accept comments on the proposed repeal of Rule 45CSR36,  
9 requirements for determining conformity of transportation  
10 plans, programs, and projects, developed, funded, or  
11 created under Title 23, United States Code or the Federal  
12 Transit Laws to applicable air quality implementation  
13 plans transportation conformity.

14           This rule is proposed for repeal in its  
15 entirety because it is no longer required for West  
16 Virginia to remain in compliance with its transportation  
17 conformity obligations under the Clean Air Act.

18           The floor is not open for comments.

19           There being nothing further this public  
20 hearing for proposed Rule 45CSR36 is concluded.

21           This public hearing will now come to order  
22 on this 10th day of July 2018 at the West Virginia  
23 Department of Environmental Protection headquarters.

24 Comments and testimony will be accepted until the close

1 of this hearing and should be made part of the rulemaking  
2 record. Any question regarding revisions to the rules  
3 will be included with your comments and any such question  
4 will be addressed as part of the response to comments in  
5 the rulemaking record.

6                   The purpose of this public hearing is to  
7 accept comments on the proposed repeal of Rule 45CSR38,  
8 provisions for determination of compliance with air  
9 quality management rules. This rule is proposed for  
10 repeal in its entirety because the circumstances that  
11 initially required promulgation of the rule no longer  
12 exist.

13                   The floor is now open for comments.

14                   There being nothing further this public  
15 hearing for proposed Rule 45CSR36 is concluded. Excuse  
16 me, 38 is concluded.

17                   This public hearing will now come to order  
18 on the 10th day of July 2018 at the West Virginia  
19 Department of Environmental Protection headquarters.  
20 Comments and testimony will be accepted until the close  
21 of this hearing and should be made part of the rulemaking  
22 record. Any question regarding revision to the rules  
23 will be included with your comments. And any such  
24 question will be addressed as part of the response to

1 comments in the rulemaking record.

2           The purpose of this public hearing is to  
3 accept comments on proposed Rule 45CSR43, Cross-State Air  
4 Pollution Rule to control annual nitrogen oxide  
5 emissions, annual sulfur dioxide emissions, and ozone  
6 season nitrogen oxide emissions. This is a new rule that  
7 incorporates by reference the federal Cross-State Air  
8 Pollution Rule, CSAPR, limiting emissions of nitrogen  
9 oxides, NOx, and sulfur dioxide, SO2, through three  
10 emissions trading programs. The trading programs  
11 including the CSAPR Nox Annual Trading Program set forth  
12 under 40 CFR part 97, subpart AAAAA. The CSAPR NOx Ozone  
13 season group two trading program set forth under 40 CFR  
14 part 97 subpart EEEEE and the CSAPRT SO2 Group One  
15 Trading Program set forth under CFR - 40 CFR part 97,  
16 subpart CCCCC.

17           This rule codifies general procedures and  
18 criteria to implement these trading programs and adopts  
19 and incorporates by reference these standards. Upon  
20 authorization and promulgation of 45CSR43, the rule will  
21 be submitted to the EPA as a revision to the State  
22 Implementation Plan, or SIP, pursuant to the Federal  
23 Clean Air Act.

24           The floor is now open for comments.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

There being nothing further this public hearing for proposed Rule 45CSR43 is concluded. Okay.

\* \* \* \* \*

HEARING CONCLUDED AT 6:23 P.M.

\* \* \* \* \*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

CERTIFICATE

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

I certify that the attached transcript meets the requirements set forth within article twenty-seven, chapter forty-seven of the West Virginia Code.

  
Court Reporter  
Bradley Scott

**45CSR16**  
**STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES**

**RESPONSE TO COMMENTS**

The Division of Air Quality (DAQ) commenced the public comment period for proposed legislative rule 45CSR16 on June 8, 2018. The public comment period concluded on July 10, 2018 after satisfying the minimum 30-day period. A public hearing was held on July 10, 2018 to accept oral and written comments regarding the proposed revisions to legislative rule 45CSR16. No written comments were received regarding proposed revisions to rule 45CSR16, and no attendee of the public hearing provided verbal or written comments.