



WEST VIRGINIA
ENVIRONMENTAL COUNCIL



2026 | VOL. I

POLICY
BRIEFING BOOK



FOREWORD

West Virginia is rich in natural resources. Our mountains, forests, rivers, and wildlife shape our identities, our communities, and our economic future. The Mountain State has more than 30,000 miles of streams ribboning through its peaks and valleys.¹ Over half a million acres of forested land create a scenic backdrop for its 36 state parks and provide unique biodiversity for its 96 wildlife management areas.^{2 3 4} As the legislature prepares for the 2026 Regular Session, thoughtful, science-based policy decisions regarding our land, water, and air are essential to ensuring that West Virginia is resilient and healthy.

West Virginia is also rich in people. Our communities are defined by neighbors who show up for one another, workers who keep essential systems running, and young people who believe in a bright future for West Virginia. The policies debated by the legislature have real, tangible impacts on West Virginians, shaping their health, resources, and livelihoods. Resulting legislation acts as an invisible hand, guiding the resilience and health of the state and its people. It's crucial that legislative action is made in harmony with the many needs of people and their environment.



FOREWORD

For the first time in recent history, organizations from across the state have come together to produce a legislative blueprint for addressing some of the most pressing environmental and public health issues the state faces today. From safeguarding public health by protecting clean water, to navigating the rapid expansion of data centers and energy infrastructure, each section provides background information, policy opportunities and legislative solutions.



TABLE OF CONTENTS

Sponsors	4
Flooding	5
Forever Chemicals	7
Drinking Water	9
Water Quality Standards	11
Aboveground Storage Tanks	13
Utility Justice	15
Responsible Data Center Development	17
Advanced Recycling	19
Private Conservation	21
Public Lands	23
Orphaned Wells	25
Cycling	27
WV Coal Mine Reclamation and Bonding	29
Community Air Monitoring	31
Notes	33

THANK YOU TO OUR SPONSORS & CONTRIBUTORS

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Thank you to our contributors for submitting photos for this project.



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FLOODING

BACKGROUND

West Virginia faces significant flooding risks driven by many factors, including the steep topography, extreme precipitation, aging infrastructure, and development in flood-prone areas. From the historic and devastating floods in November 1985—costing \$700 million in damages and 38 fatalities—to the June 2016 floods—costing \$1.1 billion in damages and 23 lives—the state has seen its fair share of flood disasters.

In 2025, West Virginia experienced two severe flooding events, one affecting the Southern region of the state in February, and another in the Northern region of the state in June.

CURRENT LANDSCAPE

Severe flooding events through the years have prompted state officials to declare state of emergencies, taking lives, destroying homes and personal property, and causing tremendous damage to local economies. These disastrous floods underscore the need for urgent action before the next event occurs. The best way to reduce the damage, expenses, and suffering from weather disasters is to invest in resilience before storms hit.

A 2024 study from the U.S. Chamber of Commerce, Allstate, and the U.S. Chamber of Commerce Foundation found that every \$1 invested in resilience and disaster preparedness saves \$13 in economic impact, damage, and cleanup costs after the event.⁵

CURRENT LANDSCAPE

While federal funding and assistance is a necessary part of the solution, it must be matched by proactive mitigation and recovery support at the state level. Investing in flood resiliency is critical to protecting West Virginia families, businesses, and infrastructure.

OPPORTUNITIES IN THE LEGISLATURE

- Increase public education and access to the West Virginia Flood Tool and West Virginia Risk Explorer, helping residents and officials assess flood risks and make equitable, informed decisions before disasters take place.⁶
- Adequately fund the Flood Resiliency Trust Fund to strengthen our flood preparedness by increasing state and local planning and proactive mitigation activities, keeping our communities safe, and saving taxpayer dollars in the long run.⁷
- Work with the state's congressional delegation to ensure FEMA has the resources and flexibility to help communities after catastrophic events.⁸



Photo courtesy of Friends of the Tug Fork River

FOREVER CHEMICALS

BACKGROUND

Per- and polyfluoroalkyl substances (PFAS) are a group of over 15,000 chemicals made popular because of their nonstick, water-resistant properties. Known as “forever chemicals” because they do not break down under natural conditions, PFAS have been found in our water and food, including in the source water for community water systems across West Virginia.⁹

In 2023, the West Virginia legislature passed the PFAS Protection Act (HB 3189).¹⁰ The goal of the PFAS Protection Act is to identify and address PFAS contamination from industrial and manufacturing sources, avoiding undue burden on water utilities and ratepayers. Through the development of site-specific PFAS action plans, which will include monitoring and filtration options, the state of West Virginia can begin to address this emerging issue.

CURRENT LANDSCAPE

Even at very low levels, many of these widely used chemicals are known to cause harmful health issues. As referenced by the U.S. Environmental Protection Agency (EPA), scientific studies have shown that exposure to certain PFAS in the environment is linked to harmful health effects in humans and animals, including liver damage, thyroid disease, decreased fertility, high cholesterol, obesity, hormone suppression, and various types of cancer.¹¹

The PFAS Action Plans required under HB 3189 are an important next step in West Virginia’s effort to systematically identify, trace, and address sources of PFAS pollution in drinking water supplies, and more must be done to address this emerging issue.

OPPORTUNITIES IN THE LEGISLATURE

- Adequately fund PFAS sampling and monitoring efforts to ensure effective development and implementation of PFAS Action Plans.
- Eliminate non-essential uses of PFAS in West Virginia, as states across the United States continue to ban and restrict the use of PFAS chemicals in products.
- Adopt statewide PFAS water quality criteria, following EPA's finalized water quality criteria under the Clean Water Act.
- Support the Department of Environmental Protection (DEP) in establishing enforceable discharge limitations in West Virginia National Pollutant Discharge Elimination System (NPDES) permits and pretreatment permits.
- Urge the DEP to test biosolids used for land application and restrict contaminated biosolid applications, requiring PFAS testing within NPDES permits and monitoring contamination through the existing permit.
- Urge the Department of Health to update fish consumption advisories to include PFAS in West Virginia, modeled after statewide PFAS advisories for fish issued in other states.
- Implement PFAS action plans, systematically tracking implementation of all actions required in each PFAS action plan and reporting to the public on progress made.



DRINKING WATER

BACKGROUND

Residents of southern coalfield counties have been experiencing a public health crisis for decades due to a lack of access to safe drinking water and aging infrastructure. Residents report yellow, orange, and black tap water, sometimes with thick, filmy "goop" or black flecks. Doing laundry can stain clothes, and showering can lead to rashes.

In order to update or repair these systems, or extend water lines to communities without municipal water, grants must be secured to cover the total cost of the project, or rates must increase to cover loans and project costs. Public service districts are often unable to receive grants because of matching requirements or because of their past violations. Residents often already pay \$100-150/month for bottled water, rely on nonprofits for support, or go to roadside springs because they're paying for water they can't safely use.

CURRENT LANDSCAPE

Wyoming, Boone, and Mercer are the top three counties in the United States for the most public water violations.¹² West Virginia has had one of the nation's highest fire death rates for 25 years, and some communities have lost fire services due to inadequate water infrastructure.

The President proposed an 89% federal funding cut to state revolving funds for infrastructure projects. However, even when the state has received federal funding, it doesn't always make it to the communities most in need.

CURRENT LANDSCAPE

Only 2.5% of \$432.4 million in water and wastewater funds from 2024 American Rescue Plan Act funding—just four out of 161 projects—were awarded by the state Water Development Authority to southern coalfield communities.¹³

Governor Morrisey has made economic development the focal point of his administration and the 2026 legislative session. Without adequate water and wastewater infrastructure, drawing new industry to our region simply cannot and will not happen.

The state's Revenue Shortfall (Rainy Day) Fund has approximately \$1.25 billion. In 2024, the Legislature changed the funding formula to equal 20% of the state's operating budget, meaning that as long as the Rainy Day Fund remains at or above that mark, the state's bond rating would not be affected by appropriations from it.¹⁴

OPPORTUNITIES IN THE LEGISLATURE

- Pass the Coalfield Clean Water Act. The bill will amend state code to allow emergency infrastructure funds from the Rainy Day Fund to include public health crises. A one-time \$250M allocation is needed for drinking water infrastructure to be divided among public service districts and municipal water boards in Boone, Lincoln, Logan, Mingo, Fayette, Raleigh, Wyoming, McDowell, and Mercer counties to fund approved, prioritized water infrastructure projects on the DEP's Drinking Water Intended Use Plan.

WATER QUALITY

BACKGROUND

Water quality standards in West Virginia are established under the Clean Water Act and serve as the foundation for controlling pollution in the state's waters. These standards are essential for maintaining the quality of water necessary for various designated uses, including recreation, public water supply, and aquatic life support. The standards form the basis for limits on the amount of pollution entering West Virginia waters from point sources such as industrial facilities, wastewater treatment plants, and storm sewers. Standards are also the technical basis for reducing runoff from rural and urban areas.¹⁵

In the 2026 legislative session, the West Virginia Department of Environmental Protection (DEP) will propose to weaken the water quality standard for selenium — a dangerous contaminant for fish and wildlife that enters waterways through coal mining activity. Specifically, the DEP's proposal would increase the acceptable limit for selenium in fish from 8.0 to 9.5 µg/g (micrograms of selenium per gram of fish tissue) in most waters of the state. The proposed change follows the EPA methodology in calculating selenium standards in fish tissue, but it fails to adopt the EPA's recommended criteria for the aqueous selenium, the concentration dissolved in the water column.

If the state chooses to follow the EPA's approach for fish tissue, they should also adopt the EPA's more protective water-column standard. An extensive body of research shows that selenium toxicity causes birth defects and reproductive failure in fish and waterfowl populations.¹⁶ This change would set a dangerous precedent for selectively applying water quality standards in West Virginia.

CURRENT LANDSCAPE

The goal of water quality standards is to protect existing uses and maintain the high quality of West Virginia's water resources. It is our goal to ensure that these standards are based on the most accurate science, are protective of water quality, wildlife, and public health, and that the EPA's recommendations are applied consistently across all criteria.

OPPORTUNITIES IN THE LEGISLATURE

- Oppose weakening the water quality standard for selenium in fish tissue.
- Adopt EPA's recommended water quality standard for selenium in the water column (3.1 ug/l) as a replacement for DEP's current standard (5 ug/l).



ABOVEGROUND STORAGE TANKS

BACKGROUND

In 2014, West Virginia experienced one of the worst contamination events in its history, when an aboveground storage tank (AST) leaked into the Elk River. The tank spilled crude 4-methylcyclohexanemethanol (MCHM), a toxic chemical used to clean coal, from a Freedom Industries facility into the Elk River, directly upstream from the West Virginia American Water drinking water intake. Following the spill, more than 300,000 West Virginians were left without access to clean, safe drinking water. Many people experienced health issues as a result of the chemical leak.

Two months after the leak occurred, the West Virginia Legislature unanimously passed the Aboveground Storage Tank (AST) Act, containing measures to:¹⁷

- Register tanks and keep an updated inventory of what each contains;
- Create spill prevention response plans;
- Require certified inspection of tanks; and
- Provide updated information on tank mapping, and provide guidance on potentially impacted public water systems.

The original AST Act was a comprehensive effort to protect the state's water resources, the environment, and public health as a response to the 2014 water crisis.

CURRENT LANDSCAPE

Protections are especially important in Zones of Critical Concern (ZCC) as they are located upstream from public water systems' intake or well, and if polluted, can spread harmful toxins to a community very quickly. Unfortunately, over the last 11 years, the Legislature has repeatedly chipped away and weakened the protections included in the AST Act. Proper regulation of all tanks is necessary to prevent leaks into waterways that can contaminate our drinking water.

OPPORTUNITIES IN THE LEGISLATURE

- Maintain all protections currently included in the AST requirements, and reject attempts to remove safeguards and exempt tanks within the ZCC. The Legislature should also consider restoring the protections in the 2014 AST legislation.
- Reject attempts to change the definition of a release, allowing spills to go unreported.
- Reject attempts to decrease in inspection frequency for tanks and their secondary containment.



Photo courtesy of Appalachian Voices

UTILITY JUSTICE

BACKGROUND

West Virginia households, businesses, and municipalities are facing escalating energy burdens with electricity bills that have nearly doubled over the past 15 years.¹⁸ Despite these rising costs, reliability hasn't improved, and customers have little say in decisions that directly affect their bills. Ratepayers are increasingly concerned and are faced with difficult decisions, such as paying for their electricity bills to keep the lights on or paying for critical medication and groceries. The frustration and financial burden is reflected clearly in a recent statewide survey by Echelon — energy costs rank among the top three issues for West Virginia voters.¹⁹

Utilities continue to pour money into expensive coal plants, while passing costs onto ratepayers. Instead of investing in affordable, resilient, and diverse energy sources like solar, wind, and energy efficiency — which most West Virginians want —¹⁹ utilities continue to prioritize their own profits and coal subsidies.

In a statewide survey, 84% of West Virginians believed it's important to reduce energy bills by using more renewable energy, and most say they want greater transparency and accountability from utilities and regulators. Yet some West Virginians believe that the system is tilted against them. The Ratepayers' Bill of Rights seeks to empower and protect ratepayers.

The Ratepayers' Bill of Rights is a framework for energy fairness and accountability. It reinforces that ratepayers are stakeholders, not just customers and establishes clear standards for fairness, transparency, and service quality.

CURRENT LANDSCAPE

The bill provides lawmakers and communities with a roadmap for energy freedom and protects the most vulnerable so no one is left behind.

The Ratepayers' Bill of Rights outlines eight core rights for ratepayers:

- Right to Fair and Reasonable Rates: Transparent rate structures, protection against unjustified hikes, and accessible public hearings.
- Right to Reliable and Safe Service: Utilities must invest in resilient infrastructure and diversify energy supply to avoid costly volatility.
- Right to Transparent and Accurate Billing: Clear, itemized bills with easy access to usage data and error resolution.
- Right to Fair Disconnection Protections: Safeguards against shutoffs during financial hardship or extreme weather.
- Right to Energy Assistance and Efficiency: Equal access to energy savings programs, weatherization, and flexible payment options.
- Right to Renewable Energy Access: The ability to install solar, join community solar programs, and receive fair compensation for power generated.
- Right to Fair Representation and Dispute Resolution: Accountability from utilities and the Public Service Commission, with equitable representation of ratepayer interests.
- Right to Public Participation and Engagement: Real opportunities to weigh in on rate cases, accessible hearings, and annual reporting on energy burdens.

OPPORTUNITIES IN THE LEGISLATURE

- Pass legislation that aligns with the Ratepayers' Bill of Rights

RESPONSIBLE DATA CENTER DEVELOPMENT

BACKGROUND

The national spotlight is on data centers and their impacts on land use, electricity rates, and the environment. While companies are releasing more powerful artificial intelligence models and products, all levels of government are encouraging the development of new data centers and additional fossil fuel generation to accompany them.

While data centers have existed for decades, the hyperscale data centers needed for generative AI use immense amounts of energy. According to the International Energy Agency, a typical hyperscale data center requires the same energy consumption as that of 100,000 homes, and ²⁰ they expect future data centers to require up to 20 times as much power. Large data centers can also require up to several million gallons of water daily for server cooling, and while closed loop systems can reduce that usage, it can come with other downsides that must be considered. The increased energy demand from data centers has already led to a crunch in capacity and affected electricity rates, particularly in the PJM grid in which West Virginia is a member.²¹

CURRENT LANDSCAPE

In 2025, the West Virginia Legislature passed HB 2014, establishing both the High Impact Data Center Program and the Certified Microgrid Development Program to encourage data center development in West Virginia. At least four major data center projects have already been proposed. If a project meets the requirements set by the Department of Commerce, it will receive favorable incentives, including exemptions from local town and county zoning, lighting, land use, noise, and other ordinances, and a lower salvage tax rate for its equipment.

CURRENT LANDSCAPE

The removal of local control and oversight of data centers and their microgrids is particularly concerning because the microgrid program has no incentive for renewable energy use, and new data centers under this program will likely be powered by fossil fuels. These negatively affect air quality, produce high levels of noise, and pose a risk to the environment and human health in the event of a disaster.

Much of the tax revenue from data centers under this program will be diverted to state funds, another disadvantage for local governments. In effect, local districts are losing oversight and tax revenue of large polluters proposed for within their borders.

OPPORTUNITIES IN THE LEGISLATURE

- Reform provisions of HB 2014 and create more accountability and disclosures for data centers. A proper balance must be restored when it comes to local input and control.
- Improve local control and oversight. Data centers and the microgrids required for power generation can be enormous burdens on local natural resources, and community members should have input.
- Provide incentives for renewable energy generation co-located with data centers to mitigate harms from carbon emissions and local pollution.
- Increase transparency around water usage to ensure that data centers are not located in a region that does not have adequate water resources to support their operations.

ADVANCED RECYCLING

BACKGROUND

In 2022, the West Virginia Legislature passed HB 4084 to classify advanced recycling as manufacturing instead of solid waste disposal.²² Since then, two companies have proposed advanced recycling facilities in West Virginia in Follansbee and Quincy, respectively.²³ Both companies have relied on taxpayer funding to underpin development because of financial hardship. Advanced, also known as “chemical,” recycling is a greenwashed term referring to a process that uses technology to break down plastics with heat or solvents. Several other words to describe advanced recycling technologies include pyrolysis, gasification, and depolymerization. The EPA classifies pyrolysis and gasification as incineration under Section 129 of the Clean Air Act.

CURRENT LANDSCAPE

The incineration of plastic or trash can release large amounts of toxic cancer-causing chemicals in the air, water, and soil, including lead, mercury, dioxins and furans, particulate matter, carbon monoxide, nitrogen oxides, acidic gasses (i.e., SO_x, HCl), metals (cadmium, lead, mercury, chromium, arsenic, and beryllium), polychlorinated biphenyls (PCBs), and brominated polyaromatic hydrocarbons (PAHS). This process typically creates dirty fuels, not additional plastics. A study published by the American Chemical Society found that the economic and environmental impact of plastic burning, including water use, energy use, waste generation, greenhouse gas emissions, and toxicity, is 10–100 times greater than virgin plastic production.²⁴ Existing plastic burning plants have very low production levels and high energy requirements.

OPPORTUNITIES IN THE LEGISLATURE

- Return the classification of advanced recycling to solid waste disposal.
- Enforce the regulation of advanced, or chemical, recycling under Section 129 of the Clean Air Act, which classifies plastic pyrolysis as incineration.
- Establish guardrails on the source of the plastic waste and stockfeed so that plastic waste is not shipped from unreasonable geographical locations to be incinerated in our state.
- Create protective measures to ensure taxpayer dollars are not subsidizing experimental, debt-laden industries without a proven profit model.



Photo courtesy of the People Over Petro Coalition

PRIVATE CONSERVATION

BACKGROUND

Of West Virginia's 12 million forested acres, 65%, over 7,800,000 acres, are cared for by non-industrial private forestland owners. These more than 69,000 private landowners own an average family forest of about 80 acres.²⁵

Families and individuals own 93% of West Virginia's 3.5 million farm acres, with the average farm size being 156 acres.²⁶

CURRENT LANDSCAPE

Family forests can be protected through several strategies: tax breaks on real property taxes for carefully managed forests (also called managed timberland); participation in the West Virginia Forest Stewardship Program, which provides technical and financial assistance for conservation for timbering, wildlife, and recreation; and through selling carbon offset credits in the Family Forest Carbon Program and other similar programs.²⁷

Agriculture programs for small farmers exist. At the national level, the National Resources Conservation Service provides technical and financial planning and installation of small farm conservation programs.²⁸

The Farm Service Agency pays farmers to preserve conservationally sensitive farmland.²⁹ In West Virginia, land trusts help farmers protect their land through conservation easements, while still owning and operating their farms.³⁰ County farmland protection boards also help family farmers preserve these small farms through voluntary conservation easements.³¹

OPPORTUNITIES IN THE LEGISLATURE

- Protect the property rights of private family landowners to conserve and profit from their forestlands and family farms.
- Maintain existing programs, and where possible, expand them. All of these programs provide financial incentives for owners who seek long-term protection for their land rather than one-year gains. The key to all these programs is one word: voluntary.
- Oppose any attempt to shorten the length of time for conservation easements.
- Protect the right to preserve small family forests and farms by preserving the current meaningful tax and easement policies.



PUBLIC LANDS

BACKGROUND

West Virginians have long enjoyed nature-based, non-motorized recreation compatible with the conservation of our state's public lands. This helps protect our public lands—now and for future generations. Conservation also protects our public lands, saves taxpayers money, and preserves our heritage. Nature-based, non-motorized recreation means lower construction and maintenance costs, less damage to trails, and lower costs for West Virginian taxpayers.

West Virginia small businesses recognize the importance of public lands. Over 150 businesses across West Virginia proudly display a “We Catch Business from Public Lands” sticker. They know that people enjoy public lands and then come to communities to shop, eat, and spend the night.

CURRENT LANDSCAPE

West Virginia's “Wild and Wonderful” public lands truly are the goose that lays the golden eggs for our outdoor recreation economy.

State parks earned more than \$38 million in revenue in 2023. 75 million people visited West Virginia's national, state, and local public lands (2023)—over \$7 million in state parks alone! Public lands have a \$9 billion economic impact, support 61,000 jobs, and the tourism industry pays \$1.1 billion in tax revenue (2024). Day visitors spend \$67/day; overnight visitors spend \$145/day (2023).^{32 33} Public lands provide jobs and business.

OPPORTUNITIES IN THE LEGISLATURE

- Preserve nature-based, non-motorized recreation compatible with conservation of our state parks, forests, wildlife management areas, and other public lands.
- Increase public river access from bridges.
- Revise Rails to Trails laws to increase funding.
- Secure robust funding for WVDNR to support staff and maintenance, Adopt-A-Stream and Adopt-A-Trail programs.
- Promote accessible public lands for all while conserving our state public lands.
- Ensure public participation for new proposed development in our state lands.



ORPHANED WELLS

BACKGROUND

While gas and oil wells produce large amounts of gas and oil early in their lives, they taper off quickly and then produce minimal amounts for a very long time. Once oil and gas wells are no longer producing, they need to be plugged. Unlike capping, plugging is a permanent solution and a full-depth intervention.

In order to plug a well, thousands of feet of pipe have to be removed, and then the well must be filled with layers of clay and cement. This prevents, among other problems, damage to other formations; pollution of water wells, soil, and air; and the diminishment of the surface property's value. Plugging is an expensive but necessary process. However, since aging wells rarely generate enough money to pay for plugging, it's less likely they'll be plugged.

CURRENT LANDSCAPE

Due to West Virginia's weak plugging assurance laws—a result of our failed bonding program—there are more than 6,500 non-producing wells that need to be plugged. Some of these wells have gone unplugged for so long that the drillers or operators have gone out of business, leaving surface owners with potentially polluting wells on their property. Unplugged wells with no identifiable owner are called orphaned wells.

New horizontal shale wells produce approximately 60 times as much gas as conventional vertical wells, but are not much more expensive to plug.

OPPORTUNITIES IN THE LEGISLATURE

- Develop legislation that requires well plugging without burdening taxpayers by passing a New Orphaned Well Prevention Act that prevents new, horizontal orphaned wells by requiring the operators of new wells to save money in interest-bearing accounts to plug the well later.
- Pass legislation to require all existing drillers to set aside funding for future plugging, including special provisions that apply when well ownership is transferred to make sure that drillers can then afford to plug wells cannot shift responsibility for plugging to operators that will never have the money to plug them.



CYCLING

BACKGROUND

Bicycling can mean many things for a community, such as reliable and economical transportation, recreational tourism, enjoyment, and exercise. No matter the reason someone cycles, riders enjoy it more when biking is safe, accessible, and convenient. Providing robust, protected cycling infrastructure and support is important for retaining community members who value it and for growing interest among residents who would otherwise drive. Research shows that there are generally four types of cyclists: Non-Bicyclist (31-37% of population), Interested but Concerned (51-56%), Somewhat Confident (5-9%), and Highly Confident (4-7%).³⁴³⁵ “Interested but Concerned Cyclists”, the largest population group, generally prefer off-street or separate bike infrastructure, and may not bike at all if facilities do not meet their perceived level of comfort. Research has also shown that bike infrastructure becomes safer with increased ridership. Therefore, increasing ridership in a given community and providing comfortable, safe, and convenient bike infrastructure should be top priorities.

CURRENT LANDSCAPE

Safety and comfort are top priorities when deciding whether to ride a bike. West Virginia law already requires drivers to leave at least three feet when passing a cyclist. The West Virginia Department of Transportation (WVDOT) has a Complete Streets Advisory Board that advises the department on inclusion, comfort, and pedestrian and cyclist safety in the development of transportation planning. However, the board has been inactive for a few years.

West Virginia has some of the most beautiful roads and trails in the world for cycling. We have supported major national events, such as the USA Cycling National Championships in Charleston and the USA Cycling Mountain Bike National Championships in Snowshoe. Our Rails to Trails network includes more than 100 miles of opportunity for scenic riding along beautiful stretches of serene rivers. Towns around the state favor cycling and are actively promoting projects to expand bike infrastructure for residents. For example, the City of Charleston is planning to reconstruct three miles of Kanawha Boulevard to include a two-way protected cycle track fronting the Kanawha River. There is great potential for a stronger cycling ecosystem here.

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OPPORTUNITIES IN THE LEGISLATURE

- Partner with West Virginia towns to move forward with bike infrastructure projects and policies, especially protected bike lanes that provide the greatest amount of safety and comfort benefits.
- Collaborate with West Virginia cities and towns to grow their bike-friendly ratings with the League of American Bicyclists and People for Bikes.
- Support local bike advocacy groups' work with financial, policy, planning, and design recommendations.
- Require public disclosure and reporting on all street improvements, as well as on bike crashes and documented bike access issues.
- Promote and invest in cycling tourism activities by allocating additional funding from state entities such as West Virginia State Parks, West Virginia Tourism, and other related organizations.
- Pilot a bike rebate program to help subsidize bikes for low-income or otherwise eligible participants.
- Reignite the Complete Streets Advisory Board program to require WVDOT to consider and adopt pedestrian and cyclist-friendly solutions into all possible projects.



WEST VIRGINIA COAL MINE RECLAMATION AND BONDING: SYSTEM IN CRISIS

BACKGROUND

West Virginia's mine reclamation bonding program was established to ensure that coal companies restore mine sites once mining ends. Under the federal Surface Mining Control and Reclamation Act (SMCRA) of 1977, companies must post a bond and pay into a shared Special Reclamation Fund (SRF). In the 1980s, West Virginia adopted an "alternative bonding system", with cheaper per-acre bonds, supplemented by the SRF, and funding from a 27.9-cent tax on each ton of coal mined. In theory, this approach promised full reclamation without overburdening operators. In practice, the system has proven deeply flawed.

CURRENT LANDSCAPE

A 2021 audit by the West Virginia Legislative Auditor found the average reclamation cost per acre for SRF sites between FY2017 and FY2020 was approximately \$6,311—more than double the average bond of \$2,882 per acre. In many cases across Central Appalachia, estimated costs to reclaim modern surface mines, especially those with long-term water treatment needs, can exceed \$10,000 to \$20,000 per acre.

When a company fails, the state forfeits that bond and draws on the underfunded SRF to cover the shortfall. But the SRF has long been underfunded and cannot absorb the scale of liabilities now at hand. In 2020, the fund fell to just \$15 million—its lowest level in two decades. As of 2022, the SRF had recovered to approximately \$189 million, but this amount remains far short of the estimated billions needed to address long-term reclamation liabilities.³⁶

Historically, regulators have managed to keep the program afloat through half-measures: partial cleanups, delayed reclamation, or classifying dormant mines as "temporarily idle."

Numerous audits and lawsuits have warned that the system is stretched thin. An actuarial review estimated that West Virginia faces \$2.3-3.6 billion in outstanding reclamation liabilities, while bonds and the SRF together provide just over \$1 billion.³⁷

CURRENT LANDSCAPE

The 2020 collapse of ERP Environmental Fund, Inc., highlighted the system's vulnerabilities. ERP held over 100 permits across West Virginia. After ceasing operations and laying off staff, the company left behind a trail of violations and unfunded reclamation obligations. The DEP, rather than revoke ERP's permits and trigger bond forfeiture, sought a court-appointed receiver, fearing that calling in \$115 million in bonds at once would overwhelm both the surety provider and the SRF.³⁸

The ERP case exposed systemic failures— inadequate bond amounts, overreliance on a single surety, and a fund too fragile to bear the weight.

The SRF already supports water treatment at 175 abandoned sites, and its obligations continue to grow. In 2022, the Legislature created a \$50 million publicly backed insurance fund to stabilize the collapsing bonding market—a stopgap, not a solution.

OPPORTUNITIES IN THE LEGISLATURE

- Raise bond amounts to accurately reflect the cost of reclaiming modern mine sites, including those with water treatment needs.
- Conduct a full assessment of reclamation liabilities across all active and idled permits.
- Improve transparency by making permit-level bonding and reclamation data available to the public.
- Work with OSMRE to ensure West Virginia's bonding program meets federal standards for solvency and effectiveness.
- Develop alternative financial tools, such as stronger bonding tools or third-party guarantees, to improve system resilience.

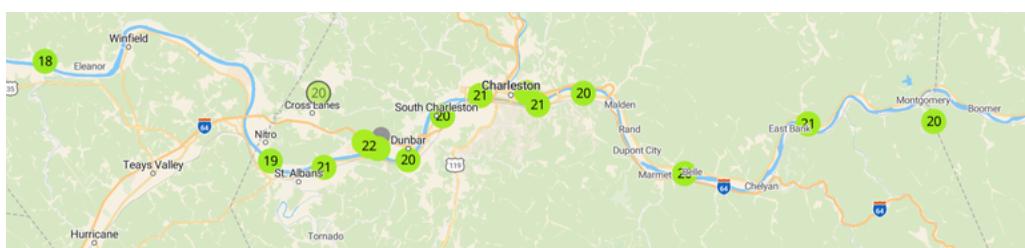
COMMUNITY AIR MONITORING

BACKGROUND

There are only 13 ambient air quality stations monitored by the DEP.³⁹ At the start of January 2026, only five of those stations actively reported air quality data to the public.⁴⁰ There are dozens of PurpleAir sensors reporting air quality data in real-time to a publicly available website and the federal fire map.^{41 42} PurpleAir sensors test particulate matter, volatile organic compounds (VOC), temperature, and humidity. These community air monitors offer an affordable, evidence-based way to fill critical gaps where regulatory air quality stations face limitations.

CURRENT LANDSCAPE

Community air monitoring democratizes access to air quality data in West Virginia. Everyone should have access to clean air and know the condition of the air they breathe. Unfortunately, this is not the case for every person in our state. West Virginia communities are more vulnerable to air pollution than those in other states, with some of the highest rates of asthma, chronic obstructive pulmonary disease, heart disease, and diabetes in the country. Having access to air quality data allows the public to make informed decisions about their health.



OPPORTUNITIES IN THE LEGISLATURE

- Democratize access to air quality data.
- Require DEP to release self-reported air quality data by companies permitted to release air emissions in the state.
- Install a regulatory ambient air quality station in every county in the state.
- Encourage community air quality monitoring initiatives to fill gaps in local environmental and public health data.
- Pass legislation to protect community air monitoring like HB 3112 from the 2025 Regular Session.⁴³



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