COMMENTS RECEIVED regarding 110-13Y Disaster Repair and Recovery Tax Credit:

Mr. Mark Morton

West Virginia Department of Tax & Revenue

P.O. Box 1105

Charleston, WV 25324-1005

Filed via electronic mail: taxlegal@wv.gov

Re: Comments on Proposed Rule to Implement the Provisions of Senate Bill 243, "Disaster Repair & Recovery Tax Credit", 110 CSR 13Y

Dear Mr. Morton:

Pursuant to the public notice published by the West Virginia Department of Tax & Revenue on June 29, 2026, attached please find the comments and observations of the West Virginia Coal Association (WVCA) regarding the agency's proposed rule to implement the provisions of Senate Bill 243, which was enacted by the Legislature in the 2026 Regular Session.

Please feel free to contact us at any time to discuss these comments.

Respectfully Submitted,

Jason D. Bostic

Executive Vice President

West Virginia Coal Association

304-342-4153 (o)

304-610-1343 (m)

West Virginia Coal Associatio

200 Association Drive, Suite 160, Charleston, WV 25311 • (304) 342-4153 • Fax 342-7651 •
www.wvcoal.com

July 29, 2026

Mr. Mark Morton
West Virginia Department of Tax & Revenue
P.O. Box 1105
Charleston, WV 25324-1005
Filed via electronic mail: taxlegal@wv.gov

Re: Comments on Proposed Rule to Implement the Provisions of Senate Bill 243, "Disaster Repair & Recovery Tax Credit", 110 CSR 13Y

Dear Mr. Morton:

Pursuant to the public notice published by the West Virginia Department of Tax & Revenue (Tax Department) on June 29, 2026, the West Virginia Coal Association (WVCA) offers the following comments and observations on the agency's proposed rule to implement the provisions of Senate Bill 243, which was enacted by the Legislature in the 2026 Regular Session.

WVCA respectfully requests that the Tax Department supplement its current proposal with an emergency rule filing, so the Disaster Repair and Recovery Tax Credit is available quickly, as the Legislature intended.

As we explain below, WVCA believes the Tax Department's current proposal will delay and discourage use of the disaster recovery assistance program the Legislature created with Senate Bill 243.

WVCA is a trade association representing the interests of companies engaged in the mining of coal within the State of West Virginia. WVCA's producing membership accounts for more than 90 percent of West Virginia's underground and surface production of both thermal and metallurgical coal. WVCA's primary goal is to enhance the viability of West Virginia coal as a source of domestic energy by facilitating safe, environmentally responsible coal mining through reasonable, equitable, and achievable state and federal policy and regulation.

Senate Bill 243 directed both the West Virginia Department of Environmental Protection (WV DEP) and the Tax Department to pursue legislative rules, including **emergency rules**, to implement the statute.[1] To implement its role and responsibilities under Senate Bill 243, WV DEP proposed a new legislative rule, 47 CSR 05B, "Disaster Repair and Recovery Tax Credit- Certification Process," on June 30, 2026. **Concurrently, WV DEP filed the same proposal as an emergency rule, effective upon certification by the West Virginia Secretary of State or 42 days after its filing.**[2]

---

[1] https://www.wvlegislature.gov/Bill_Text_HTML/2026_SESSIONS/RS/bills/sb243%20sub1%20enr.pdf
[2] https://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=59168&Format=PDF

The contrast in each agency's rulemaking approach is material. WV DEP's emergency rule filing correctly reflects the rulemaking direction contained in Senate Bill 243, while the Tax Department has only proposed "normal" legislative rules that cannot become effective and functional until completion of the Legislative Rulemaking Review process in 2027.

WVCA believes the Tax Department's "normal" rulemaking proposal will delay utilization of the tax credit created by Senate Bill 243, needlessly postponing the deployment of disaster recovery resources by mining companies when they are needed in impacted communities the most. As noted in Senate Bill 243's declaration of public policy:

> ***The Legislature finds that the private sector's assistance with prompt repair to public property and infrastructure following a disaster, and the provision of equipment, materials, services, and labor to assist with such repair and recovery efforts by taxpayers subject to the tax imposed by §11-13A-1 et seq. of the code in communities across the state, is in the public interest, reduces the amount of time it takes for communities to clean up, repair, and recover from disasters in this state, increases economic opportunity in this state, and thereby promotes the general welfare of the people of this state.[3]***

The references to "prompt repair" and "reducing the time required to recover from a disaster," coupled with the emergency rulemaking instructions contained within

[3] https://www.wvlegislature.gov/Bill_Text_HTML/2026_SESSIONS/RS/bills/sb243%20sub1%20enr.pdf

Senate Bill 243, clearly demonstrate that the Legislature intended the tax credit to be available as quickly as possible once the statute was effective.

WV DEP's emergency filing appropriately reflects the intent of the Legislature. WVCA strongly recommends the Tax Department supplement its current "normal" rulemaking proposal with a similar emergency rule filing to guarantee the tax credit created by Senate Bill 243 is available as quickly as possible, as the Legislature intended.

Respectfully Submitted,

Jason D. Bostic
Executive Vice President
West Virginia Coal Association

Cc: Senator Randy Smith
President, West Virginia Senate

Delegate Roger Hanshaw
Speaker, West Virginia House of Delegates
Senator Chris Rose

Chair
Senate Energy, Industry & Mining Committee

Senator Rupie Phillips

Mr. Harold Ward
Cabinet Secretary
West Virginia Department of Environmental Protection

Mr. Jonathan Rorrer
Deputy Cabinet Secretary
Director, Division of Mining & Reclamation
West Virginia Department of Environmental Protection

Tax Division Response:

After discussions between the Tax Division and the commentator, the filing of an emergency rule has been determined to be unnecessary, and the Tax Division will not be making any changes to the rule based on the comment, nor filing an emergency rule based on the comment.