



WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AGENCY RULES AS OF OCTOBER 24, 2018

AIR QUALITY BOARD

Citation	Rule Name	Type	State Effective Date	Federal Effective Date	Code of Federal Regulation Citation
52-1-1	GENERAL <ul style="list-style-type: none"><i>Description of the rule:</i> Rules 52CSR 1.1 through 52CSR1.8 define the scope, purpose and authority governing the practice and procedure before the Air Quality Board in adjudicatory proceedings. [Note: The Air Quality Board was formerly known as the Air Pollution Control Commission.]	L	6/6/1961	n/a	n/a
52-1-2	NOTICE OF APPEAL; ANSWER <ul style="list-style-type: none"><i>Description of the rule:</i> This rule defines the parties to the appeal, provides for the form of the appeal, when to file, content, attachments, service on the permit holder, filing of notice of appeal on the Chief and answer. This rule was first promulgated in 1967.<i>Subsequent rule modifications:</i> 1994 and 2007.<i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change.<i>Reasoning for above determination:</i> The Air Quality Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-2-1 et seq.</i>	P	6/9/1967	n/a	n/a
52-1-3	THE CERTIFIED RECORD <ul style="list-style-type: none"><i>Description of the rule:</i> This rule sets forth the procedures for certifying the record, preparation by the Chief, evidence and amendment to the certified record. This rule was first promulgated in 1967.	P	6/9/1967	n/a	n/a

	<ul style="list-style-type: none"> • <i>Subsequent rule modifications:</i> 1994 • <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. • <i>Reasoning for above determination:</i> The Air Quality Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-2-1 et seq.</i> 				
52-1-4	FILING AND SERVICE OF DOCUMENTS <ul style="list-style-type: none"> • <i>Description of the rule:</i> This rule sets forth procedures for where to file documents, the method of filing, when filing is effective, when receipt is effective, service upon the parties and proof of service. This rule was first promulgated in 1994. • <i>Subsequent rule modifications:</i> 2007 • <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. • <i>Reasoning for above determination:</i> The Air Quality Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-2-1 et seq.</i> 	P	12/30/1994	n/a	n/a
52-1-5	ORDERS OF THE BOARD; SUBMISSION OF MOTIONS <ul style="list-style-type: none"> • <i>Description of the rule:</i> This rule sets forth procedures for the execution and entry of Orders, authority to rule on motions, content and form of motions, stay requests, discovery and information hearings on motions. This rule was first promulgated in 1967. • <i>Subsequent rule modifications:</i> 1994 and 2007 • <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. • <i>Reasoning for above determination:</i> The Air Quality Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-2-1 et seq.</i> 	P	6/9/1967	n/a	n/a
52-1-6	EVIDENTIARY HEARINGS <ul style="list-style-type: none"> • <i>Description of the rule:</i> This rule sets forth procedures for the evidentiary hearing, continuance of hearings, quorum, place of hearings, conduct of hearings, stipulations, testimony at hearing, presentation (de novo), briefs, proposed findings of fact and conclusions of law, service and publication of final orders, rules of evidence and rules of procedure. This rule was first promulgated in 1961. 	P	6/6/1961	n/a	n/a

	<ul style="list-style-type: none"> • <i>Subsequent rule modifications:</i> 1967, 1972 and 1994 • <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. • <i>Reasoning for above determination:</i> The Air Quality Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-2-1 et seq.</i> 				
52-1-7	EX PARTE CONTACTS <ul style="list-style-type: none"> • <i>Description of the rule:</i> This rule defines and prohibits ex parte contact with the board of its staff regarding the merits of an appeal or motion which is not on the record in the proceeding and which is made without notice to and in the absence of the other party or parties. This rule was first promulgated in 1994. • <i>Subsequent rule modifications:</i> None • <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. • <i>Reasoning for above determination:</i> The Air Quality Board requires procedural rules for practice before the board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-2-1 et seq.</i> 	P	12/30/1994	n/a	n/a
52-1-8	CONFIDENTIAL INFORMATION <ul style="list-style-type: none"> • <i>Description of the rule:</i> This rule provides for in camera proceedings to review any document or other information that is claimed to be protected as confidential. This rule was first promulgated in 1994. • <i>Subsequent rule modifications:</i> None • <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. • <i>Reasoning for above determination:</i> The Air Quality Board requires procedural rules for practice before the board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-2-1 et seq.</i> 	P	12/30/1994	n/a	n/a
52-2	REQUESTS FOR INFORMATION <ul style="list-style-type: none"> • <i>Description of the rule:</i> Rule 52CSR2 prescribes the procedures under which the public may inspect and obtain information and records generated, developed or held by the Air Quality Board. This rule was first promulgated in 1996. • <i>Subsequent rule modifications:</i> None 	P	2/18/96	n/a	n/a

	<ul style="list-style-type: none">• <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> These rules should be repealed.• <i>Reasoning for above determination:</i> These rules are no longer necessary due to the transfer of the Air Quality Board to the Department of Environmental Protection (<i>W.Va Code §5F-2-1</i>). The Board will adhere to the Department of Environmental Protection's Procedural Rule 60CSR2 – Rules on Freedom of Information Act Requests for all requests received by the Board from the public.				
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ENVIRONMENTAL QUALITY BOARD

Citation	Rule Name	Type	State Effective Date	Federal Effective Date	Code of Federal Regulation Citation
46-4-1	GENERAL <ul style="list-style-type: none"> <i>Description of the rule:</i> Rules 52CSR 4.1 through 46CSR4.8 define the scope, purpose and authority governing the practice and procedure before the Environmental Quality Board in adjudicatory proceedings. [Note: The Environmental Quality Board was formerly known as the State Water Resources Board, the State Water Commission and the State Water Resources Commission.] 	L	3/2/1929	n/a	n/a
46-4-2	NOTICE OF APPEAL; ANSWER <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule defines the parties to the appeal, provides for the form of the appeal, when to file, content, attachments, service on the permit holder, filing of notice of appeal on the Chief and answer. This rule was first promulgated in 1933. <i>Subsequent rule modifications:</i> 1964, 1981, 1984, 1994, 1998 and 2007 <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Environmental Quality Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-3-1 et seq.</i> 	P	6/9/1933	n/a	n/a
46-4-3	THE CERTIFIED RECORD <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule sets forth the procedures for certifying the record, preparation by the Chief, evidence and amendment to the certified record. This rule was first promulgated in 1964. <i>Subsequent rule modifications:</i> 1994 and 1998 <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Environmental Quality Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-3-1 et seq.</i> 	P	7/1/1964	n/a	n/a

46-4-4	FILING AND SERVICE OF DOCUMENTS <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule sets forth procedures for where to file documents, the method of filing, when filing is effective, when receipt is effective, service upon the parties and proof of service. This rule was first promulgated in 1994. <i>Subsequent rule modifications:</i> 2007 <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Environmental Quality Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-3-1 et seq.</i> 	P	11/28/1994	n/a	n/a
46-4-5	ORDERS OF THE BOARD; SUBMISSION OF MOTIONS <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule sets forth procedures for the execution and entry of Orders, authority to rule on motions, content and form of motions, stay requests, discovery and information hearings on motions. This rule was first promulgated in 1967. <i>Subsequent rule modifications:</i> 1975, 1984, 1994 and 2007 <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Environmental Quality Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-3-1 et seq.</i> 	P	7/1/1964	n/a	n/a
46-4-6	EVIDENTIARY HEARINGS <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule sets forth procedures for the evidentiary hearing, continuance of hearings, quorum, place of hearings, conduct of hearings, stipulations, testimony at hearing, presentation (de novo), briefs, proposed findings of fact and conclusions of law, service and publication of final orders, rules of evidence and rules of procedure. This rule was first promulgated in 1933. <i>Subsequent rule modifications:</i> 1960, 1964, 1981, 1984, 1994, 1998 and 2007 <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Environmental Quality Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-3-1 et seq.</i> 	P	6/9/1933	n/a	n/a

46-4-7	EX PARTE CONTACTS <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule defines and prohibits ex parte contact with the board of its staff regarding the merits of an appeal or motion which is not on the record in the proceeding and which is made without notice to and in the absence of the other party or parties. This rule was first promulgated in 1994. <i>Subsequent rule modifications:</i> None <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Environmental Quality Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-3-1 et seq.</i> 	P	11/28/1994	n/a	n/a
46-4-8	CONFIDENTIAL INFORMATION <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule provides for in camera proceedings to review any document or other information that is claimed to be protected as confidential. This rule was first promulgated in 1994. <i>Subsequent rule modifications:</i> None <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Environmental Quality Board requires procedural rules for practice before the board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-3-1 et seq.</i> 	P	11/28/1994	n/a	n/a
46-8	REQUESTS FOR INFORMATION <ul style="list-style-type: none"> <i>Description of the rule:</i> Rule 46CSR2 prescribes the procedures under which the public may inspect and obtain information and records generated, developed or held by the Environmental Quality Board. This rule was first promulgated in 1982. <i>Subsequent rule modifications:</i> 1996 <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> These rules should be repealed. <i>Reasoning for above determination:</i> These rules are no longer necessary due to the transfer of the Environmental Quality Board to the Department of Environmental Protection (<i>W.Va Code §5F-2-1</i>). The Board will adhere to the Department of Environmental Protection's Procedural Rule 60CSR2 – Rules on Freedom of Information Act Requests for all requests received by the Board from the public. 	P	5/7/1982	n/a	n/a

SURFACE MINE BOARD

Citation	Rule Name	Type	State Effective Date	Federal Effective Date	Code of Federal Regulation Citation
49-1-1	GENERAL <ul style="list-style-type: none"> <i>Description of the rule:</i> Rules 49CSR 1.1 through 49CSR1.12 define the scope, purpose and authority governing the practice and procedure before the Surface Mine Board in adjudicatory proceedings. [Note: The Surface Mine Board was formerly known as the Reclamation Board of Review.] 	L	7/1/1967	n/a	n/a
49-1-2	NOTICE OF APPEAL; ANSWER <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule defines the parties to the appeal, provides for the form of the appeal, when to file, content, attachments, service on the permit holder, filing of notice of appeal by the Board and answer. This rule was first promulgated in 1967. <i>Subsequent rule modifications:</i> 1980, 1983, 1985, 1987, 1997 and 2007 <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Surface Mine Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-4-1 et seq.</i> 	P	7/1/1967	n/a	n/a
49-1-3	THE CERTIFIED RECORD <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule sets forth the procedures for certifying the record, preparation by the Chief, evidence and amendment to the certified record. This rule was first promulgated in 1967. <i>Subsequent rule modifications:</i> 1980, 1983 and 1997 <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Surface Mine Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-4-1 et seq.</i> 	P	7/1/1967	n/a	n/a

49-1-4	FILING AND SERVICE OF DOCUMENTS <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule sets forth procedures for where to file documents, the method of filing, when filing is effective, when receipt is effective, service upon the parties and proof of service. This rule was first promulgated in 1983. <i>Subsequent rule modifications:</i> 2007 <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Surface Mine Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-4-1 et seq.</i> 	P	1/1/1983	n/a	n/a
49-1-5	ORDERS OF THE BOARD; SUBMISSION OF MOTIONS <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule sets forth procedures for the execution and entry of Orders, authority to rule on motions, content and form of motions, stay requests, discovery and information hearings on motions. This rule was first promulgated in 1967. <i>Subsequent rule modifications:</i> 1980, 1983 and 1997 <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Surface Mine Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-4-1 et seq.</i> 	P	7/1/1967	n/a	n/a
49-1-6	SITE VISITS <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule provides that visits to the site of any activity or proposed activity shall be conducted as provided for in <i>W.Va. Code §22-B-1-7(e)</i> and pursuant to the conditions set forth in the order granting the visit. This rule was first promulgated in 1983. <i>Subsequent rule modifications:</i> 1997 <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Surface Mine Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va. Code §22-B-4-1 et seq.</i> 	P	1/1/1983	n/a	n/a

49-1-7	INTERVENTION <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule provides for intervention in the appeal to be governed by <i>W.Va. Code §22-B-1-7(e)</i> and Rule 24 of the West Virginia Rules of Civil Procedure. This rule was first promulgated in 1983. <i>Subsequent rule modifications:</i> None <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Surface Mine Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va. Code §22-B-4-1 et seq.</i> 	P	1/1/1983	n/a	n/a
49-1-8	DISCOVERY <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule provides for discovery in accordance with <i>W.Va. Code §22-B-1-8</i> and provides for a set amount of time to respond. This rule was first promulgated in 1997. <i>Subsequent rule modifications:</i> 2007 <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> This rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Surface Mine Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va. Code §22-B-4-1 et seq.</i> 	P	2/24/1997	n/a	n/a
49-1-9	EVIDENTIARY HEARINGS <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule sets forth procedures for the evidentiary hearing, continuance of hearings, quorum, place of hearings, conduct of hearings, stipulations, testimony at hearing, presentation, exhibits, briefs, proposed findings of fact and conclusions of law, service and publication of final orders. This rule was first promulgated in 1967. <i>Subsequent rule modifications:</i> 1980, 1987, 1997 and 2007 <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Surface Mine Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-4-1 et seq.</i> 	P	7/1/1967	n/a	n/a

49-1-10	RULES OF EVIDENCE AND PROCEDURE <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule provides for the rules of evidence as applied in civil cases in the circuit courts of West Virginia to govern evidentiary hearings before the Board. The rule also provides for the appropriate Rules of Civil Procedure to guide the appeals process before the Board. This rule was first promulgated in 1997. <i>Subsequent rule modifications:</i> None <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Surface Mine Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-4-1 et seq.</i> 	P	2/24/1997	n/a	n/a
49-1-11	EX PARTE CONTACTS <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule defines and prohibits ex parte contact with the board of its staff regarding the merits of an appeal or motion which is not on the record in the proceeding and which is made without notice to and in the absence of the other party or parties. This rule was first promulgated in 1997. <i>Subsequent rule modifications:</i> None <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Surface Mine Board requires procedural rules for practice before the Board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-4-1 et seq.</i> 	P	2/24/1997	n/a	n/a
49-1-12	CONFIDENTIAL INFORMATION <ul style="list-style-type: none"> <i>Description of the rule:</i> This rule provides for in camera proceedings to review any document or other information that is claimed to be protected as confidential. This rule was first promulgated in 1997. <i>Subsequent rule modifications:</i> None <i>Determination of whether the rule should continue without change, be modified, or be repealed:</i> The rule is a procedural rule and should continue without change. <i>Reasoning for above determination:</i> The Surface Mine Board requires procedural rules for practice before the board in order to provide adequate protections of due process and fairness to all parties that appear before the Board in a quasi-judicial capacity. <i>W.Va Code §22B-4-1 et seq.</i> 	P	2/25/1997	n/a	n/a