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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991



ENROLLED

SENATE BILL NO. 637

(By Senator Wooton)



PASSED March 9, 1991

In Effect from Passage

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AN ACT to amend and reenact sections two and three, article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to further amend said article by adding thereto a new section, designated section seven; to amend and reenact sections one, four, eight and ten, article three of said chapter; to further amend said article by adding thereto two new sections, designated sections twelve and thirteen; to amend article four of said chapter by adding thereto a new section, designated section three; to amend and reenact sections two, three and four, article five of said chapter; to further amend said article by adding thereto two new sections, designated sections seven and eight; to amend and reenact sections two and four, article six of said chapter; to further amend said article by adding thereto a new section, designated section five; to amend and reenact sections one, two, four, five and six, article seven of said chapter; to further amend said article by adding thereto a new section, designated section seven; to amend and reenact section one, article eight of said chapter; to amend and reenact sections one, three, five, ten, twelve, fifteen, sixteen, eighteen, twenty, twenty-four and twenty six, article nine of said chapter; and to further amend said article by adding thereto a new section,

designated section twenty-eight, all relating generally to the promulgation of administrative rules and regulations by the various executive or administrative agencies and the procedures relating thereto; the legislative mandate or authorization for the promulgation of certain legislative rules by various executive and administrative agencies of the state; authorizing certain of such agencies to promulgate certain legislative rules in the form that the rules were filed in the state register; authorizing certain of such agencies to promulgate legislative rules as amended by the Legislature; authorizing certain of such agencies to promulgate certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; directing certain of such agencies to promulgate certain legislative rules filed in the office of the secretary of state during the regular session of the Legislature held in the year one thousand nine hundred ninety-one; authorizing the division of purchasing to promulgate legislative rules relating to the availability of state surplus buildings and equipment to charity food banks, as modified; authorizing the division of purchasing to promulgate legislative rules relating to purchasing, as modified; authorizing the division of personnel to promulgate legislative rules relating to the civil service system, as modified; authorizing the secretary of the department of administration to promulgate legislative rules relating to a plan of operation for the information and communication services division, as modified; authorizing the secretary of the department of administration to promulgate legislative rules relating to parking, as modified; authorizing the secretary of the department of administration to promulgate legislative rules relating to leasing space on behalf of state spending units, as modified; authorizing the air pollution control commission to promulgate legislative rules relating to the prevention and control of air pollution from the emission of volatile organic compounds from bulk gasoline terminals; authorizing the air pollution control commission to promulgate legislative rules relating to the air quality management fee program, as modified; author-

izing the air pollution control commission to promulgate legislative rules relating to the prevention and control of air pollution from the emission of volatile organic compounds from the storage of petroleum liquids in fixed roof tanks; authorizing the air pollution control commission to promulgate legislative rules relating to the prevention and control of air pollution from the emission of volatile organic compounds from petroleum refinery sources; authorizing the division of energy to promulgate legislative rules relating to miscellaneous water pollution control, as modified; authorizing the division of energy to promulgate legislative rules relating to West Virginia surface mining and reclamation regulations, as modified and amended; authorizing the division of natural resources to promulgate legislative rules relating to the assessment of civil administrative penalties, as modified; authorizing the division of natural resources to promulgate legislative rules relating to water pollution control permit fee schedules; authorizing the division of natural resources to promulgate legislative rules relating to the underground storage tank insurance trust fund, as modified and amended; authorizing the division of natural resources to promulgate legislative rules relating to underground storage tanks, as modified and amended; authorizing the division of natural resources to promulgate legislative rules relating to dam safety; authorizing the division of natural resources to promulgate legislative rules relating to hazardous waste management, as modified; authorizing the water resources board to promulgate legislative rules relating to requirements governing water quality standards; authorizing the solid waste management board to promulgate legislative rules relating to the development of comprehensive litter and solid waste control plans, as modified; authorizing the solid waste management board to promulgate legislative rules relating to the disbursement of loans and grants to governmental agencies for the acquisition or construction of solid waste disposal projects, as modified; authorizing the solid waste management board to promulgate legislative rules relating to the establishment of a fee schedule and cost allocation

applicable to the issuance of bonds by the board, as modified; authorizing the solid waste management board to promulgate legislative rules relating to the development of commercial solid waste facility siting plans, as modified; authorizing the board of manufactured housing construction and safety to promulgate legislative rules relating to licensing, fees, standards, complaint handling, sanctions, the recovery fund and designation of the board as the state administrative agency under the national manufactured housing construction and safety standards act of 1974, as modified; authorizing the division of culture and history to promulgate legislative rules relating to the standards and procedures for granting permits to excavate archaeological sites and unmarked graves, as modified; authorizing the board of health to promulgate legislative rules relating to fees for permits, as modified and amended; authorizing the board of health to promulgate legislative rules relating to public water systems, bottled water and laboratory certification, as modified; authorizing the board of health to promulgate legislative rules relating to vital statistics, as modified; authorizing the division of health to promulgate legislative rules relating to fees for services, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to the exemption for shared services, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to health services offered by health professionals, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to the conversion of acute care beds to one hundred skilled nursing care beds, as modified; authorizing the West Virginia hospital finance authority to promulgate legislative rules relating to the establishment of a fee schedule and cost allocations applicable to the issuance of bonds by the authority, as modified; authorizing the division of employment security to promulgate legislative rules relating to regulations of the commissioner of the division of employment security, as modified; authorizing the human rights commission to promulgate legislative rules relating to discrim-

ination against the handicapped, as modified; authorizing the state fire commission to promulgate legislative rules relating to the state building code, as modified and amended; authorizing the state fire commission to promulgate legislative rules relating to the state fire code, as modified; authorizing the division of public safety to promulgate legislative rules relating to the West Virginia state police career progression system, as modified; authorizing and directing the division of public safety to promulgate legislative rules relating to the requirements and qualifications for official inspection stations and the issuance of permits for the stations; authorizing the regional jail and correctional facility authority to promulgate legislative rules relating to public hearings and site selection for private prisons, as modified; authorizing the alcohol beverage control commissioner to promulgate legislative rules relating to retail licensee operations, as modified and amended; authorizing the alcohol beverage control commissioner to promulgate legislative rules relating to licensing of retail liquor stores, as modified; authorizing the alcohol beverage control commissioner to promulgate legislative rules relating to private club licenses, as modified; authorizing the alcohol beverage control commissioner to promulgate legislative rules relating to bailment policies and procedures, as modified; authorizing the alcohol beverage control commissioner to promulgate legislative rules relating to farm wineries, as modified; authorizing the alcohol beverage control commissioner to promulgate legislative rules relating to the retail sale of wine in grocery stores, wine specialty shops and private wine restaurants, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to accident and sickness rate filing, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to the group coordination of benefits, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to AIDS, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to health insurance benefits for temporomandibular and cranio-mandibular disorders; authorizing the state lottery

commission to promulgate legislative rules relating to the state lottery, as modified; authorizing the racing commission to promulgate legislative rules relating to thoroughbred racing, as modified; authorizing the racing commission to promulgate legislative rules relating to greyhound racing, as modified and amended; authorizing the state tax commissioner to promulgate legislative rules relating to the business investment and jobs expansion tax credit, corporations headquarters relocation tax credit, and small business tax credit; authorizing the non-intoxicating beer commissioner to promulgate legislative rules relating to non-intoxicating beer licensing and operations procedures, as modified and as amended; authorizing the division of highways to promulgate legislative rules relating to traffic and safety, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to meat inspection, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to agricultural liming materials, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to public markets, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to animal disease control, as modified; authorizing the attorney general to promulgate legislative rules relating to requiring persons upon whom subpoenas are served to answer written questions under oath; authorizing the attorney general to promulgate legislative rules relating to obtaining the assistance of public officials in investigations and the commencement of proceedings to compel compliance; authorizing the attorney general to promulgate legislative rules relating to the limitation of action and the recovery of investigative costs and a reasonable attorney's fee by the attorney general in an enforcement action, as modified; authorizing the attorney general to promulgate legislative rules relating to the regulated business exemption under the West Virginia antitrust act, as modified; authorizing the attorney general to promulgate legislative rules relating to defining the term "federal antitrust laws" and prohibiting tying and reciprocity, as modified; authoriz-

ing the board of barbers and beauticians to promulgate legislative rules relating to the licensing of schools of barbering and beauty culture, as modified and amended; authorizing the board of barbers and beauticians to promulgate legislative rules relating to the qualifications, training, examination and registration of instructors in barbering and beauty culture, as modified and amended; authorizing the board of barbers and beauticians to promulgate legislative rules relating to the minimum curriculum for schools of barbering, as modified and amended; authorizing the board of barbers and beauticians to promulgate legislative rules relating to the curriculum and minimum requirements, subjects and hour schedule for schools of beauty culture operation in West Virginia and a joint barbers and beauticians license, as modified and amended; authorizing the board of barbers and beauticians to promulgate legislative rules relating to the operation of barber and beauty shops and schools of barbering and beauty culture, as modified and amended; authorizing the West Virginia board of dental examiners to promulgate legislative rules relating to the board, as modified; authorizing the West Virginia board of registration for registered professional engineers to promulgate legislative rules relating to the board, as modified; authorizing the state board of examiners of land surveyors to promulgate legislative rules relating to the practice of land surveying in West Virginia, as modified; authorizing the board of medicine to promulgate legislative rules relating to fees for services rendered by the board, as modified; authorizing the board of medicine to promulgate legislative rules relating to licensing and disciplinary and complaint procedures for physicians and podiatrists, as modified; authorizing the board of medicine to promulgate legislative rules relating to certification and disciplinary and complaint procedures for physician assistants, as modified; authorizing the board of examiners for registered professional nurses to promulgate legislative rules relating to the announcement of advanced nursing practice, as modified; authorizing the board of pharmacy to promulgate legislative rules relating to continuing education for the licensure

of pharmacists, as modified; authorizing the secretary of state to promulgate legislative rules relating to the use of nicknames and other designations on the ballot; authorizing the state treasurer to promulgate legislative rules relating to the uniform disposition of unclaimed property act, as modified; authorizing the West Virginia cable television advisory board to promulgate legislative rules relating to franchising procedures, as modified; and authorizing the West Virginia cable television advisory board to promulgate legislative rules relating to implementing the West Virginia cable television systems act, as modified.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section seven; that sections one, four, eight and ten, article three of said chapter be amended and reenacted; that said article be further amended by adding thereto two new sections, designated sections twelve and thirteen; that article four of said chapter be amended by adding thereto a new section, designated section three; that sections two, three and four, article five of said chapter be amended and reenacted; that said article be further amended by adding thereto two new sections, designated sections seven and eight; that sections two and four, article six of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section five; that sections one, two, four, five and six, article seven of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section seven; that section one, article eight of said chapter be amended and reenacted; that sections one, three, five, ten, twelve, fifteen, sixteen, eighteen, twenty, twenty-four and twenty-six, article nine of said chapter be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section twenty-eight, all to read as follows:

ARTICLE 2. AUTHORIZATION FOR DEPARTMENT OF ADMINISTRATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-2. Division of purchasing.

1 (a) The legislative rules filed in the state register on
2 the eighteenth day of November, one thousand nine
3 hundred eighty-eight, modified by the director of the
4 purchasing division of the department of finance and
5 administration to meet the objections of the legislative
6 rule-making review committee and refiled in the state
7 register on the nineteenth day of January, one thou-
8 sand nine hundred eighty-nine, relating to the director
9 of the purchasing division of the department of
10 finance and administration (purchasing division), are
11 authorized.

12 (b) The legislative rules filed in the state register on
13 the seventh day of August, one thousand nine hundred
14 ninety, modified by the division of purchasing to meet
15 the objections of the legislative rule-making review
16 committee and refiled in the state register on the
17 twentieth day of September, one thousand nine
18 hundred ninety, relating to the division of purchasing
19 (availability of state surplus buildings and equipment
20 to charity food banks), are authorized.

21 (c) The legislative rules filed in the state register on
22 the twenty-sixth day of September, one thousand nine
23 hundred ninety, modified by the purchasing division
24 to meet the objections of the legislative rule-making
25 review committee and refiled in the state register on
26 the twenty-fourth day of January, one thousand nine
27 hundred ninety-one, relating to the purchasing divi-
28 sion (purchasing), are authorized.

§64-2-3. Division of personnel.

1 (a) The legislative rules filed in the state register on
2 the nineteenth day of November, one thousand nine
3 hundred eighty-six, modified by the civil service
4 commission to meet the objection of the legislative
5 rule-making review committee and refiled in the state
6 register on the fifteenth day of December, one thou-
7 sand nine hundred eighty-six, relating to the civil

8 service commission (civil service system), are
9 authorized.

10 (b) The legislative rules filed in the state register on
11 the first day of November, one thousand nine hundred
12 eighty-eight, modified by the civil service commission
13 to meet the objections of the legislative rule-making
14 review committee and refiled in the state register on
15 the twenty-third day of February, one thousand nine
16 hundred eighty-nine, relating to the civil service
17 commission (civil service system), are authorized with
18 the amendments set forth below:

19 On page fifteen, section 5.05(d), after the words
20 "established in" by striking out the remainder of the
21 sentence and inserting in lieu thereof the words
22 "Chapter 29-6A of the Code of West Virginia, as
23 amended."

24 On page fifteen, section 5.06, after the words "estab-
25 lished in" by striking out the remainder of the
26 sentence and inserting in lieu thereof the words
27 "Chapter 29-6A of the Code of West Virginia, as
28 amended."

29 On pages sixteen and seventeen by deleting all of
30 section 5.07.

31 And,

32 On page 46, section 13(f) line 2 by striking the words
33 "previously held".

34 (c) The legislative rules filed in the state register on
35 the fourteenth day of May, one thousand nine hun-
36 dred ninety, modified by the division of personnel to
37 meet the objections of the legislative rule-making
38 review committee and refiled in the state register on
39 the twenty-fifth day of September, one thousand nine
40 hundred ninety, relating to the division of personnel
41 (civil service system), are authorized.

§64-2-7. Secretary of the department of administration.

1 (a) The legislative rules filed in the state register on
2 the twenty-sixth day of September, one thousand nine
3 hundred ninety, modified by the secretary of the

4 department of administration to meet the objections of
5 the legislative rule-making review committee and
6 refiled in the state register on the twenty-fourth day
7 of January, one thousand nine hundred ninety-one,
8 relating to the secretary of the department of admin-
9 istration (plan of operation for the information and
10 communication services division), are authorized.

11 (b) The legislative rules filed in the state register on
12 the twenty-sixth day of September, one thousand nine
13 hundred ninety, modified by the secretary of the
14 department of administration to meet the objections of
15 the legislative rule-making review committee and
16 refiled in the state register on the twenty-fourth day
17 of January, one thousand nine hundred ninety-one,
18 relating to the secretary of the department of admin-
19 istration (parking), are authorized.

20 (c) The legislative rules filed in the state register on
21 the twenty-sixth day of September, one thousand nine
22 hundred ninety, modified by the secretary of the
23 department of administration to meet the objections of
24 the legislative rule-making review committee and
25 refiled in the state register on the twenty-fourth day
26 of January, one thousand nine hundred ninety-one,
27 relating to the secretary of the department of admin-
28 istration (leasing space on behalf of state spending
29 units), are authorized.

**ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE,
LABOR AND ENVIRONMENTAL RESOURCES TO
PROMULGATE LEGISLATIVE RULES.**

§64-3-1. Air pollution control commission.

1 (a) The legislative rules filed in the state register on
2 the thirteenth day of August, one thousand nine
3 hundred eighty-two, relating to the air pollution
4 control commission (series VII), are authorized.

5 (b) The legislative rules filed in the state register on
6 the thirteenth day of August, one thousand nine
7 hundred eighty-two, relating to the air pollution
8 control commission (series XIX), are authorized.

9 (c) The legislative rules filed in the state register on

10 the sixteenth day of November, one thousand nine
11 hundred eighty-three, relating to the air pollution
12 control commission (emission standards for hazardous
13 air pollutants) (series XV), are authorized.

14 (d) The legislative rules filed in the state register on
15 the sixteenth day of November, one thousand nine
16 hundred eighty-three, relating to the air pollution
17 control commission (standards of performance for new
18 stationary sources) (series XVI), are authorized.

19 (e) The legislative rules filed in the state register on
20 the sixth day of January, one thousand nine hundred
21 eighty-four, relating to the air pollution control
22 commission (to prevent and control air pollution from
23 hazardous waste treatment, storage or disposal facili-
24 ties) (series XXV), are authorized with the amend-
25 ments set forth below:

26 Page 3, §1.06, change the § title from "Enforcement"
27 to "Procedure"; place an "(a)" in front of the existing
28 paragraph and add the following:

29 "(b) Permit applications filed pursuant to this
30 regulation shall be processed in accordance with the
31 permitting procedures as set forth in code §20-5E of
32 this regulation. Permit procedures set forth in code
33 §16-20 and any other regulation of this commission are
34 not applicable to any permit application filed pursuant
35 to this regulation."

36 Such rules shall also include a section which shall
37 read as follows:

38 "The commission shall report to the legislative rule-
39 making review committee as required by that commit-
40 tee, but in no event later than the first day of the
41 regular session of the Legislature in the year one
42 thousand nine hundred eighty-five. Such report shall
43 include information regarding the commission's data
44 gathering efforts, the development of compliance
45 programs, the progress in implementation, and such
46 other matters as the committee may require, pertain-
47 ing to the regulations hereby authorized."

48 (f) The legislative rules filed in the state register on

49 the ninth day of January, one thousand nine hundred
50 eighty-four, relating to the air pollution control
51 commission (permits for construction and modification
52 of stationary sources of air pollution for the prevention
53 of significant deterioration) (series XIV), are
54 authorized.

55 (g) The legislative rules filed in the state register on
56 the thirtieth day of December, one thousand nine
57 hundred eighty-eight, modified by the air pollution
58 control commission to meet the objections of the
59 legislative rule-making review committee and refiled
60 in the state register on the twenty-third day of
61 February, one thousand nine hundred eighty-nine,
62 relating to the air pollution control commission (pre-
63 vention and control of air pollution from hazardous
64 waste treatment, storage or disposal facilities), are
65 authorized.

66 (h) The legislative rules filed in the state register on
67 the thirtieth day of December, one thousand nine
68 hundred eighty-eight, modified by the air pollution
69 control commission to meet the objections of the
70 legislative rule-making review committee and refiled
71 in the state register on the twenty-third day of
72 February, one thousand nine hundred eighty-nine,
73 relating to the air pollution control commission (good
74 engineering practice as applicable to stack heights), are
75 authorized.

76 (i) The legislative rules filed in the state register on
77 the thirtieth day of December, one thousand nine
78 hundred eighty-eight, modified by the air pollution
79 control commission to meet the objections of the
80 legislative rule-making review committee and refiled
81 in the state register on the twenty-third day of
82 February, one thousand nine hundred eighty-nine,
83 relating to the air pollution control commission (TP-2,
84 compliance test procedures for regulation 2 — to
85 prevent and control particulate air pollution from
86 combustion of fuel in indirect heat exchangers), are
87 authorized.

88 (j) The legislative rules filed in the state register on

89 the sixth day of September, one thousand nine hun-
90 dred eighty-nine, modified by the air pollution control
91 commission to meet the objections of the legislative
92 rule-making review committee and refiled in the state
93 register on the tenth day of January, one thousand
94 nine hundred ninety, relating to the air pollution
95 control commission (ambient air quality standards for
96 sulfur oxides and particulate matter), are authorized.

97 (k) The legislative rules filed in the state register on
98 the sixth day of September, one thousand nine hun-
99 dred eighty-nine, modified by the air pollution control
100 commission to meet the objections of the legislative
101 rule-making review committee and refiled in the state
102 register on the tenth day of January, one thousand
103 nine hundred ninety, relating to the air pollution
104 control commission (prevention of air pollution emer-
105 gency episodes), are authorized.

106 (l) The legislative rules filed in the state register on
107 the sixth day of September, one thousand nine hun-
108 dred eighty-nine, modified by the air pollution control
109 commission to meet the objections of the legislative
110 rule-making review committee and refiled in the state
111 register on the tenth day of January, one thousand
112 nine hundred ninety, relating to the air pollution
113 control commission (permits for construction and
114 major modification of major stationary sources of air
115 pollution for the prevention of significant deteriora-
116 tion), are authorized.

117 (m) The legislative rules filed in the state register on
118 the sixth day of September, one thousand nine hun-
119 dred eighty-nine, relating to the air pollution control
120 commission (standards of performance for new sta-
121 tionary sources), are authorized.

122 (n) The legislative rules filed in the state register on
123 the sixth day of September, one thousand nine hun-
124 dred eighty-nine, relating to the air pollution control
125 commission (emission standards for hazardous air
126 pollutants), are authorized.

127 (o) The legislative rules filed in the state register on
128 the sixteenth day of October, one thousand nine

129 hundred eighty-nine, modified by the air pollution
130 control commission to meet the objections of the
131 legislative rule-making review committee and refiled
132 in the state register on the tenth day of January, one
133 thousand nine hundred ninety, relating to the air
134 pollution control commission (prevention and control
135 of emissions of toxic air pollutants), are authorized.

136 (p) The legislative rules filed in the state register on
137 the tenth day of August, one thousand nine hundred
138 ninety, relating to the air pollution control commission
139 (prevention and control of air pollution from the
140 emission of volatile organic compounds from bulk
141 gasoline terminals), are authorized.

142 (q) The legislative rules filed in the state register on
143 the thirteenth day of August, one thousand nine
144 hundred ninety, modified by the air pollution control
145 commission to meet the objections of the legislative
146 rule-making review committee and refiled in the state
147 register on the fifteenth day of November, one thou-
148 sand nine hundred ninety, relating to the air pollution
149 control commission (air quality management fee
150 program), are authorized.

151 (r) The legislative rules filed in the state register on
152 the tenth day of August, one thousand nine hundred
153 ninety, relating to the air pollution control commission
154 (prevention and control of air pollution from the
155 emission of volatile organic compounds from the
156 storage of petroleum liquids in fixed roof tanks), are
157 authorized.

158 (s) The legislative rules filed in the state register on
159 the tenth day of August, one thousand nine hundred
160 ninety, relating to the air pollution control commission
161 (prevention and control of air pollution from the
162 emission of volatile organic compounds from petro-
163 leum refinery sources), are authorized.

§64-3-4. Division of energy.

1 (a) The legislative rules filed in the state register on
2 the thirty-first day of March, one thousand nine
3 hundred eighty-two, relating to the department of

4 mines (energy) (mine safety program), are authorized.

5 (b) The legislative rules filed in the state register on
6 the seventeenth day of August, one thousand nine
7 hundred eighty-three, relating to the department of
8 energy (governing the safety of those employed in and
9 around surface mines), are authorized.

10 (c) The legislative rules filed in the state register on
11 the seventh day of December, one thousand nine
12 hundred eighty-three, relating to the office of oil and
13 gas, department of mines (energy), (oil and gas and
14 other wells), are authorized with the amendment set
15 forth below:

16 Page viii, place an * in front of section 32.02.

17 Page ix, after section 35.04 add the following:

18 “*35.05 Extra Powers of the Administrator64.”

19 Page 1, section 1.03 in the list of additional regula-
20 tions, add 35.05; in the list of revised regulations, add
21 32.02, 32.03 and 33.00.

22 Page 52, section 32.04 and section 32.05 add at the end
23 of (ii) the words “and (iii) definition of proration
24 unit.”

25 Page 53, section 33 after the word “definitions” add
26 the following sentence: “The following definitions are
27 applicable to these regulations used for purposes of
28 implementing the Natural Gas Policy Act of 1978 and
29 are not intended to be used in any other context.”

30 Page 55, section 33.02 (b)(16) after the word “forma-
31 tions” in the third lines of (i) and (ii), add the words
32 “for which a well has been.”

33 Page 64, after section 35.04 add the following section:
34 35.05 Extra Powers of the Administrator.

35 “The administrator may also certify or provide a
36 waiver for a well located within a proration unit as
37 defined in 32.02 (b)(16) or any other well sought to be
38 certified under these regulations after notice and
39 hearing.”

40 (d) The legislative rules filed in the state register on
41 the eleventh day of August, one thousand nine hun-
42 dred eighty-six, modified by the director of the
43 division of oil and gas of the department of energy to
44 meet the objections of the legislative rule-making
45 review committee and refiled in the state register on
46 the fifteenth day of December, one thousand nine
47 hundred eighty-six, relating to the director of the
48 division of oil and gas of the department of energy (oil
49 and gas wells and other wells), are authorized.

50 (e) The legislative rules filed in the state register on
51 the eleventh day of August, one thousand nine hun-
52 dred eighty-six, modified by the director of the oil and
53 gas division of the department of energy to meet the
54 objections of the legislative rule-making review com-
55 mittee and refiled in the state register on the fifteenth
56 day of December, one thousand nine hundred eighty-
57 six, relating to the director of the division of oil and
58 gas of the department of energy (certification of gas
59 wells), are authorized.

60 (f) The legislative rules filed in the state register on
61 the eleventh day of August, one thousand nine hun-
62 dred eighty-six, modified by the director of the
63 division of oil and gas of the department of energy to
64 meet the objections of the legislative rule-making
65 review committee and refiled in the state register on
66 the fifteenth day of December, one thousand nine
67 hundred eighty-six, relating to the director of the
68 division of oil and gas of the department of energy
69 (underground injection control), are authorized.

70 (g) The legislative rules filed in the state register on
71 the eleventh day of August, one thousand nine hun-
72 dred eighty-six, modified by the director of the
73 division of oil and gas of the department of energy to
74 meet the objections of the legislative rule-making
75 review committee and refiled in the state register on
76 the fifteenth day of December, one thousand nine
77 hundred eighty-six, relating to the director of the
78 division of oil and gas of the department of energy
79 (state national pollutant discharge elimination system
80 (NPDES) program), are authorized.

81 (h) The legislative rules filed in the state register on
82 the fourteenth day of November, one thousand nine
83 hundred eighty-six, modified by the commissioner of
84 the department of energy to meet the objections of the
85 legislative rule-making review committee and refiled
86 in the state register on the sixteenth day of December,
87 one thousand nine hundred eighty-six, relating to the
88 commissioner of the department of energy (standards
89 for certification of coal mine electricians), are autho-
90 rized with the following amendments:

91 "Page one, §2.1, subsection (a), following the second
92 word, 'electrician' by striking the colon and inserting
93 the following: 'under the supervision required by
94 section 4.1(d) of these rules'" and a colon.

95 Page one, §2.1, subsection (a), by deleting all of
96 subdivision (6) and renumbering the subsequent
97 subdivisions.

98 Page two, §2.1, subsection (a), by deleting all of
99 subdivision (9).

100 Page two, §2.1, subsection (b), by deleting all of
101 subdivision (14) and inserting in lieu thereof a new
102 subdivision (14) to read as follows: "(14) Replace blown
103 fuses on trolley poles and nips."

104 Page five, §4.1, subsection (d), line three, following
105 the words "certified electrician prior" by inserting the
106 words "to any work being performed and again prior."

107 (i) The legislative rules filed in the state register on
108 the fifteenth day of December, one thousand nine
109 hundred eighty-six, modified by the commissioner of
110 the department of energy to meet the objections of the
111 legislative rule-making review committee and refiled
112 in the state register on the twenty-first day of Janu-
113 ary, one thousand nine hundred eighty-seven, relating
114 to the commissioner of the department of energy
115 (safety training program for prospective underground
116 coal miners in West Virginia), are authorized.

117 (j) The legislative rules filed in the state register on
118 the eleventh day of August, one thousand nine hun-
119 dred eighty-six, modified by the commissioner of the

120 department of energy to meet the objections of the
121 legislative rule-making review committee and refiled
122 in the state register on the fifteenth day of December,
123 one thousand nine hundred eighty-six, relating to the
124 commissioner of the department of energy (miscella-
125 neous water pollution control), are authorized.

126 (k) The legislative rules filed in the state register on
127 the eleventh day of August, one thousand nine hun-
128 dred eighty-six, modified by the commissioner of the
129 department of energy to meet the objections of the
130 legislative rule-making review committee and refiled
131 in the state register on the fifteenth day of December,
132 one thousand nine hundred eighty-six, relating to the
133 commissioner of the department of energy (dam
134 control), are authorized.

135 (l) The legislative rules filed in the state register on
136 the eleventh day of August, one thousand nine hun-
137 dred eighty-six, modified by the commissioner of the
138 department of energy to meet the objections of the
139 legislative rule-making review committee and refiled
140 in the state register on the fifteenth day of December,
141 one thousand nine hundred eighty-six, relating to the
142 commissioner of the department of energy (solid waste
143 management), are authorized.

144 (m) The legislative rules filed in the state register on
145 the eleventh day of August, one thousand nine hun-
146 dred eighty-six, modified by the commissioner of the
147 department of energy to meet the objections of the
148 legislative rule-making review committee and refiled
149 in the state register on the fifteenth day of December,
150 one thousand nine hundred eighty-six, relating to the
151 commissioner of the department of energy (hazardous
152 waste management), are authorized.

153 (n) The legislative rules filed in the state register on
154 the twentieth day of April, one thousand nine hundred
155 eighty-seven, relating to the commissioner of the
156 department of energy (roof control), are authorized.

157 (o) The legislative rules filed in the state register on
158 the third day of April, one thousand nine hundred
159 eighty-seven, relating to the department of energy

160 (standards for certification of underground belt exa-
161 miners for underground coal mines), are authorized.

162 (p) The legislative rules filed in the state register on
163 the ninth day of April, one thousand nine hundred
164 eighty-seven, relating to the commissioner of the
165 department of energy (performance standards for
166 blasting on surface mines), are authorized.

167 (q) The legislative rules filed in the state register on
168 the twelfth day of January, one thousand nine hun-
169 dred eighty-seven, modified by the commissioner of
170 the department of energy to meet the objections of the
171 legislative rule-making review committee and refiled
172 in the state register on the twentieth day of February,
173 one thousand nine hundred eighty-seven, relating to
174 the commissioner of the department of energy (state
175 national pollutant discharge elimination system
176 (NPDES) for mines and minerals), are authorized.

177 (r) The Legislature hereby authorizes and directs
178 the department of energy to promulgate the proce-
179 dural rules filed in the state register on the twenty-
180 first day of October, one thousand nine hundred
181 eighty-seven, relating to the department of energy
182 (requests for information) with the amendments set
183 forth below:

184 On page two, subsection 3.1, by striking subdivision
185 (d) and renumbering the remaining subdivisions.

186 And,

187 On page three, section 6, by striking all of subsection
188 6.1 and inserting in lieu thereof, the following:

189 "6.1 The department shall establish fixed rate fees
190 for reproduction of documents, records, and files on
191 the basis of the actual cost of such reproduction and
192 shall document such costs: *Provided*, That where total
193 costs are less than five dollars, no fee shall be charged."

194 (s) The legislative rules filed in the state register on
195 the twelfth day of May, one thousand nine hundred
196 eighty-seven, modified by the commissioner of the
197 department of energy to meet the objections of the

198 legislative rule-making review committee and refiled
199 in the state register on the fourteenth day of August,
200 one thousand nine hundred eighty-seven, relating to
201 the commissioner of the department of energy (blas-
202 ters certification for surface coal mines and surface
203 areas of coal mines), are authorized.

204 (t) The legislative rules filed in the state register on
205 the twentieth day of January, one thousand nine
206 hundred eighty-eight, modified by the commissioner
207 of the department of energy to meet the objections of
208 the legislative rule-making review committee and
209 refiled in the state register on the twenty-eighth day
210 of November, one thousand nine hundred eighty-eight,
211 relating to the commissioner of the department of
212 energy (abandoned mine reclamation), are authorized.

213 (u) The legislative rules filed in the state register on
214 the nineteenth day of September, one thousand nine
215 hundred eighty-eight, and modified to meet the
216 objections of the West Virginia Legislature and refiled
217 in the state register on the sixth day of April, one
218 thousand nine hundred eighty-nine, relating to the
219 commissioner of the department of energy (West
220 Virginia surface mining reclamation regulations
221 (repealer)), are authorized.

222 (v) The legislative rules filed in the state register on
223 the sixteenth day of November, one thousand nine
224 hundred eighty-nine, modified by the department of
225 energy to meet the objections of the legislative rule-
226 making review committee and refiled in the state
227 register on the ninth day of January, one thousand
228 nine hundred ninety, relating to the department of
229 energy (submission and approval of a comprehensive
230 mine safety program for coal mining operations in the
231 State of West Virginia), are authorized.

232 (w) The legislative rules filed in the state register on
233 the sixteenth day of November, one thousand nine
234 hundred eighty-nine, modified by the division of
235 energy to meet the objections of the legislative rule-
236 making review committee and refiled in the state
237 register on the twenty-fifth day of January, one

238 thousand nine hundred ninety, relating to the division
239 of energy (surface mining reclamation), are authorized
240 with the amendments set forth below:

241 On page 64, section 3.25(a)(2), after the words
242 "section 18 of the Act and paragraph" by deleting the
243 "(c)" and inserting in lieu thereof the following: "(a),
244 (b), (c), (d), (i), (j), and (k)."

245 And,

246 On page 148, section 12.4(d)(2), by deleting the
247 current language and inserting in lieu thereof the
248 following:

249 "(2) In the event the Commissioner is unable to
250 collect the costs from the permittee, the Commissioner
251 shall in a timely manner but not later than one
252 hundred eighty days after forfeiture of the site-specific
253 bond utilize monies in the Special Reclamation Fund
254 created by Subsection (g), Section 11 of the Act, to
255 accomplish the completion of reclamation, including
256 the requirements of Section 23 of the Act and Subsec-
257 tion 14.5 of these regulations governing water quality."

258 (x) The legislative rules filed in the state register on
259 the twenty-fifth day of May, one thousand nine
260 hundred ninety, modified by the division of energy to
261 meet the objections of the legislative rule-making
262 review committee and refiled in the state register on
263 the seventeenth day of July, one thousand nine
264 hundred ninety, relating to the division of energy
265 (miscellaneous water pollution control), are authorized.

266 (y) The legislative rules filed in the state register on
267 the first day of November, one thousand nine hundred
268 ninety, modified by the division of energy to meet the
269 objections of the legislative rule-making review com-
270 mittee and refiled in the state register on the twenty-
271 second day of January, one thousand nine hundred
272 ninety-one, relating to the division of energy (West
273 Virginia surface mining and reclamation regulations),
274 are authorized with the amendment set forth below:

275 On page one hundred fifty-three, section 12.2(c)(4),
276 after the number "(4)", by inserting the words "For

277 permits issued after the effective date of these
278 regulations.”.

§64-3-8. Division of natural resources.

1 (a) The legislative rules filed in the state register on
2 the eighth day of December, one thousand nine
3 hundred eighty-three, relating to the department of
4 natural resources (surface mining), are authorized
5 with the amendments set forth below:

6 Page 3-4, §3E.01 by adding after the word “engineer”
7 the words “or licensed land surveyor.”

8 Page 3-5, §3E.02, subsection (a), by adding after the
9 word “mining” the words “or civil.”

10 Page 3-5, §3E.02, subsection (b), by adding after the
11 first sentence — “Those persons who have been
12 approved to date need not make said demonstration.”

13 (b) The legislative rules filed in the state register on
14 the twentieth day of January, one thousand nine
15 hundred eighty-four, relating to the department of
16 natural resources (solid waste management), are
17 authorized with the amendments set forth below:

18 Page 9, section 4.04, line five, add the following
19 paragraph:

20 “Upon request of any applicant, the division shall
21 meet with the applicant for prefiling review of the
22 application. The division, with the cooperation of the
23 solid waste authority, shall assist the applicant in
24 preparing a complete and proper application which
25 would not be rejected as incomplete.”

26 On page 15, section 6.03 (c)(1) in the first full
27 sentence, after the word “cease”, strike the remainder
28 of the sentence and insert in lieu thereof the words
29 “within fifteen (15) days of receipt of an order of
30 suspension” and in the second sentence strike the
31 word “recommence” and insert the words “continue
32 beyond fifteen (15) days”; (c)(2) in the first full
33 sentence, after the word “cease” by striking out the
34 remainder of the sentence and insert in lieu thereof
35 the words “immediately upon receipt of an order of

36 revocation.”

37 (c) The legislative rules filed in the state register on
38 the twenty-sixth day of September, one thousand nine
39 hundred eighty-four, relating to the department of
40 natural resources (public use of state parks, forests,
41 hunting and fishing areas), are authorized.

42 (d) The legislative rules filed in the state register on
43 the seventh day of November, one thousand nine
44 hundred eighty-four, relating to the department of
45 natural resources (surface mining reclamation), are
46 authorized.

47 (e) The legislative rules filed in the state register on
48 the seventh day of November, one thousand nine
49 hundred eighty-four, relating to the department of
50 natural resources (coal refuse disposal), are authorized.

51 (f) The legislative rules filed in the state register on
52 the ninth day of November, one thousand nine hun-
53 dred eighty-four, relating to the department of natural
54 resources (transfer of the state national pollutant
55 discharge elimination system program), are authorized
56 with the amendments set forth below:

57 Page 10-5, by striking §10B.19 and inserting in lieu
58 thereof a new §10B.19, to read as follows: “‘Effluent
59 limitations guidelines’ means a regulation published
60 by the Administrator under Section 304(b) or Section
61 301(b)(1)(B) of the CWA to adopt or revise effluent
62 limitations or levels of effluent quality attainable
63 through the application of secondary or equivalent
64 treatment. For the coal industry these regulations are
65 published at 40 C.F.R. Parts 434 and 133. (See: Appen-
66 dix G and H).”

67 (g) The legislative rules filed in the state register on
68 the twenty-eighth day of August, one thousand nine
69 hundred eighty-four, relating to the department of
70 natural resources (small arms hunting), are authorized.

71 (h) The legislative rules filed in the state register on
72 the sixth day of January, one thousand nine hundred
73 eighty-four, relating to the department of natural
74 resources (hazardous waste management), are

75 authorized.

76 (i) The legislative rules filed in the state register on
77 the third day of December, one thousand nine hun-
78 dred eighty-four, modified by the department of
79 natural resources to meet the objections of the legis-
80 lative rule-making review committee and refiled in
81 the state register on the thirteenth day of February,
82 one thousand nine hundred eighty-five, relating to the
83 department of natural resources (hazardous waste
84 management), are authorized.

85 (j) The legislative rules filed in the state register on
86 the tenth day of October, one thousand nine hundred
87 eighty-five, relating to the department of natural
88 resources (hazardous waste management: small quan-
89 tity generators and waste minimization certification),
90 are authorized with the amendments set forth below:

91 On page 1, §3.1.4b, delete the word "or" in the
92 reference to "paragraph (g) or (j)" and insert in lieu
93 thereof the words "and, if applicable."

94 (k) The legislative rules filed in the state register on
95 the ninth day of September, one thousand nine
96 hundred eighty-five, relating to the department of
97 natural resources (WV/NPDES regulations for the coal
98 mining point source category and related sewage
99 facilities), are authorized.

100 (l) The legislative rules filed in the state register on
101 the eleventh day of December, one thousand nine
102 hundred eighty-five, modified by the department of
103 natural resources to meet the objections of the legis-
104 lative rule-making review committee and refiled in
105 the state register on the twentieth day of February,
106 one thousand nine hundred eighty-six, relating to the
107 department of natural resources (hazardous waste
108 management), are authorized.

109 (m) The legislative rules filed in the state register on
110 the twenty-sixth day of September, one thousand nine
111 hundred eighty-six, modified by the department of
112 natural resources to meet the objections of the legis-
113 lative rule-making review committee and refiled in

114 the state register on the ninth day of December, one
115 thousand nine hundred eighty-six, relating to the
116 department of natural resources (hazardous waste
117 management regulations), are authorized.

118 (n) The legislative rules filed in the state register on
119 the seventh day of August, one thousand nine hundred
120 eighty-six, relating to the director of the department of
121 natural resources (procedures for transporting and
122 dealing in furbearing animals), are authorized.

123 (o) The legislative rules filed in the state register on
124 the thirtieth day of December, one thousand nine
125 hundred eighty-six, relating to the department of
126 natural resources (WV/NPDES program for coal mines
127 and preparation plants, and the refuse and waste
128 therefrom), are authorized with the amendments set
129 forth below:

130 On page four, §1.9.1.a by inserting the words “five
131 thousand dollars or” after the words “‘significant
132 portion of income’ means.”

133 And,

134 On page four, §1.9.1.a by inserting the words “which-
135 ever is less,” after the words “ten percent or more of
136 gross personal income for a calendar year.”

137 (p) The legislative rules filed in the state register on
138 the fifth day of March, one thousand nine hundred
139 eighty-six, relating to the department of natural
140 resources (hazardous waste management), are
141 authorized.

142 (q) The legislative rules filed in the state register on
143 the twelfth day of August, one thousand nine hundred
144 eighty-seven, relating to the department of natural
145 resources (WV/NPDES regulations for coal mining
146 facilities), are authorized.

147 (r) The legislative rules filed in the state register on
148 the tenth day of June, one thousand nine hundred
149 eighty-seven, relating to the director of the depart-
150 ment of natural resources (outfitters and guides), are
151 authorized.

152 (s) The legislative rules filed in the state register on
153 the ninth day of January, one thousand nine hundred
154 eighty-seven, relating to the department of natural
155 resources (hazardous waste management regulations),
156 are authorized.

157 (t) The legislative rules filed in the state register on
158 the fifth day of March, one thousand nine hundred
159 eighty-seven, relating to the department of natural
160 resources (hazardous waste management regulations,
161 series 35), are authorized.

162 (u) The legislative rules filed in the state register on
163 the seventh day of December, one thousand nine
164 hundred eighty-seven, relating to the department of
165 natural resources (hazardous waste management
166 regulations, series 35), are authorized.

167 (v) The legislative rules filed in the state register on
168 the sixteenth day of December, one thousand nine
169 hundred eighty-seven, modified by the department of
170 natural resources to meet the objections of the legis-
171 lative rule-making review committee and refiled in
172 the state register on the fourteenth day of January,
173 one thousand nine hundred eighty-eight, relating to
174 the department of natural resources (solid waste
175 management), are authorized.

176 (w) The legislative rules filed in the state register on
177 the twenty-eighth day of July, one thousand nine
178 hundred eighty-seven, modified by the director of the
179 department of natural resources to meet the objections
180 of the legislative rule-making review committee and
181 refiled in the state register on the seventh day of
182 August, one thousand nine hundred eighty-seven,
183 relating to the director of the department of natural
184 resources (boating regulations), are authorized with
185 the amendment set forth below:

186 On page 16, section 6.2, line 3 by inserting following
187 the period "This regulation does not apply to licensed
188 outfitters and guides." These rules were proposed by
189 the director of the department of natural resources
190 pursuant to section seven, article one and section
191 twenty-two, article seven, chapter twenty of this code.

192 (x) The legislative rules filed in the state register on
193 the second day of September, one thousand nine
194 hundred eighty-eight, modified by the department of
195 natural resources to meet the objections of the legis-
196 lative rule-making review committee and refiled in
197 the state register on the seventeenth day of October,
198 one thousand nine hundred eighty-eight, relating to
199 the department of natural resources (hazardous waste
200 management), are authorized.

201 (y) The legislative rules filed in the state register on
202 the thirty-first day of August, one thousand nine
203 hundred eighty-eight, relating to the director of the
204 department of natural resources (boating), are
205 authorized.

206 (z) The legislative rules filed in the state register on
207 the eighth day of March, one thousand nine hundred
208 eighty-eight, modified by director of the department of
209 natural resources to meet the objections of the legis-
210 lative rule-making review committee and refiled in
211 the state register on the thirtieth day of August, one
212 thousand nine hundred eighty-eight, relating to the
213 director of the department of natural resources (com-
214 mercial sale of wildlife), are authorized.

215 (aa) The legislative rules filed in the state register on
216 the twenty-seventh day of January, one thousand nine
217 hundred eighty-eight, relating to the director of the
218 department of natural resources (catching and selling
219 bait fish), are authorized.

220 (bb) The legislative rules filed in the state register
221 on the twenty-fifth day of March, one thousand nine
222 hundred eighty-eight, relating to the director of the
223 department of natural resources (West Virginia public
224 hunting and fishing areas), are authorized with the
225 following amendment:

226 On page three, section 3.8.4, by inserting after the
227 word "vehicle" the following: " , all terrain vehicle
228 (ATV)."

229 (cc) The legislative rules filed in the state register on
230 the seventeenth day of March, one thousand nine

231 hundred eighty-nine, modified by the division of
232 natural resources to meet the objections of the legis-
233 lative rule-making review committee and refiled in
234 the state register on the sixteenth day of January, one
235 thousand nine hundred ninety, relating to the division
236 of natural resources (solid waste management), are
237 authorized with the amendments set forth below:

238 On page 13, Section 3.2.6, by deleting the current
239 language and inserting in lieu thereof the following:

240 “3.2.6. Within two hundred (200) feet of faults that
241 have had displacement in Holocene time (i.e., during
242 the last eleven thousand years);”

243 On page 64, Section 3.14.25, by deleting the current
244 language and inserting in lieu thereof the following
245 language:

246 “3.14.25. *Environmental Compliance History*. The
247 chief or the director may refuse to grant any permit
248 if he has reasonable cause to believe, as indicated by
249 documented evidence, that the applicant, or any
250 officer, director or manager, thereof, or shareholder
251 owning twenty percent (20%) or more of its capital
252 stock, beneficial or otherwise, or other person conduct-
253 ing or managing the affairs of the applicant or of the
254 proposed permitted premises, in whole or part, has
255 exhibited a pattern of violation of the environmental
256 statutes or regulations of this State, any other state, or
257 the federal government.”

258 On page 104, section 4.5.4.a, by inserting after the
259 words “at that landfill” the following:

260 “Nothing within these regulations shall be construed
261 to allow the installations of any liner or system on
262 areas not lined as of November 30, 1989, that is not in
263 conformance with section 4.5.4.a.E or 4.5.4.a.G. of these
264 regulations. Landfills that do have an article 5f permit
265 and a liner installed as of November 30, 1989, may
266 install a liner as approved by the chief.”

267 And,

268 On pages 147 through 151, sections 4.11.5 and 4.11.6,

269 by deleting the current language and inserting in lieu
270 thereof the following:

271 "4.11.5 *Corrective Action Program.*

272 Whenever a statistically significant increase is found
273 in a Phase II or Phase III monitoring parameter, or
274 when groundwater contamination is otherwise identi-
275 fied by the Chief at sites without monitoring pro-
276 grams, which is determined by the Chief to have
277 resulted in a significant adverse effect on an aquifer,
278 and which is attributable to a solid waste facility, the
279 Chief may require appropriate corrective or remedial
280 action pursuant to West Virginia Code Chapter 20,
281 Article 5A, and Chapter 20, Article 5F to abate,
282 remediate or correct such pollution. Any such correc-
283 tive or remedial action order shall take into account
284 any applicable groundwater quality protection stand-
285 ards, the existing use of such waters, the reasonable
286 uses of such waters, background water quality, and the
287 protection of human health and the environment."

288 (dd) The legislative rules filed in the state register
289 on the seventeenth day of February, one thousand
290 nine hundred eighty-nine, relating to the director of
291 the department of natural resources (underground
292 storage tanks), are authorized.

293 (ee) The legislative rules filed in the state register on
294 the twenty-seventh day of January, one thousand nine
295 hundred eighty-nine, relating to the director of the
296 department of natural resources (transporting and
297 selling wildlife pelts), are authorized.

298 (ff) The legislative rules filed in the state register on
299 the seventeenth day of February, one thousand nine
300 hundred eighty-nine, modified by the director of the
301 department of natural resources to meet the objections
302 of the legislative rule-making review committee and
303 refiled in the state register on the ninth day of August,
304 one thousand nine hundred eighty-nine, relating to
305 the director of the department of natural resources
306 (underground storage tank fee assessments), are
307 authorized.

308 (gg) The legislative rules filed in the state register on
309 the twenty-fourth day of April, one thousand nine
310 hundred eighty-nine, modified by the director of the
311 department of natural resources to meet the objections
312 of the legislative rule-making review committee and
313 refiled in the state register on the twenty-second day
314 of May, one thousand nine hundred eighty-nine,
315 relating to the director of the department of natural
316 resources (public hunting and fishing areas), are
317 authorized.

318 (hh) The legislative rules filed in the state register
319 on the first day of December, one thousand nine
320 hundred eighty-nine relating to the department of
321 natural resources (water pollution control permit fee
322 schedules), are authorized with the amendment set
323 forth below:

324 On page five, section 3.3, by deleting the following:
325 "Submitted fees are not refundable."

326 On page two, after section 2.6, by inserting the
327 following:

328 "customer" means any person that purchases waste
329 disposal services from a facility permitted under
330 article five-a, chapter twenty, of the code of West
331 Virginia, one thousand nine hundred thirty-one, as
332 amended. For the purposes of these regulations,
333 commercial and other non-single family dwelling
334 customers shall be translated into customer equival-
335 ents by dividing the total daily estimated volume of
336 waste water by three hundred and fifty gallons per
337 day." and renumbering the remaining subsections.

338 On page nine, section 7.2, by striking out the words
339 "seven hundred fifty dollars (\$750)." and inserting in
340 lieu thereof the following:

341 "determined using Table D, but in no case shall be
342 less than two hundred and fifty dollars (\$250)."

343 And,

344 On page thirteen, by striking out all of Table D,
345 Schedule of Annual Permit Fees, and inserting in lieu

thereof a new Table D, designated "Schedule of Annual Permit Fees", to read as follows:

"TABLE D
SCHEDULE OF ANNUAL PERMIT FEES
SEWAGE FACILITIES

| | Number of Customers | Annual Permit Fee |
|--|---------------------|-------------------|
|--|---------------------|-------------------|

| | | |
|--|-------------------|---------|
| | less than 1000 | \$ 250 |
| | 1000 to 1499 | \$ 500 |
| | 1500 to 1999 | \$ 750 |
| | 2000 to 2499 | \$ 1000 |
| | 2500 to 2999 | \$ 1250 |
| | 3000 to 3499 | \$ 1500 |
| | 3500 to 3999 | \$ 1750 |
| | 4000 to 4499 | \$ 2000 |
| | 4500 to 4999 | \$ 2250 |
| | greater than 5000 | \$ 2500 |

INDUSTRIAL OR OTHER WASTE FACILITIES

| | Average Discharge Volume (gallons per day) | Annual Permit Fee |
|--|---|-------------------|
|--|---|-------------------|

| | | |
|--|---------------------|----------|
| | less than 1,000 | \$ 50 |
| | 1,001 to 10,000 | \$ 500 |
| | 10,001 to 50,000 | \$ 1000 |
| | greater than 50,000 | \$ 2500" |

(ii) The legislative rules filed in the state register on the twenty-fifth day of July, one thousand nine hundred eighty-nine, modified by the director of the department of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of September, one thousand nine hundred eighty-nine, relating to the director of the department of natural resources (revocation of hunting and fishing licenses), are authorized.

(jj) The legislative rules filed in the state register on the twentieth day of December, one thousand nine

381 hundred eighty-nine, modified by the division of
382 natural resources to meet the objections of the legis-
383 lative rule-making review committee and refiled in
384 the state register on the twenty-fourth day of January,
385 one thousand nine hundred ninety, relating to the
386 division of natural resources (state water pollution
387 control revolving fund program), are authorized.

388 (kk) The legislative rules filed in the state register
389 on the twenty-ninth day of March, one thousand nine
390 hundred ninety, modified by the division of natural
391 resources to meet the objections of the legislative rule-
392 making review committee and refiled in the state
393 register on the thirtieth day of August, one thousand
394 nine hundred ninety, relating to the division of
395 natural resources (assessment of civil administrative
396 penalties), are authorized.

397 (ll) The legislative rules filed in the state register on
398 the sixth day of August, one thousand nine hundred
399 ninety, relating to the division of natural resources
400 (water pollution control permit fee schedules), are
401 authorized.

402 (mm) The legislative rules filed in the state register
403 on the fifteenth day of June, one thousand nine
404 hundred ninety, modified by the division of natural
405 resources to meet the objections of the legislative rule-
406 making review committee and refiled in the state
407 register on the twenty-second day of August, one
408 thousand nine hundred ninety, relating to the division
409 of natural resources (underground storage tank insur-
410 ance trust fund), are authorized with the amendments
411 set forth below:

412 On page four, after subsection 5.1, by inserting a
413 new subdivision 5.1.1 to read as follows:

414 "5.1.1 The fee shall be one hundred dollars per tank
415 per year (\$100/tank/year) for a period of not less than
416 one (1) year and not more than three (3) years. Second
417 and third year capitalization fees may be levied if
418 there is an inadequate surplus of funds, as determined
419 by the Board of Risk and Insurance Management, the
420 Division of Natural Resources and the Underground

421 Storage Tank Advisory Committee pursuant to W. Va.
422 Code, §20-5H-7.”

423 (nn) The legislative rules filed in the state register
424 on the thirteenth day of August, one thousand nine
425 hundred ninety, modified by the division of natural
426 resources to meet the objections of the legislative rule-
427 making review committee and refiled in the state
428 register on the second day of October, one thousand
429 nine hundred ninety, relating to the division of
430 natural resources (underground storage tanks), are
431 authorized with the amendment set forth below:

432 On page four, section five, subsection 5.1, after the
433 word “requirements” by striking out the remainder of
434 the subsection and inserting in lieu thereof, the
435 following:

436 “of Title 47, Series 37 (Underground Storage Tank
437 Fee Assessments); Title 47, Series 36, Section 4 (Noti-
438 fication Requirements); and Title 47, Series 37A,
439 Section 5 (Capitalization Fees) of the Code of State
440 Regulations and the owner or operator presents proof
441 of the certification to the carrier.”

442 (oo) The legislative rules filed in the state register on
443 the thirteenth day of August, one thousand nine
444 hundred ninety, relating to the division of natural
445 resources (dam safety), are authorized.

446 (pp) The legislative rules filed in the state register
447 on the thirteenth day of August, one thousand nine
448 hundred ninety, modified by the division of natural
449 resources to meet the objections of the legislative rule-
450 making review committee and refiled in the state
451 register on the twenty-eighth day of November, one
452 thousand nine hundred ninety, relating to the division
453 of natural resources (hazardous waste management),
454 are authorized.

§64-3-10. Water resources board.

1 (a) The legislative rules filed in the state register on
2 the sixth day of January, one thousand nine hundred
3 eighty-three, relating to the state water resources
4 board (underground injection control program), are

5 authorized.

6 (b) The legislative rules filed in the state register on
7 the fifteenth day of November, one thousand nine
8 hundred eighty-three, relating to the state water
9 resources board (special regulations), are authorized.

10 (c) The legislative rules filed in the state register on
11 the third day of August, one thousand nine hundred
12 eighty-three, relating to the state water resources
13 board (groundwater protection standards), are
14 authorized.

15 (d) The legislative rules filed in the state register on
16 the fifteenth day of November, one thousand nine
17 hundred eighty-three, relating to the state water
18 resources board (state national pollutant discharge
19 elimination system (NPDES) program), are authorized.

20 (e) The Legislature hereby authorizes and directs
21 the state water resources board to promulgate rules
22 relating to water quality standards in exact conformity
23 with the rules relating to water quality standards
24 tendered to the secretary of state on the seventh day
25 of March, one thousand nine hundred eighty-four, by
26 the executive secretary of the state water resources
27 board, to be received and filed for inclusion in the
28 state register by the secretary of state.

29 (f) The legislative rules filed in the state register on
30 the seventeenth day of October, one thousand nine
31 hundred eighty-five, and modified by the state water
32 resources board to meet the objections of the legisla-
33 tive rule-making review committee and refiled in the
34 state register on the twenty-fourth day of February,
35 one thousand nine hundred eighty-seven, relating to
36 the state water resources board (special regulations),
37 are authorized.

38 (g) The legislative rules filed in the state register on
39 the seventh day of January, one thousand nine hun-
40 dred eighty-five, modified by the water resources
41 board to meet the objections of the legislative rule-
42 making review committee and refiled in the state
43 register on the thirteenth day of February, one

44 thousand nine hundred eighty-five, relating to the
45 water resources board (water quality standards), are
46 authorized.

47 (h) The legislative rules filed in the state register on
48 the seventeenth day of October, one thousand nine
49 hundred eighty-five, modified by the state water
50 resources board to meet the objections of the legisla-
51 tive rule-making review committee and refiled in the
52 state register on the eighth day of January, one
53 thousand nine hundred eighty-seven, and further
54 modified by the state water resources board to meet
55 the objections of the legislative rule-making review
56 committee and refiled in the state register on the
57 twenty-fourth day of February, one thousand nine
58 hundred eighty-seven, relating to the state water
59 resources board (water quality standards), are
60 authorized.

61 (i) The legislative rules filed in the state register on
62 the seventeenth day of October, one thousand nine
63 hundred eighty-five, modified by the state water
64 resources board to meet the objections of the legisla-
65 tive rule-making review committee and refiled in the
66 state register on the eighth day of January, one
67 thousand nine hundred eighty-seven, and further
68 modified by the state water resources board to meet
69 the objections of the legislative rule-making review
70 committee and refiled in the state register on the
71 twenty-fourth day of February, one thousand nine
72 hundred eighty-seven, relating to the state water
73 resources board (state national pollutant discharge
74 elimination system (NPDES) program), are authorized.

75 (j) The legislative rules filed in the state register on
76 the seventeenth day of October, one thousand nine
77 hundred eighty-five, and modified by the state water
78 resources board to meet the objections of the legisla-
79 tive rule-making review committee and refiled in the
80 state register on the twenty-fourth day of February,
81 one thousand nine hundred eighty-seven, relating to
82 the state water resources board (underground injec-
83 tion control program), are authorized.

84 (k) The legislative rules filed in the state register on
85 the seventeenth day of October, one thousand nine
86 hundred eighty-five, and modified by the state water
87 resources board to meet the objections of the legisla-
88 tive rule-making review committee and refiled in the
89 state register on the twenty-fourth day of February,
90 one thousand nine hundred eighty-seven, relating to
91 the state water resources board (special regulations),
92 are authorized.

93 (l) The legislative rules filed in the state register on
94 the thirtieth day of June, one thousand nine hundred
95 eighty-seven, relating to the water resources board
96 (water quality standards), are authorized.

97 (m) The legislative rules filed in the state register on
98 the fourteenth day of October, one thousand nine
99 hundred eighty-eight, relating to the water resources
100 board (water quality standards), are authorized.

101 (n) The legislative rules filed in the state register on
102 the twenty-seventh day of August, one thousand nine
103 hundred ninety, relating to the water resources board
104 (requirements governing water quality standards), are
105 authorized.

§64-3-12. Solid waste management board.

1 (a) The legislative rules filed in the state register on
2 the twenty-third day of October, one thousand nine
3 hundred ninety, modified by the solid waste manage-
4 ment board to meet the objections of the legislative
5 rule-making review committee and refiled in the state
6 register on the eighteenth day of January, one thou-
7 sand nine hundred ninety-one, relating to the solid
8 waste management board (development of compre-
9 hensive litter and solid waste control plans), are
10 authorized.

11 (b) The legislative rules filed in the state register on
12 the twenty-third day of October, one thousand nine
13 hundred ninety, modified by the solid waste manage-
14 ment board to meet the objections of the legislative
15 rule-making review committee and refiled in the state
16 register on the eighteenth day of January, one thou-

17 sand nine hundred ninety-one, relating to the solid
18 waste management board (disbursement of loans and
19 grants to governmental agencies for the acquisition or
20 construction of solid waste disposal projects), are
21 authorized.

22 (c) The legislative rules filed in the state register on
23 the twenty-third day of October, one thousand nine
24 hundred ninety, modified by the solid waste manage-
25 ment board to meet the objections of the legislative
26 rule-making review committee and refiled in the state
27 register on the eighteenth day of January, one thou-
28 sand nine hundred ninety-one, relating to the solid
29 waste management board (establishment of fee sched-
30 ule and cost allocation applicable to the issuance of
31 bonds by the board), are authorized.

32 (d) The legislative rules filed in the state register on
33 the twenty-third day of October, one thousand nine
34 hundred ninety, modified by the solid waste manage-
35 ment board to meet the objections of the legislative
36 rule-making review committee and refiled in the state
37 register on the eighteenth day of January, one thou-
38 sand nine hundred ninety-one, relating to the solid
39 waste management board (development of commercial
40 solid waste facility siting plans), are authorized.

§64-3-13. Board of manufactured housing construction and safety.

1 The legislative rules filed in the state register on the
2 twenty-third day of May, one thousand nine hundred
3 ninety, modified by the board of manufactured hous-
4 ing construction and safety to meet the objections of
5 the legislative rule-making review committee and
6 refiled in the state register on the twenty-fourth day
7 of September, one thousand nine hundred ninety,
8 relating to the board of manufactured housing con-
9 struction and safety (licensing, fees, standards, com-
10 plaint handling, sanctions, recovery fund, designation
11 of board as state administrative agency under the
12 national manufactured housing construction and
13 safety standards act of 1974), are authorized.

**ARTICLE 4. AUTHORIZATION FOR DEPARTMENT OF EDUCATION
AND THE ARTS TO PROMULGATE LEGISLATIVE
RULES.**

§64-4-3. Division of culture and history.

1 The legislative rules filed in the state register on the
2 eighth day of August, one thousand nine hundred
3 ninety, modified by the division of culture and history
4 to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on
6 the sixteenth day of January, one thousand nine
7 hundred ninety-one, relating to the division of culture
8 and history (standards and procedures for granting
9 permits to excavate archaeological sites and unmarked
10 graves), are authorized.

**ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND
HUMAN RESOURCES TO PROMULGATE LEGISLA-
TIVE RULES.**

§64-5-2. State board of health; division of health.

1 (a) The legislative rules filed in the state register on
2 the second day of June, one thousand nine hundred
3 eighty-two, relating to the state board of health (waste
4 water treatment works operations), are authorized.

5 (b) The legislative rules filed in the state register on
6 the second day of June, one thousand nine hundred
7 eighty-two, relating to the state board of health
8 (laboratory reporting of syphilis and gonorrhea), are
9 authorized.

10 (c) The legislative rules filed in the state register on
11 the second day of June, one thousand nine hundred
12 eighty-two, relating to the state board of health (public
13 water supply operators) with the modification of §11.02
14 as presented to the legislative rule-making review
15 committee on the ninth day of November, one thou-
16 sand nine hundred eighty-two, are authorized.

17 (d) The legislative rules filed in the state register on
18 the twenty-second day of October, one thousand nine
19 hundred eighty-two, relating to the state board of
20 health (sewage systems) with the modification pre-

21 sented to the legislative rule-making review commit-
22 tee on the sixth day of December, one thousand nine
23 hundred eighty-two, are authorized except lines ten
24 through seventeen, page eight of the rules shall be
25 stricken in their entirety and the remaining para-
26 graphs renumbered.

27 (e) The legislative rules filed in the state register on
28 the second day of June, one thousand nine hundred
29 eighty-two, relating to the state board of health
30 (approval of laboratories), are authorized.

31 (f) The legislative rules filed in the state register on
32 the twenty-fourth day of November, one thousand
33 nine hundred eighty-two, relating to the state board of
34 health (permit fees), are authorized.

35 (g) The legislative rules filed in the state register on
36 the third day of June, one thousand nine hundred
37 eighty-two, relating to the state board of health
38 (certificate of need), are authorized.

39 (h) The legislative rules filed in the state register on
40 the sixteenth day of August, one thousand nine
41 hundred eighty-two, relating to the state board of
42 health (eyes of newborn children), are authorized.

43 (i) The legislative rules filed in the state register on
44 the thirteenth day of August, one thousand nine
45 hundred eighty-two, and filed with amendments on
46 the eleventh day of January, one thousand nine
47 hundred eighty-three, relating to the state board of
48 health (nursing home licensure), are authorized with
49 the amendment of §5.15.02 of those rules as set forth
50 below:

51 By striking the word "and" at the end of subdivision
52 (f), by changing the period at the end of subdivision (g)
53 to a semicolon, and by adding the following after
54 subdivision (g): "(h) one (1) member who represents
55 social work services."

56 (j) The legislative rules filed in the state register on
57 the twenty-fourth day of November, one thousand
58 nine hundred eighty-two, relating to the state board of
59 health (guardianship service), are authorized with the

60 exception of section 9.3 of those rules which may not
61 be promulgated.

62 (k) The legislative rules filed in the state register on
63 the third day of June, one thousand nine hundred
64 eighty-two, relating to the state board of health
65 (controlled substances research program and certifica-
66 tion), are authorized.

67 (l) The legislative rules filed in the state register on
68 the fifth day of November, one thousand nine hundred
69 eighty-two, relating to the state board of health
70 (chemical test for intoxication), are authorized.

71 (m) The legislative rules filed in the state register on
72 the nineteenth day of December, one thousand nine
73 hundred eighty-three, relating to the state board of
74 health (birthing center licensure), are authorized.

75 (n) The legislative rules filed in the state register on
76 the fourteenth day of November, one thousand nine
77 hundred eighty-three, relating to the state board of
78 health (licensure of behavioral health centers), are
79 authorized with the amendments set forth below:

80 Page 45, §12.8.2. In the first sentence delete the
81 words "without delay" and insert in lieu thereof the
82 words "within twenty-four hours after receiving a
83 report of a complaint."

84 (o) The legislative rules filed in the state register on
85 the nineteenth day of December, one thousand nine
86 hundred eighty-three, relating to the state board of
87 health (procedures for recovery of corneal tissue for
88 transplant), are authorized.

89 (p) The legislative rules filed in the state register on
90 the seventh day of September, one thousand nine
91 hundred eighty-three, relating to the state board of
92 health (well water regulations), are authorized with
93 the amendments set forth below:

94 §4.1. In the first sentence delete the word "obtain-
95 ing" and insert in lieu thereof the words "applying
96 for". In the second sentence after "4.3" add "and 4.5."

97 §4.2. At the end of the second sentence, strike the

98 period and add the words "unless emergency condi-
99 tions prevail as noted under §4.3."

100 With the balance of §4.2 and create a new §4.3 with
101 the following changes: In the first sentence delete the
102 word "deadline" and insert in lieu thereof the word
103 "requirements." Add after the first sentence the
104 sentence, "Emergency conditions and unavoidable
105 circumstances are those conditions involving acts of
106 God, water outages or disruption of water service,
107 unsatisfactory water quality or quantity or public
108 health threats." In the third sentence delete the word
109 "exceed" and insert in lieu thereof the words "be
110 made in excess of."

111 Renumber §4.3 as §4.4 and add the following two
112 sentences at the end of the section: "Such standards
113 shall constitute the minimum standards for the instal-
114 lation, the alteration or the deepening of water wells.
115 Any plans approved by the director pursuant to these
116 regulations shall be in substantial compliance with the
117 heretofore mentioned standards."

118 Renumber §4.4 as §4.5, §4.5 as §4.6, §4.6 as §4.7, §4.7
119 as §4.8 and §4.8 as §4.9.

120 §5.2. Delete the words "four (4)" and insert in lieu
121 thereof the words "two (2)" and delete the words
122 "active, continuous."

123 (q) The legislative rules filed in the state register on
124 the third day of October, one thousand nine hundred
125 eighty-four, relating to the state board of health
126 (trauma center or facility designation), are authorized.

127 (r) The legislative rules filed in the state register on
128 the twenty-first day of December, one thousand nine
129 hundred eighty-four, relating to the state board of
130 health (reportable diseases), are authorized.

131 (s) The legislative rules filed in the state register on
132 the twenty-first day of December, one thousand nine
133 hundred eighty-four, relating to the state board of
134 health (licensure of medical adult day care centers),
135 are authorized.

136 (t) The legislative rules filed in the state register on
137 the third day of October, one thousand nine hundred
138 eighty-four, relating to the state board of health (retail
139 food store sanitation), are authorized.

140 (u) The legislative rules filed in the state register on
141 the seventeenth day of December, one thousand nine
142 hundred eighty-five, modified by the director of health
143 to meet the objections of the legislative rule-making
144 review committee and refiled in the state register on
145 the fifteenth day of January, one thousand nine
146 hundred eighty-six, relating to the director of health
147 (adult group home licensure), are authorized.

148 (v) The legislative rules filed in the state register on
149 the twenty-ninth day of October, one thousand nine
150 hundred eighty-five, modified by the state board of
151 health to meet the objections of the legislative rule-
152 making review committee and refiled in the state
153 register on the twenty-seventh day of December, one
154 thousand nine hundred eighty-five, relating to the
155 state board of health (licensure of hospice care pro-
156 grams), are authorized.

157 (w) The legislative rules filed in the state register on
158 the thirty-first day of October, one thousand nine
159 hundred eighty-five, modified by the director of health
160 to meet the objections of the legislative rule-making
161 review committee and refiled in the state register on
162 the twenty-seventh day of December, one thousand
163 nine hundred eighty-five, relating to the director of
164 health (rules governing emergency medical services),
165 are authorized with the amendments set forth below:

166 On page 3, §3.9 shall read as follows:

167 “3.9 Quorum — When applied to the EMSAC, a
168 majority of the members thereof, except in the
169 instance when at any meeting of the EMSAC, where
170 a quorum is not present and the director causes to be
171 deposited in the United States mail, postage prepaid,
172 return receipt requested, to each member of the
173 EMSAC within three days, a notice calling a meeting
174 of the EMSAC at some convenient place in the state of
175 West Virginia two weeks after the meeting at which

176 no quorum was present. Quorum means any number
177 of members of the EMSAC who attend such subse-
178 quent meeting. Any member missing two consecutive
179 meetings shall be removed from the EMSAC.”

180 On page 6, §4.7.1 shall be deleted in its entirety;

181 And,

182 On page 7, §4.10.1 shall read as follows:

183 “4.10.1 every applicant for certification as an EMSP
184 prior to such certification, shall demonstrate his or her
185 knowledge and ability by undergoing a written exam-
186 ination and a demonstration of skills, and by attaining
187 a passing score on the same. Passing score shall be the
188 same for all testing programs.”

189 (x) The legislative rules filed in the state register on
190 the fifth day of September, one thousand nine hun-
191 dred eighty-five, relating to the state department of
192 health (revising the list of hazardous substances), are
193 authorized.

194 (y) The legislative rules filed in the state register on
195 the thirteenth day of August, one thousand nine
196 hundred eighty-six, modified by the director of the
197 department of health to meet the objections of the
198 legislative rule-making review committee and refiled
199 in the state register on the sixteenth day of October,
200 one thousand nine hundred eighty-six, relating to the
201 director of the department of health (hazardous
202 material treatment information repository), are
203 authorized.

204 (z) The legislative rules filed in the state register on
205 the seventeenth day of July, one thousand nine
206 hundred eighty-six, modified by the state board of
207 health to meet the objections of the legislative rule-
208 making review committee and refiled in the state
209 register on the sixteenth day of October, one thousand
210 nine hundred eighty-six, relating to the state board of
211 health (methods and standards for chemical tests for
212 intoxication), are authorized.

213 (aa) The legislative rules filed in the state register on

214 the twenty-first day of November, one thousand nine
215 hundred eighty-six, modified by the state board of
216 health to meet the objections of the legislative rule-
217 making review committee and refiled in the state
218 register on the twenty-third day of December, one
219 thousand nine hundred eighty-six, relating to the state
220 board of health (licensure of behavioral health cen-
221 ters), are authorized.

222 (bb) The legislative rules filed in the state register
223 on the eighteenth day of April, one thousand nine
224 hundred eighty-six, modified by the state board of
225 health to meet the objections of the legislative rule-
226 making review committee and refiled in the state
227 register on the seventeenth day of October, one
228 thousand nine hundred eighty-six, relating to the state
229 board of health (hospital licensure), are authorized.

230 (cc) The legislative rules filed in the state register on
231 the ninth day of December, one thousand nine hun-
232 dred eighty-six, modified by the state board of health
233 to meet the objections of the legislative rule-making
234 review committee and refiled in the state register on
235 the twenty-third day of December, one thousand nine
236 hundred eighty-six, relating to the state board of
237 health (hospital licensure and allowing hospitals to
238 have licensed hospital professionals, other than
239 licensed physicians, on their medical staff), are
240 authorized.

241 (dd) The legislative rules filed in the state register
242 on the ninth day of December, one thousand nine
243 hundred eighty-six, modified by the state board of
244 health to meet the objections of the legislative rule-
245 making review committee and refiled in the state
246 register on the twenty-third day of December, one
247 thousand nine hundred eighty-six, relating to the state
248 board of health (vital statistics), are authorized.

249 (ee) The legislative rules filed in the state register on
250 the eleventh day of September, one thousand nine
251 hundred eighty-seven, relating to the director of the
252 department of health (immunization criteria for
253 transfer students), are authorized.

254 (ff) The legislative rules filed in the state register on
255 the sixteenth day of November, one thousand nine
256 hundred eighty-seven, relating to the director of the
257 department of health (hazardous substances), are
258 authorized with the amendment set forth below:

259 Page 33, section 8, line 8 (unnumbered), by adding at
260 the end of section 8 the following proviso: "*Provided,*
261 That the owner's or operator's submissions are based
262 on the threshold reporting requirements contained in
263 section 5, article 31, chapter 16."

264 (gg) The legislative rules filed in the state register on
265 the eighteenth day of November, one thousand nine
266 hundred eighty-seven, relating to the director of the
267 department of health (trauma center or facility designation), are authorized.

269 (hh) The legislative rules filed in the state register
270 on the twenty-second day of June, one thousand nine
271 hundred eighty-eight, modified by the state board of
272 health to meet the objections of the legislative rule-
273 making review committee and refiled in the state
274 register on the fifteenth day of September, one
275 thousand nine hundred eighty-eight, relating to the
276 state board of health (licensure of hospice care pro-
277 grams), are authorized.

278 (ii) The legislative rules filed in the state register on
279 the fifteenth day of September, one thousand nine
280 hundred eighty-eight, modified by the state board of
281 health to meet the objections of the legislative rule-
282 making review committee and refiled in the state
283 register on the third day of November, one thousand
284 nine hundred eighty-eight, relating to the state board
285 of health (water wells), are authorized with the
286 amendment set forth below:

287 On page 2, §3.8, shall read as follows:

288 3.8 Water Well — Any excavation or penetration in
289 the ground, whether drilled, bored, cored, driven or
290 jetted that enters or passes through an aquifer for
291 purposes that may include, but are not limited to: A
292 water supply, exploration for water, dewatering or

293 heat pump wells, except that this definition shall not
294 include ground water monitoring activities and all
295 activities for the exploration, development, production,
296 storage and recovery of coal, oil and gas and other
297 mineral resources which are regulated under chapter
298 22, 22a or 22b of the code.

299 (jj) The legislative rules filed in the state register on
300 the twenty-second day of June, one thousand nine
301 hundred eighty-eight, modified by the state board of
302 health to meet the objections of the legislative rule-
303 making review committee and refiled in the state
304 register on the fifteenth day of September, one
305 thousand nine hundred eighty-eight, relating to the
306 state board of health (plumbing requirements), are
307 authorized.

308 (kk) The legislative rules filed in the state register
309 on the twenty-second day of June, one thousand nine
310 hundred eighty-eight, modified by the state board of
311 health to meet the objections of the legislative rule-
312 making review committee and refiled in the state
313 register on the fifteenth day of September, one
314 thousand nine hundred eighty-eight, relating to the
315 state board of health (public water supply operators),
316 are authorized.

317 (ll) The legislative rules filed in the state register on
318 the nineteenth day of October, one thousand nine
319 hundred eighty-eight, modified by the state board of
320 health to meet the objections of the legislative rule-
321 making review committee and refiled in the state
322 register on the twentieth day of December, one
323 thousand nine hundred eighty-eight, relating to the
324 state board of health (volatile synthetic organic chem-
325 icals), are authorized.

326 (mm) The legislative rules filed in the state register
327 on the second day of January, one thousand nine
328 hundred ninety, modified by the division of health to
329 meet the objections of the legislative rule-making
330 review committee and refiled in the state register on
331 the seventeenth day of January, one thousand nine
332 hundred ninety, relating to the division of health

333 (asbestos abatement licensing), are authorized.

334 (nn) The legislative rules filed in the state register
335 on the thirtieth day of August, one thousand nine
336 hundred eighty-nine, modified by the division of
337 health to meet the objections of the legislative rule-
338 making review committee and refiled in the state
339 register on the seventeenth day of November, one
340 thousand nine hundred eighty-nine, relating to the
341 division of public health (AIDS-related medical testing
342 and confidentiality), are authorized.

343 (oo) The legislative rules filed in the state register on
344 the nineteenth day of December, one thousand nine
345 hundred eighty-nine, modified by the state board of
346 health to meet the objections of the legislative rule-
347 making review committee and refiled in the state
348 register on the twenty-fourth day of January, one
349 thousand nine hundred ninety, relating to the state
350 board of health (nursing home licensure), are
351 authorized.

352 (pp) The legislative rules filed in the state register
353 on the nineteenth day of December, one thousand
354 nine hundred eighty-nine, relating to the state board
355 of health (licensure of behavioral health centers), are
356 authorized.

357 (qq) The legislative rules filed in the state register
358 on the twenty-eighth day of December, one thousand
359 nine hundred eighty-nine, relating to the state board
360 of health (methods and standards for chemical test for
361 intoxication), are authorized.

362 (rr) The legislative rules filed in the state register on
363 the twenty-third day of July, one thousand nine
364 hundred ninety, modified by the board of health to
365 meet the objections of the legislative rule-making
366 review committee and refiled in the state register on
367 the fifth day of September, one thousand nine hun-
368 dred ninety, relating to the board of health (fees for
369 permits), are authorized with the amendments set
370 forth below:

371 On page two, subsection 3.6, by striking out all of the

372 subsection and renumbering the subsequent
373 subsections.

374 On page four, subsection 5.4, by striking out all of
375 the subsection and renumbering the subsequent
376 subsections.

377 And,

378 On page six, Table 64-30c, by striking out Table 64-
379 30c and inserting in lieu thereof a new table, to read
380 as follows:

381 TABLE 64-30C.

382 Individual On-Site and Innovative Alternative Type
383 Sewage System Permit Fees

| 384 Type of System | Fees for Permit |
|--------------------------------|-----------------|
| 385 Class I (New or Modified) | \$100 |
| 386 Class II (New or Modified) | \$100 |
| 387 Home Aeration Unit | \$100 |

388 (ss) The legislative rules filed in the state register on
389 the seventh day of December, one thousand nine
390 hundred ninety, modified by the board of health to
391 meet the objections of the legislative rule-making
392 review committee and refiled in the state register on
393 the twenty-second day of January, one thousand nine
394 hundred ninety-one, relating to the board of health
395 (public water systems, bottled water and laboratory
396 certification), are authorized.

397 (tt) The legislative rules filed in the state register on
398 the thirteenth day of December, one thousand nine
399 hundred ninety, modified by the board of health to
400 meet the objections of the legislative rule-making
401 review committee and refiled in the state register on
402 the twenty-second day of January, one thousand nine
403 hundred ninety-one, relating to the board of health
404 (vital statistics), are authorized.

405 (uu) The legislative rules filed in the state register
406 on the seventh day of January, one thousand nine
407 hundred ninety-one, modified by the division of health

408 to meet the objections of the legislative rule-making
409 review committee and refiled in the state register on
410 the twenty-second day of January, one thousand nine
411 hundred ninety-one, relating to the division of health
412 (fees for services), are authorized.

§64-5-3. Health care cost review authority.

1 (a) The legislative rules filed in the state register on
2 the twenty-first day of October, one thousand nine
3 hundred eighty-three, relating to the health care cost
4 review authority (limitation on hospital gross patient
5 revenue), are authorized.

6 (b) The legislative rules filed in the state register on
7 the nineteenth day of December, one thousand nine
8 hundred eighty-three, relating to the health care cost
9 review authority (freeze on hospital rates and granting
10 temporary rate increases), are authorized.

11 (c) The legislative rules filed in the state register on
12 the twenty-first day of December, one thousand nine
13 hundred eighty-four, relating to the health care cost
14 review authority (implementation of the utilization
15 review and quality assurance program), are authorized.

16 (d) The legislative rules filed in the state register on
17 the fifteenth day of August, one thousand nine hun-
18 dred eighty-four, relating to the health care cost
19 review authority (hospital cost containment methodol-
20 ogy), are authorized.

21 (e) The legislative rules filed in the state register on
22 the twenty-fifth day of November, one thousand nine
23 hundred eighty-five, modified by the West Virginia
24 health care cost review authority to meet the objec-
25 tions of the legislative rule-making review committee
26 and refiled in the state register on the twenty-eighth
27 day of January, one thousand nine hundred eighty-six,
28 relating to the West Virginia health care cost review
29 authority (interim standards for lithotripsy services),
30 are authorized.

31 (f) The legislative rules filed in the state register on
32 the third day of September, one thousand nine hun-
33 dred eighty-seven, modified by the West Virginia

34 health care cost review authority to meet the objec-
35 tions of the legislative rule-making review committee
36 and refiled in the state register on the twenty-seventh
37 day of January, one thousand nine hundred eighty-
38 eight, relating to the West Virginia health care cost
39 review authority (exemptions from certificate of need
40 review), are authorized.

41 (g) The legislative rules filed in the state register on
42 the nineteenth day of September, one thousand nine
43 hundred eighty-eight, modified by the health care cost
44 review authority to meet the objections of the legisla-
45 tive rule-making review committee and refiled in the
46 state register on the twenty-first day of February, one
47 thousand nine hundred eighty-nine, relating to the
48 health care cost review authority (financial disclo-
49 sure), are authorized.

50 (h) The legislative rules filed in the state register on
51 the fourteenth day of August, one thousand nine
52 hundred eighty-nine, modified by the West Virginia
53 health care cost review authority to meet the objec-
54 tions of the legislative rule-making review committee
55 and refiled in the state register on the fifth day of
56 December, one thousand nine hundred eighty-nine,
57 relating to the West Virginia health care cost review
58 authority (expedited review for rate changes), are
59 authorized with the amendments set forth below:

60 On page 5, Section 4.1, after the words: "affected by
61 the increase." by inserting the following language:
62 "The hospital shall also reconcile any excesses in gross
63 revenue, gross patient revenue, gross inpatient reve-
64 nue or charges per discharge. Within fifteen days of
65 submission the Authority shall inform the hospital if it
66 accepts the justification for excesses provided by the
67 hospital."

68 And,

69 On page 6, section 4.2, after the words "the excess in
70 gross outpatient revenue" by striking the period and
71 inserting the following:

72 "or if any excesses in the above categories (1

73 through 4) have been sufficiently justified to the
74 Authority as required in Section 4.1 of this rule.”

75 (i) The legislative rules filed in the state register on
76 the eleventh day of September, one thousand nine
77 hundred eighty-nine, modified by the West Virginia
78 health care cost review authority to meet the objec-
79 tions of the legislative rule-making review committee
80 and refiled in the state register on the fifth day of
81 December, one thousand nine hundred eighty-nine,
82 relating to the West Virginia health care cost review
83 authority (exemption for conversion of acute care beds
84 to skilled nursing care beds), are authorized.

85 (j) The legislative rules filed in the state register on
86 the thirtieth day of July, one thousand nine hundred
87 ninety, modified by the health care cost review
88 authority to meet the objections of the legislative rule-
89 making review committee and refiled in the state
90 register on the twenty-fifth day of September, one
91 thousand nine hundred ninety, relating to the health
92 care cost review authority (exemption for shared
93 services), are authorized.

94 (k) The legislative rules filed in the state register on
95 the thirty-first day of July, one thousand nine hun-
96 dred ninety, modified by the health care cost review
97 authority to meet the objections of the legislative rule-
98 making review committee and refiled in the state
99 register on the twenty-fifth day of September, one
100 thousand nine hundred ninety, relating to the health
101 care cost review authority (health services offered by
102 health professionals), are authorized.

103 (l) The legislative rules filed in the state register on
104 the eleventh day of September, one thousand nine
105 hundred ninety, modified by the West Virginia health
106 care cost review authority to meet the objections of
107 the legislative rule-making review committee and
108 refiled in the state register on the twenty-fourth day
109 of January, one thousand nine hundred ninety-one,
110 relating to the West Virginia health care cost review
111 authority (conversion of acute care beds to one hun-
112 dred skilled nursing care beds), are authorized.

§64-5-4. West Virginia hospital finance authority.

1 (a) The legislative rules filed in the state register on
2 the tenth day of June, one thousand nine hundred
3 eighty-six, modified by the West Virginia hospital
4 finance authority to meet the objections of the legisla-
5 tive rule-making review committee and refiled in the
6 state register on the ninth day of January, one
7 thousand nine hundred eighty-seven, relating to the
8 West Virginia hospital finance authority (establish-
9 ment of fee schedule and cost allocation applicable to
10 issuance of bonds), are authorized.

11 (b) The legislative rules filed in the state register on
12 the thirtieth day of August, one thousand nine hun-
13 dred ninety, modified by the West Virginia hospital
14 finance authority to meet the objections of the legisla-
15 tive rule-making review committee and refiled in the
16 state register on the seventeenth day of January, one
17 thousand nine hundred ninety-one, relating to the
18 West Virginia hospital finance authority (establish-
19 ment of fee schedule and cost allocations applicable to
20 the issuance of bonds by the West Virginia hospital
21 finance authority), are authorized.

§64-5-7. Division of employment security.

1 The legislative rules filed in the state register on the
2 sixth day of October, one thousand nine hundred
3 eighty-nine, modified by the commissioner of the
4 division of employment security to meet the objections
5 of the legislative rule-making review committee and
6 refiled in the state register on the thirteenth day of
7 June, one thousand nine hundred ninety, relating to
8 the commissioner of the division of employment
9 security (regulations of the commissioner of the
10 division of employment security), are authorized.

§64-5-8. Human rights commission.

1 The legislative rules filed in the state register on the
2 tenth day of August, one thousand nine hundred
3 ninety, modified by the human rights commission to
4 meet the objections of the legislative rule-making
5 review committee and refiled in the state register on

6 the twelfth day of December, one thousand nine
7 hundred ninety, relating to the human rights commis-
8 sion (discrimination against the handicapped), are
9 authorized.

**ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF PUBLIC
SAFETY TO PROMULGATE LEGISLATIVE RULES.**

§64-6-2. Fire commission.

1 (a) The legislative rules filed in the state register on
2 the third day of January, one thousand nine hundred
3 eighty-four, relating to the state fire commission (state
4 fire code), are authorized with the amendments set
5 forth below:

6 On page 1, section 106, line 1, after the word "to"
7 add the words "personal care homes caring for five or
8 less patients or";

9 And,

10 On page 26, section 11.06 (3) A. (3), strike the period
11 at the end of the sentence and add the words "except
12 for existing sleeping rooms owned by the state and
13 located in dormitories or state parks."

14 (b) The legislative rules filed in the state register on
15 the first day of August, one thousand nine hundred
16 eighty-six, modified by the state fire commission to
17 meet the objection of the legislative rule-making
18 review committee and refiled in the state register on
19 the twenty-eighth day of October, one thousand nine
20 hundred eighty-six, relating to the state fire commis-
21 sion (hazardous substance emergency response train-
22 ing program), are authorized.

23 (c) The legislative rules filed in the state register on
24 the sixth day of September, one thousand nine hun-
25 dred eighty-eight, modified by the state fire commis-
26 sion to meet the objections of the legislative rule-
27 making review committee and refiled in the state
28 register on the eighth day of December, one thousand
29 nine hundred eighty-eight, relating to the state fire
30 commission (state building code), are authorized.

31 (d) The legislative rules filed in the state register on

32 the fourteenth day of August, one thousand nine
33 hundred eighty-nine, modified by the state fire com-
34 mission to meet the objections of the legislative rule-
35 making review committee and refiled in the state
36 register on the fifteenth day of January, one thousand
37 nine hundred ninety, relating to the state fire commis-
38 sion (electrician licensing), are authorized with the
39 following amendment:

40 On page 6, section 3.03, by deleting all of subsection
41 (A) and inserting in lieu thereof the following:

42 “(A) Any person who performs electrical work with
43 respect to any property owned or leased by such
44 person. For purposes of this subparagraph: (1) ‘prop-
45 erty owner’ includes the property owner, lessee, and
46 his or her maintenance personnel; and, (2) ‘performs
47 electrical work’ includes routine maintenance, repairs,
48 and improvements to existing structures; or.”

49 (e) The legislative rules filed in the state register on
50 the fourteenth day of August, one thousand nine
51 hundred eighty-nine, modified by the state fire com-
52 mission to meet the objections of the legislative rule-
53 making review committee and refiled in the state
54 register on the twenty-fifth day of October, one
55 thousand nine hundred eighty-nine, relating to the
56 state fire commission (fees for services rendered), are
57 authorized with the amendment set forth below:

58 On page 1, section 2.1(G), by striking out the word
59 “underground.”

60 (f) The legislative rules filed in the state register on
61 the eleventh day of August, one thousand nine hun-
62 dred eighty-nine, modified by the state fire commis-
63 sion to meet the objections of the legislative rule-
64 making review committee and refiled in the state
65 register on the twenty-sixth day of October, one
66 thousand nine hundred eighty-nine, relating to the
67 state fire commission (fire code), are authorized.

68 (g) The legislative rules filed in the state register on
69 the sixteenth day of July, one thousand nine hundred
70 ninety, modified by the state fire commission to meet

71 the objections of the legislative rule-making review
72 committee and refiled in the state register on the
73 fifteenth day of November, one thousand nine hun-
74 dred ninety, relating to the state fire commission (state
75 building code), are authorized with the amendments
76 set forth below:

77 On page two, subsection 4.1 after the words "The
78 BOCA National Property Maintenance Code, Third
79 Edition, 1990" insert the following "Provided, That
80 section PM-104.4 Right of Entry may be adopted or
81 rejected at the option of the local jurisdiction."

82 And,

83 On page two, subsection 4.1 by adding thereto a new
84 subsection designated subdivision 4.1.1 to read as
85 follows:

86 "4.1.1 The following structures shall not be subject to
87 inspection by local jurisdictions:

88 4.1.1.a Group U utility structures and storage sheds
89 comprising an area of not more than 150 square feet
90 which have no plumbing or electrical connections and
91 are utilized only for residential storage purposes.
92 (Examples include storage sheds that are for the
93 residential storage of lawnmowers, tools, bicycles or
94 furniture) Group U utility structures do not include
95 those utility structures and storage sheds which have
96 plumbing or electrical connections or are used for the
97 storage of explosives or other hazardous or explosive-
98 type materials."

99 (h) The legislative rules filed in the state register on
100 the thirteenth day of August, one thousand nine
101 hundred ninety, modified by the state fire commission
102 to meet the objections of the legislative rule-making
103 review committee and refiled in the state register on
104 the fifteenth day of January, one thousand nine
105 hundred ninety-one, relating to the state fire commis-
106 sion (state fire code), are authorized.

§64-6-4. Division of public safety.

1 (a) The legislative rules filed in the state register on

2 the twenty-third day of September, one thousand nine
3 hundred eighty-three, relating to the department of
4 public safety (general orders), are authorized with the
5 amendment set forth below:

6 Page 23, §9.10, remove the period at the end of the
7 sentence and add the words "or municipalities."

8 (b) The legislative rules filed in the state register on
9 the twenty-second day of June, one thousand nine
10 hundred eighty-four, modified by the department of
11 public safety to meet the objections of the legislative
12 rule-making review committee and refiled in the state
13 register on the fifth day of December, one thousand
14 nine hundred eighty-four, relating to the department
15 of public safety (commission on drunk driving), are
16 authorized.

17 (c) The legislative rules filed in the state register on
18 the ninth day of August, one thousand nine hundred
19 ninety, modified by the division of public safety to
20 meet the objections of the legislative rule-making
21 review committee and refiled in the state register on
22 the twentieth day of December, one thousand nine
23 hundred ninety, relating to the division of public
24 safety (West Virginia state police career progression
25 system), are authorized.

26 (d) The Legislature hereby authorizes and directs
27 the division of public safety to promulgate legislative
28 rules relating to the requirements and qualifications
29 for official inspection stations and the issuance of
30 permits for the stations. Such legislative rules, in
31 establishing requirements and qualifications for offi-
32 cial inspection stations shall not require bay doors at
33 such stations to be greater than eight feet in height.

§64-6-5. Regional jail and correctional facility authority.

1 The legislative rules filed in the state register on the
2 twentieth day of December, one thousand nine hun-
3 dred ninety, modified by the regional jail and correc-
4 tional facility authority to meet the objections of the
5 legislative rule-making review committee and refiled
6 in the state register on the seventeenth day of Janu-

7 ary, one thousand nine hundred ninety-one, relating
8 to the regional jail and correctional facility authority
9 (public hearings and site selection for private prisons),
10 are authorized.

**ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND
REVENUE TO PROMULGATE LEGISLATIVE RULES.**

§64-7-1. Office of alcohol beverage control commissioner.

1 (a) The legislative rules filed in the state register on
2 the thirtieth day of December, one thousand nine
3 hundred eighty-two, relating to the alcohol beverage
4 control commission (transportation of alcoholic bever-
5 ages), are authorized.

6 (b) The legislative rules filed in the state register on
7 the thirteenth day of August, one thousand nine
8 hundred eighty-two, relating to the alcohol beverage
9 control commissioner (lighting of licensed premises),
10 are authorized.

11 (c) The legislative rules filed in the state register on
12 the thirteenth day of August, one thousand nine
13 hundred eighty-two, relating to the alcohol beverage
14 control commissioner (kitchen and dining facilities),
15 are authorized.

16 (d) The legislative rules filed in the state register on
17 the twenty-fourth day of August, one thousand nine
18 hundred eighty-two, relating to the alcohol beverage
19 control commissioner (refusal to license private clubs),
20 are authorized with the exception of subsection (a) of
21 the rules which shall be promulgated as set forth
22 below in this section as follows:

23 “(a) For purposes of this regulation, the commis-
24 sioner may refuse to grant any license if he has
25 reasonable cause to believe, as indicated by docu-
26 mented evidence, that the applicant, or any officer,
27 director or manager thereof, or shareholder owning
28 twenty percent or more of its capital stock, beneficial
29 or otherwise, or other person conducting or managing
30 the affairs of the applicant or of the proposed licensed
31 premises, in whole or part:

32 (1) Is not a person of good moral character or repute;

33 (2) Has maintained a noisy, loud, disorderly or
34 unsanitary establishment;

35 (3) Has demonstrated, either by his police record or
36 by his record as former licensee under chapter sixty or
37 chapter eleven, article sixteen of the West Virginia
38 code, a lack of respect for law and order, generally, or
39 for the laws and rules governing the sale and distribu-
40 tion of alcoholic beverages or non-intoxicating beer;

41 (4) Has the general reputation of drinking alcoholic
42 beverages to excess, or is addicted to the use of
43 narcotics;

44 (5) Has misrepresented a material fact in applying to
45 the commissioner for a license.

46 (b) For purposes of this regulation, the commissioner
47 shall refuse to grant any license if he has reasonable
48 cause to believe, as indicated by documented evidence
49 that the applicant, or any officer, director or manager
50 thereof, or shareholder owning twenty percent or
51 more of its capital stock, beneficial or otherwise, or
52 other person conducting or managing the affairs of the
53 applicant or of the proposed licensed premises, in
54 whole or part:

55 (1) Is not eighteen years of age or older;

56 (2) Has been convicted of a felony or other crime
57 involving moral turpitude, and, upon such conviction,
58 the applicant shall not be eligible for licensure within
59 five years next preceding successful completion of all
60 conditions of probation, discharge from parole supervi-
61 sion or expiration of sentence;

62 (3) Has been convicted of violating the liquor laws of
63 any state or the United States, and, upon such convic-
64 tion, the applicant shall not be eligible for licensure
65 within five years next preceding successful completion
66 of all conditions of probation, discharge from parole
67 supervision or expiration of sentence;

68 (4) Has had any license revoked under the liquor
69 laws of any state or the United States within five years

70 next preceding the filing date of the application;

71 (5) Is not the legitimate owner of the business
72 proposed to be licensed, or other persons have owner-
73 ship interests in the business which have not been
74 disclosed;

75 (6) Is a person to whom alcoholic beverages may not
76 be sold under the provisions of chapter sixty of the
77 West Virginia code;

78 (7) Has been adjudicated an incompetent;

79 (8) Is an officer or employee of the alcohol beverage
80 control commissioner of West Virginia; or

81 (9) Is violating or allowing the violation of any
82 provision of chapter sixty, chapter sixty-one or chapter
83 eleven, article sixteen of the code in its establishment
84 at the time its application for a license is pending.”

85 (e) The legislative rules filed in the state register on
86 the first day of August, one thousand nine hundred
87 ninety, modified by the alcohol beverage control
88 commissioner to meet the objections of the legislative
89 rule-making review committee and refiled in the state
90 register on the eighteenth day of October, one thou-
91 sand nine hundred ninety, relating to the alcohol
92 beverage control commissioner (retail licensee opera-
93 tions), are authorized with the amendment set forth
94 below:

95 “On page twelve, section four, subsection 4.8.1, after
96 the word ‘stored’ by changing the period to a colon
97 and adding ‘Provided, that the commissioner may, for
98 good cause shown, permit a retail licensee holding
99 three or more private club licenses to receive and
100 store alcoholic liquors at warehouses or sites off
101 premises.”

102 (f) The legislative rules filed in the state register on
103 the first day of August, one thousand nine hundred
104 ninety, modified by the alcohol beverage control
105 commission to meet the objections of the legislative
106 rule-making review committee and refiled in the state
107 register on the twentieth day of November, one

108 thousand nine hundred ninety, relating to the alcohol
109 beverage control commissioner (licensing of retail
110 liquor stores), are authorized.

111 (g) The legislative rules filed in the state register on
112 the first day of August, one thousand nine hundred
113 ninety, modified by the alcohol beverage control
114 commissioner to meet the objections of the legislative
115 rule-making review committee and refiled in the state
116 register on the eighteenth day of October, one thou-
117 sand nine hundred ninety, relating to the alcohol
118 beverage control commissioner (private club licenses),
119 are authorized.

120 (h) The legislative rules filed in the state register on
121 the first day of August, one thousand nine hundred
122 ninety, modified by the alcohol beverage control
123 commissioner to meet the objections of the legislative
124 rule-making review committee and refiled in the state
125 register on the eighteenth day of October, one thou-
126 sand nine hundred ninety, relating to the alcohol
127 beverage control commissioner (bailment policies and
128 procedures), are authorized.

129 (i) The legislative rules filed in the state register on
130 the tenth day of August, one thousand nine hundred
131 ninety, modified by the alcohol beverage control
132 commissioner to meet the objections of the legislative
133 rule-making review committee and refiled in the state
134 register on the eighteenth day of October, one thou-
135 sand nine hundred ninety, relating to the alcohol
136 beverage control commissioner (farm wineries), are
137 authorized.

138 (j) The legislative rules filed in the state register on
139 the tenth day of August, one thousand nine hundred
140 ninety, modified by the alcohol beverage control
141 commissioner to meet the objections of the legislative
142 rule-making review committee and refiled in the state
143 register on the twenty-third day of October, one
144 thousand nine hundred ninety, relating to the alcohol
145 beverage control commissioner (retail sale of wine in
146 grocery stores, wine specialty shops and private wine
147 restaurants), are authorized.

§64-7-2. Agency of insurance commissioner.

1 (a) The legislative rules filed in the state register on
2 the eighteenth day of October, one thousand nine
3 hundred eighty-three, relating to the insurance com-
4 missioner (excess line brokers), are authorized.

5 (b) The legislative rules filed in the state register on
6 the eighteenth day of August, one thousand nine
7 hundred eighty-six, modified by the insurance com-
8 missioner to meet the objections of the legislative rule-
9 making review committee and refiled in the state
10 register on the twelfth day of December, one thousand
11 nine hundred eighty-six, relating to the insurance
12 commissioner (examiners' compensation, qualification
13 and classification), are authorized.

14 (c) The legislative rules filed in the state register on
15 the twentieth day of February, one thousand nine
16 hundred eighty-seven, relating to the insurance com-
17 missioner (West Virginia essential property insurance
18 association), are authorized.

19 (d) The legislative rules filed in the state register on
20 the twenty-ninth day of May, one thousand nine
21 hundred eighty-seven, relating to the insurance com-
22 missioner (medical malpractice annual reporting
23 requirements), are authorized.

24 (e) The legislative rules filed in the state register on
25 the thirty-first day of July, one thousand nine hun-
26 dred eighty-seven, modified by the insurance commis-
27 sioner to meet the objections of the legislative rule-
28 making review committee and refiled in the state
29 register on the seventh day of November, one thou-
30 sand nine hundred eighty-seven, relating to the
31 insurance commissioner (medical malpractice loss
32 experience and loss expense reporting requirements),
33 are authorized.

34 (f) The legislative rules filed in the state register on
35 the thirtieth day of November, one thousand nine
36 hundred eighty-eight, modified by the insurance
37 commissioner to meet the objections of the legislative
38 rule-making review committee and refiled in the state

39 register on the twenty-first day of February, one
40 thousand nine hundred eighty-nine, relating to the
41 insurance commissioner (transitional requirements for
42 the conversion of Medicare supplement insurance
43 benefits and premiums to conform to medicare pro-
44 gram revisions), are authorized.

45 (g) The legislative rules filed in the state register on
46 the twenty-sixth day of May, one thousand nine
47 hundred eighty-nine, modified by the insurance
48 commissioner to meet the objections of the legislative
49 rule-making review committee and refiled in the state
50 register on the twenty-eighth day of September, one
51 thousand nine hundred eighty-nine, relating to the
52 insurance commissioner (insurance adjusters), are
53 authorized.

54 (h) The legislative rules filed in the state register on
55 the second day of February, one thousand nine hun-
56 dred ninety, modified by the insurance commissioner
57 to meet the objections of the legislative rule-making
58 review committee and refiled in the state register on
59 the twenty-ninth day of May, one thousand nine
60 hundred ninety, relating to the insurance commis-
61 sioner (accident and sickness rate filing), are
62 authorized.

63 (i) The legislative rules filed in the state register on
64 the tenth day of August, one thousand nine hundred
65 ninety, modified by the insurance commissioner to
66 meet the objections of the legislative rule-making
67 review committee and refiled in the state register on
68 the ninth day of October, one thousand nine hundred
69 ninety, relating to the insurance commissioner (group
70 coordination of benefits), are authorized.

71 (j) The legislative rules filed in the state register on
72 the tenth day of August, one thousand nine hundred
73 ninety, modified by the insurance commissioner to
74 meet the objections of the legislative rule-making
75 review committee and refiled in the state register on
76 the seventeenth day of January, one thousand nine
77 hundred ninety-one, relating to the insurance commis-
78 sioner (AIDS regulations), are authorized.

79 (k) The legislative rules filed in the state register on
80 the third day of December, one thousand nine hun-
81 dred ninety, relating to the insurance commissioner
82 (health insurance benefits for temporomandibular and
83 craniomandibular disorders), are authorized.

§64-7-4. Lottery commission.

1 (a) The legislative rules filed in the state register on
2 the twenty-first day of April, one thousand nine
3 hundred eighty-seven, modified by the state lottery
4 commission to meet the objections of the legislative
5 rule-making review committee and refiled in the state
6 register on the fourteenth day of August, one thousand
7 nine hundred eighty-seven, relating to the state lottery
8 commission (state lottery), are authorized.

9 (b) The legislative rules filed in the state register on
10 the twenty-seventh day of June, one thousand nine
11 hundred ninety, modified by the state lottery commis-
12 sion to meet the objections of the legislative rule-
13 making review committee and refiled in the state
14 register on the fifth day of September, one thousand
15 nine hundred ninety, relating to the state lottery
16 commission (state lottery), are authorized.

§64-7-5. Racing commission.

1 (a) The legislative rules filed in the state register on
2 the twenty-third day of April, one thousand nine
3 hundred eighty-two, relating to the West Virginia
4 racing commission (Rule 795), are authorized.

5 (b) The legislative rules filed in the state register on
6 the twenty-third day of April, one thousand nine
7 hundred eighty-two, relating to the West Virginia
8 racing commission (Rule 819), are authorized.

9 (c) The legislative rules filed in the state register on
10 the twenty-third day of April, one thousand nine
11 hundred eighty-two, relating to the West Virginia
12 racing commission (Rule 107), are authorized.

13 (d) The legislative rules filed with the legislative
14 rule-making review committee on the tenth day of
15 January, one thousand nine hundred eighty-three,

16 relating to the West Virginia racing commission (Rule
17 471), are authorized.

18 (e) The legislative rules filed in the state register on
19 the tenth day of January, one thousand nine hundred
20 eighty-three, relating to the West Virginia racing
21 commission (Rule 526), are authorized.

22 (f) The legislative rules filed in the state register on
23 the twentieth day of September, one thousand nine
24 hundred eighty-three, relating to the West Virginia
25 racing commission (Rule 107) greyhound racing, are
26 authorized.

27 (g) The legislative rules filed in the state register on
28 the twentieth day of September, one thousand nine
29 hundred eighty-three, relating to the West Virginia
30 racing commission (Rule 108) greyhound racing, are
31 authorized with the amendment set forth below:

32 Following the word "Association" insert a period
33 and strike the remainder of the sentence.

34 (h) The legislative rules filed in the state register on
35 the twentieth day of September, one thousand nine
36 hundred eighty-three, relating to the West Virginia
37 racing commission (Rule 108) thoroughbred racing, are
38 authorized with the amendment set forth below:

39 Following the word "Association" insert a period
40 and strike the remainder of the sentence.

41 (i) The legislative rules filed in the state register on
42 the twentieth day of September, one thousand nine
43 hundred eighty-three, relating to the West Virginia
44 racing commission (Rule 392) greyhound racing, are
45 authorized.

46 (j) The legislative rules filed in the state register on
47 the twentieth day of September, one thousand nine
48 hundred eighty-three, relating to the West Virginia
49 racing commission (Rule 455) greyhound racing, are
50 authorized.

51 (k) The legislative rules filed in the state register on
52 the twentieth day of September, one thousand nine
53 hundred eighty-three, relating to the West Virginia

54 racing commission (Rule 609A) greyhound racing, are
55 authorized.

56 (l) The legislative rules filed in the state register on
57 the twentieth day of September, one thousand nine
58 hundred eighty-three, relating to the West Virginia
59 racing commission (Rule 627) greyhound racing, are
60 authorized.

61 (m) The legislative rules filed in the state register on
62 the twentieth day of September, one thousand nine
63 hundred eighty-three, relating to the West Virginia
64 racing commission (Rule 845) thoroughbred racing, are
65 authorized.

66 (n) The legislative rules filed in the state register on
67 the ninth day of November, one thousand nine hun-
68 dred eighty-four, relating to the West Virginia racing
69 commission (greyhound racing — Rule 628), are
70 authorized.

71 (o) The legislative rules filed in the state register on
72 the twenty-fifth day of September, one thousand nine
73 hundred eighty-four, relating to the West Virginia
74 racing commission (greyhound racing — Rule 672), are
75 authorized.

76 (p) The legislative rules filed in the state register on
77 the ninth day of November, one thousand nine hun-
78 dred eighty-four, relating to the West Virginia racing
79 commission (thoroughbred racing — Rule 808), are
80 authorized.

81 (q) The legislative rules filed in the state register on
82 the twenty-fifth day of September, one thousand nine
83 hundred eighty-four, relating to the West Virginia
84 racing commission (thoroughbred racing — Rule 843),
85 are authorized.

86 (r) The legislative rules filed in the state register on
87 the sixth day of August, one thousand nine hundred
88 eighty-four, relating to the West Virginia racing
89 commission (greyhound racing — Rule 845-I), are
90 authorized.

91 (s) The legislative rules filed in the state register on

92 the third day of September, one thousand nine hun-
93 dred eighty-seven, modified by the West Virginia
94 racing commission to meet the objections of the
95 legislative rule-making review committee and refiled
96 in the state register on the twenty-first day of Decem-
97 ber, one thousand nine hundred eighty-seven, relating
98 to the West Virginia racing commission (greyhound
99 racing), are authorized.

100 (t) The legislative rules filed in the state register on
101 the thirty-first day of July, one thousand nine hun-
102 dred eighty-seven, modified by the West Virginia
103 racing commission to meet the objections of the
104 legislative rule-making review committee and refiled
105 in the state register on the eighteenth day of Decem-
106 ber, one thousand nine hundred eighty-seven, relating
107 to the West Virginia racing commission (thoroughbred
108 racing), are authorized with the amendments set forth
109 below:

110 On page fifty-five, Section 61.3(f), by striking all of
111 subsection (f) and inserting in lieu thereof the existing
112 provisions of subsection (f) as contained in 178 CSR 1,
113 which reads as follows:

114 "All moneys held by any licensee for the payment of
115 outstanding and unredeemed pari-mutuel tickets, if
116 not claimed within ninety (90) days after the close of
117 the horse race meeting in connection with which the
118 tickets were issued, shall be turned over by the
119 licensee to the Racing Commission within fifteen (15)
120 days after the expiration of such ninety (90) day period
121 and the licensee shall give such information as the
122 Racing Commission may require concerning such
123 outstanding and unredeemed tickets; viz. The outs
124 ledger enumerating all outstanding tickets at the close
125 of each meeting, to contain a record of all tickets
126 redeemed in the ninety (90) day following period,
127 together with all redeemed tickets which shall bear
128 the stamp of the cashier(s) making redemption: A
129 stamp indicating "Outs Ticket." In addition, a state-
130 ment to accompany said ledger and tickets, setting
131 forth the quantity and amount of each denomination
132 redeemed in the ninety (90) day period, with a grand

133 total indicating the sum paid in "Outs." This sum
134 subtracted from the outs on the closing day to equal
135 the remittance of the Association in settlement of the
136 "Out" account for the meeting."

137 (u) The legislative rules filed in the state register on
138 the ninth day of September, one thousand nine
139 hundred eighty-eight, relating to the West Virginia
140 racing commission (thoroughbred racing), are
141 authorized.

142 (v) The legislative rules filed in the state register on
143 the eighteenth day of January, one thousand nine
144 hundred eighty-nine, modified by the West Virginia
145 racing commission to meet the objections of the
146 legislative rule-making review committee and refiled
147 in the state register on the twentieth day of February,
148 one thousand nine hundred eighty-nine, relating to
149 the West Virginia racing commission (greyhound
150 racing), are authorized.

151 (w) The legislative rules filed in the state register on
152 the fourth day of March, one thousand nine hundred
153 eighty-nine, modified by the West Virginia racing
154 commission to meet the objections of the legislative
155 rule-making review committee and refiled in the state
156 register on the first day of June, one thousand nine
157 hundred eighty-nine, relating to the West Virginia
158 racing commission (thoroughbred racing), are
159 authorized.

160 (x) The legislative rules filed in the state register on
161 the twenty-second day of June, one thousand nine
162 hundred eighty-nine, relating to the West Virginia
163 racing commission (greyhound racing), are authorized.

164 (y) The legislative rules filed in the state register on
165 the tenth day of August, one thousand nine hundred
166 ninety, modified by the West Virginia racing commis-
167 sion to meet the objections of the legislative rule-
168 making review committee and refiled in the state
169 register on the fourteenth day of January, one thou-
170 sand nine hundred ninety-one, relating to the West
171 Virginia racing commission (thoroughbred racing), are
172 authorized.

173 (z) The legislative rules filed in the state register on
174 the twenty-ninth day of October, one thousand nine
175 hundred ninety, modified by the West Virginia racing
176 commission to meet the objections of the legislative
177 rule-making review committee and refiled in the state
178 register on the fourteenth day of January, one thou-
179 sand nine hundred ninety-one, relating to the West
180 Virginia racing commission (greyhound racing), are
181 authorized with the amendment set forth below:

182 On pages seventy-four-a through seventy-eight,
183 section forty-five, by striking out all of subsection
184 45.38.

§64-7-6. Tax department.

1 (a) The legislative rules filed in the state register on
2 the fifth day of January, one thousand nine hundred
3 eighty-four, relating to the state tax commissioner
4 (appraisal of property for periodic statewide reapprai-
5 sals for ad valorem property tax purposes), are auth-
6 orized with the amendments set forth below:

7 On page 8, section 11.04 (b)(2), definition of "Active
8 Mining Property," at the end of the first paragraph
9 following the period, by adding the following: "In the
10 application of the herein provided valuation formula
11 on 'active mining property,' the appropriate formula
12 calculation will be based upon the actual market to
13 which the coal from that tract and seam is currently
14 being sold, whether it is 'metallurgical' or 'steam'."

15 On page 9, section 11.04 (b)(3), definition of "Active
16 Reserves," at the end of the subsection, following the
17 period, by adding the following: "In the application of
18 the herein provided valuation formula on 'active
19 reserves,' the appropriate formula calculation will be
20 based upon the actual market to which the coal from
21 that tract and seam is currently being sold, whether it
22 is 'metallurgical' or 'steam'."

23 On page 11, section 11.04 (b)(11), definition of "Mine-
24 able Coal," by striking the subsection and substituting
25 in lieu thereof the following: "(11) Mineable Coal. Coal
26 which can be mined under present day mining tech-

27 nology and economics.”

28 On page 25, section 11.04 (c)(2)(C), entitled “Property
29 Tax Component,” by striking the subsection and
30 inserting in lieu thereof the following: “(C) Property
31 Tax Component — This component will be derived by
32 multiplying the assessment rate by the statewide
33 average of tax rates on Class III property.”

34 On page 30, section 11.04 (c)(4), entitled “Valuation of
35 Mined-Out/Unmineable/Barren Coal Properties,” by
36 striking the numbers “\$5.00” and inserting in lieu
37 thereof the following: “\$1.00.”

38 On page 31, section 11.04 (c)(5)(B), by striking the
39 words and numbers “Five Dollars (\$5.00)” and insert-
40 ing in lieu thereof the following: “One Dollar (\$1.00).”

41 On page 53, section 11.05 (h) by striking the symbol
42 and figures “(\$5.00)” and inserting in lieu the follow-
43 ing: “(\$1.00).”

44 On page 73, section 11.06 (h) by striking the symbol
45 and figures “\$5.00” and inserting in lieu the following:
46 “\$1.00.”

47 On page 81, section 11.07 (e)(15)(B)(4) at the end of
48 the second sentence remove the period after the word
49 “property” and insert the words “unless the land is
50 used for some other purpose in which case it will be
51 taxed according to its actual use.”

52 On page 86, section 11.07 (k) delete all of subsection
53 (k).

54 On page 110, section 11.08 (c)(4) by striking the
55 symbol and figures “\$5.00” and inserting in lieu
56 thereof the following: “\$1.00.”

57 On page 111, section 11.08 (c)(5)(B) by striking the
58 symbol and figures “\$5.00” and inserting in lieu
59 thereof the following: “\$1.00.”

60 On page 115, section 11.09 (a)(3) in the first sentence,
61 insert after the word “land” the words “excluding
62 farmland.”

63 (b) The legislative rules filed in the state register on

64 the twenty-eighth day of September, one thousand
65 nine hundred eighty-four, relating to the state tax
66 commissioner (estimated personal income tax), are
67 authorized with the amendments set forth below:

68 55.02(a)(2)(on page 182.2) line 18, after the word
69 "profession" strike the words "on his own account"
70 and the comma(,).

71 55.12(b)(1)(page 182.35) at the end of the section,
72 change the period to a comma, and add the following
73 language: "and in the case of a court appointed agent,
74 a copy of the court order of appointment is sufficient."

75 55.12(c)(page 182.36) after the word "for," strike the
76 word "erroneous."

77 (c) The legislative rules filed in the state register on
78 the twenty-eighth day of September, one thousand
79 nine hundred eighty-four, modified by the state tax
80 commissioner to meet the objections of the legislative
81 rule-making review committee and refiled in the state
82 register on the fourteenth day of November, one
83 thousand nine hundred eighty-four, and on the
84 twenty-first day of March, one thousand nine hundred
85 eighty-five, relating to the state tax commissioner
86 (estimated corporation net income tax), are authorized.

87 (d) The legislative rules filed in the state register on
88 the twelfth day of March, one thousand nine hundred
89 eighty-five, relating to the state tax commissioner
90 (identification and appraisal of farmland subsequent to
91 the base year of statewide reappraisal), are authorized
92 and directed to be promulgated with the following
93 amendments:

94 Title page, Subject; following the word "Farmland,"
95 insert the words "and of Structures Situated Thereon."

96 Page i, Subject; following the word "Farmland,"
97 insert the words "and of Structures Situated Thereon."

98 Page i, TABLE OF CONTENTS, Section 10; follow-
99 ing the words "Valuation of Farmland" add the words
100 "and of Structures Situated Thereon."

101 Page 10.1, Title; following the word "FARMLAND"

102 insert the words "AND STRUCTURES SITUATED
103 THEREON."

104 Page 10.1, Section 10, Title; following the word
105 "Farmland" add the words "and Structures Situated
106 Thereon."

107 Page 10.1, Section 10.01(b); following the word
108 "farmland" insert the words "and structures situated
109 thereon."

110 Page 10.2, Section 10.02(a), first sentence; following
111 the word "farmland" insert the words "and structures
112 situated thereon."

113 Page 10.3, Section 10.02(b), first sentence; following
114 the word "farmland" insert the words "and structures
115 situated thereon." Delete the words "for purposes of
116 the statewide reappraisal."

117 Page 10.3, Section 10.02(b), last sentence; following
118 the word "farmland" insert the words "and structures
119 situated thereon."

120 Page 10.8, Section 10.04(5)(B), last sentence; delete
121 the period and add "or the incapability to be adapted
122 to alternative uses."

123 Page 10.9, Section 10.04(6), first sentence; following
124 the words "land currently being used" insert the
125 words "as part of a farming operation."

126 Page 10.9, Section 10.04(6), following the last sen-
127 tence; add the sentence "For the purposes of this
128 definition, 'contiguous tracts' are farmlands which are
129 in close proximity, but not necessarily adjacent:
130 *Provided*, That all such contiguous tracts are operated
131 as part of the same farm management plan."

132 Page 10.10, Section 10.04(8), is amended to read in its
133 entirety as follows:

134 "(8) Farm buildings. — The term 'farm buildings'
135 shall mean structures which directly contribute to the
136 operation of the farm, and shall include tenant houses
137 and quarters furnished farm employees without rent
138 as a part of the terms of their employment."

139 Page 10.11, Section 10.04; delete the word "Novem-
140 ber" and insert in lieu thereof the word "September."
141 Delete the period following the word "valuation" and
142 add the words, "for the assessment year beginning
143 July first of each year."

144 Page 10.11, Section 10.04, insert the following subdi-
145 vision; "(12) Application Form: The application form
146 required to be filed with the assessor on or before
147 September first of each year shall require certification
148 that the farm complies with criteria set forth in
149 Section 10.05(c) of these regulations, and renewal
150 applications from year to year shall be sufficient upon
151 statement certifying that no change has been made in
152 the use of farm property which would disqualify 'farm
153 use' classification for assessment purposes."
154 Renumber the subdivisions of Section 10.04 following
155 the new 10.04(12); formerly 10.04(12) through 10.04(28),
156 to 10.04(13) through 10.04(29), respectively.

157 Page 10.14, Section 10.04(28) (formerly 10.04(27));
158 following the words "woodland products" insert a
159 comma and the words "such as nuts or fruits har-
160 vested" and add a comma following the words "human
161 consumption" on Page 10.15.

162 Page 10.16, Section 10.05, subsection (a), following the
163 words "land is used for farm purposes" by striking the
164 period and inserting in lieu thereof a colon and the
165 following: "*Provided*, That the true and actual value of
166 all farm used, occupied and cultivated by their owners
167 or bona fide tenants shall be arrived at according to
168 the fair and reasonable value of the property for the
169 purpose for which it is actually used regardless of
170 what the value of the property would be if used for
171 some other purpose; and that the true and actual value
172 shall be arrived at by giving consideration to the fair
173 and reasonable income which the same might be
174 expected to earn under normal conditions in the
175 locality wherein situated, if rented: *Provided, how-*
176 *ever*, That nothing herein shall alter the method of
177 assessment of lands or minerals owned by domestic or
178 foreign corporations."

179 Page 10.16, Section 10.05(b), first clause; following the
180 words "following factors shall be" insert the words
181 "indicative of but not conclusive" and delete the word
182 "considered."

183 Page 10.16, Section 10.05(b)(2); delete the period and
184 add the words "such as soil conservation, farmland
185 preservation or federal farm lending agencies."

186 Page 10.17, Section 10.05(b)(7); delete the section and
187 insert in lieu thereof the words "(7) Whether or not
188 the farmer practices 'custom farming' on the land in
189 question."

190 Page 10.17, Section 10.05(b)(9); following the word
191 "type" add a comma and insert the word "utility."

192 Page 10.17, Section 10.05(b)(11), first sentence; follow-
193 ing the word "sales" insert the words "for nonfarm
194 uses."

195 Page 10.17, Section 10.05(b)(12)(A); following the
196 words "part of" insert the words "or appurtenant to."

197 Page 10.17, Section 10.05(b)(12)(B); following the
198 words "contiguous to" insert the words "or operated
199 in common with."

200 Page 10.18, Section 10.05, subsection (c), the first
201 sentence of which is amended in its entirety to read as
202 follows: "Qualifying farmland and the structures
203 situated thereon shall be subject to farm use valuation,
204 with primary consideration being given to the income
205 which the property might be expected to earn, in the
206 locality wherein situate, if rented."

207 Page 10.18, Section 10.05(b)(12)(B); delete the semi-
208 colons and the words "it was purchased at the same
209 time as the tract so used." Delete the period following
210 the word "purposes" and add the words "or any
211 nonfarm use."

212 Page 10.19, Section 10.05(c)(2); following the words
213 "*Provided, That no*" delete the word "reason" and
214 insert in lieu thereof the words "individual event."

215 Page 10.20, Section 10.05(c)(4)(C); following the words

216 “(1,000) minimum production value” insert the words
217 “or the small farm five hundred dollars (\$500) mini-
218 mum production and sale.”

219 Page 10.23, Section 10.05(d)(3)(B), third sentence;
220 following the word “If” insert the words “timber
221 from.” Delete the period following the word “pur-
222 pose” and add the words “or is being converted to
223 farm production uses.”

224 Page 10.26, Section 10.05(f)(2) is amended in its
225 entirety to read as follows:

226 “(2) Farm buildings. — Rental value of farm build-
227 ings and other improvements on the farmland shall be
228 valued by determining the replacement cost of the
229 building or structure by usual farm construction
230 practices, and farm labor standards and subtracting
231 therefrom depreciation¹. Both of these determinations
232 shall be made in accordance with the tax department’s
233 real property appraisal manual² as filed in the state
234 register in accordance with chapter 29A of the code of
235 West Virginia, 1931, as amended, and as it relates to
236 agricultural buildings and structures. One (1) acre of
237 land shall be assigned to all buildings as a unit situate
238 on the property, regardless of the actual acreage
239 occupied by such buildings and shall be appraised at
240 its farm-use valuation based on the highest class of
241 farmland present on the farm.”

242 Page 10.28, Section 10.05(f)(3)(B)(1); following the
243 words “or more of the” insert the word “usual.”

244 Page 10.28, Section 10.05(f)(3)(B)(2); following the
245 words “(50%) of the” insert the word “usual.”

246 Page 10.29, Section 10.05(f)(3)(C)(1)(a); following the
247 words “(50%) or more of the” insert the word “usual.”

248 Page 10.29, Section 10.05(f)(3)(C)(1)(b); following the
249 words “(50%) of the” insert the word “usual.”

250 Page 10.31, Section 10.05(f)(3)(C)(2)(b); following the
251 last sentence insert the sentence “An individual
252 employed other than in farming is not an unincorpo-
253 rated business.”

254 Page 10.35, Section 10.07, Title; following the word
255 "Farmland" insert the words "and Structures Situated
256 Thereon."

257 Page 10.35, Section 10.07(a), first sentence; following
258 the word "farmland" insert the words "and structures
259 situated thereon."

260 Page 10.46, Subject; following the word "Farmland"
261 insert the words "and Structures Situated Thereon."

262 (e) The legislative rules filed in the state register on
263 the twenty-second day of May, one thousand nine
264 hundred eighty-five, relating to the state tax commis-
265 sioner (rules governing the operation of a statewide
266 electronic data processing system network, to facilitate
267 administration of the ad valorem property tax on real
268 and personal property), are authorized.

269 (f) The legislative rules filed in the state register on
270 the twenty-sixth day of March, one thousand nine
271 hundred eighty-six, relating to the state tax commis-
272 sioner (listing of interests in natural resources for the
273 first statewide reappraisal; provision for penalties), are
274 authorized.

275 (g) The legislative rules filed in the state register on
276 the twenty-sixth day of March, one thousand nine
277 hundred eighty-six, modified by the state tax commis-
278 sioner to meet the objections of the legislative rule-
279 making review committee and refiled in the state
280 register on the twelfth day of February, one thousand
281 nine hundred eighty-seven, relating to the state tax
282 commissioner (review of appraisals by county commis-
283 sions sitting as administrative appraisal review
284 boards), are authorized.

285 (h) The legislative rules filed in the state register on
286 the twenty-sixth day of March, one thousand nine
287 hundred eighty-six, modified by the state tax commis-
288 sioner to meet the objections of the legislative rule-
289 making review committee and refiled in the state
290 register on the twelfth day of February, one thousand
291 nine hundred eighty-seven, relating to the state tax
292 commissioner (review of appraisals by a circuit court

293 on certiorari), are authorized with the following
294 amendment:

295 On page 3, §18.3.1 is stricken in its entirety and a
296 new §18.3.1 is inserted in lieu thereof to read as
297 follows:

298 "18.3.1 Who May Request Review. — The property
299 owner, Tax Commissioner, protestor or intervenor
300 may request the county commission to certify the
301 evidence and remove and return the record to the
302 circuit court of the county on a writ of certiorari.
303 Parties to the proceeding wherein review by the
304 circuit court is sought shall pay costs and fees as they
305 are incurred: *Provided*, That the circuit court upon
306 rendering judgment or making any order may award
307 costs to any party in accordance with the provisions of
308 W. Va. Code §53-3-5."

309 (i) The legislative rules filed in the state register on
310 the twenty-sixth day of March, one thousand nine
311 hundred eighty-six, modified by the state tax commis-
312 sioner to meet the objections of the legislative rule-
313 making review committee and refiled in the state
314 register on the twelfth day of February, one thousand
315 nine hundred eighty-seven, relating to the state tax
316 commissioner (administrative review of appraisals by
317 the state tax commissioner), are authorized.

318 (j) The legislative rules filed in the state register on
319 the eighteenth day of August, one thousand nine
320 hundred eighty-six, modified by the state tax commis-
321 sioner to meet the objections of the legislative rule-
322 making review committee and refiled in the state
323 register on the twelfth day of February, one thousand
324 nine hundred eighty-seven, relating to the state tax
325 commissioner (additional review and implementation
326 of property appraisals), are authorized.

327 (k) The legislative rules filed in the state register on
328 the eleventh day of August, one thousand nine hun-
329 dred eighty-six, relating to the state tax commissioner
330 (guidelines for assessors to assure fair and uniform
331 personal property values), are authorized.

332 (l) The legislative rules filed in the state register on
333 the eighteenth day of August, one thousand nine
334 hundred eighty-six, modified by the state tax commis-
335 sioner to meet the objections of the legislative rule-
336 making review committee and refiled in the state
337 register on the tenth day of December, one thousand
338 nine hundred eighty-six, relating to the state tax
339 commissioner (registration of transient vendors), are
340 authorized.

341 (m) The legislative rules filed in the state register on
342 the fourth day of February, one thousand nine hun-
343 dred eighty-six, modified by the state tax commis-
344 sioner to meet the objections of the legislative rule-
345 making review committee and refiled in the state
346 register on the fourteenth day of January, one thou-
347 sand nine hundred eighty-seven, relating to the state
348 tax commissioner (business and occupation tax), are
349 authorized.

350 (n) The legislative rules filed in the state register on
351 the fourteenth day of August, one thousand nine
352 hundred eighty-seven, modified by the state tax
353 commissioner to meet the objections of the legislative
354 rule-making review committee and refiled in the state
355 register on the fourth day of November, one thousand
356 nine hundred eighty-seven, relating to the state tax
357 commissioner (telecommunications tax), are
358 authorized.

359 (o) The legislative rules filed in the state register on
360 the fourteenth day of August, one thousand nine
361 hundred eighty-seven, relating to the state tax com-
362 missioner (business franchise tax), are authorized.

363 (p) The legislative rules filed in the state register on
364 the seventeenth day of August, one thousand nine
365 hundred eighty-seven, modified by the state tax
366 commissioner to meet the objections of the legislative
367 rule-making review committee and refiled in the state
368 register on the twenty-second day of January, one
369 thousand nine hundred eighty-eight, relating to the
370 state tax commissioner (consumers sales and service
371 tax and use tax), are authorized.

372 (q) The legislative rules filed in the state register on
373 the fourteenth day of August, one thousand nine
374 hundred eighty-seven, modified by the state tax
375 commissioner to meet the objections of the legislative
376 rule-making review committee and refiled in the state
377 register on the thirteenth day of January, one thou-
378 sand nine hundred eighty-eight, relating to the state
379 tax commissioner (appraisal of property for periodic
380 statewide reappraisals for ad valorem property tax
381 purposes), are authorized.

382 (r) The legislative rules filed in the state register on
383 the fourteenth day of August, one thousand nine
384 hundred eighty-seven, modified by the state tax
385 commissioner to meet the objections of the legislative
386 rule-making review committee and refiled in the state
387 register on the twelfth day of January, one thousand
388 nine hundred eighty-eight, relating to the state tax
389 commissioner (severance tax), are authorized.

390 (s) The legislative rules filed in the state register on
391 the second day of September, one thousand nine
392 hundred eighty-eight, modified by the state tax com-
393 missioner to meet the objections of the legislative rule-
394 making review committee and refiled in the state
395 register on the twenty-fourth day of February, one
396 thousand nine hundred eighty-nine, relating to the
397 state tax commissioner (solid waste assessment fee),
398 are authorized.

399 (t) The legislative rules filed in the state register on
400 the twelfth day of August, one thousand nine hundred
401 eighty-eight, modified by the state tax commissioner to
402 meet the objections of the legislative rule-making
403 review committee and refiled in the state register on
404 the twenty-first day of September, one thousand nine
405 hundred eighty-eight, relating to the state tax commis-
406 sioner (electronic data processing system network for
407 property tax administration), are authorized.

408 (u) The legislative rules filed in the state register on
409 the nineteenth day of September, one thousand nine
410 hundred eighty-eight, modified by the state tax com-
411 missioner to meet the objections of the legislative rule-

412 making review committee and refiled in the state
413 register on the twenty-fourth day of February, one
414 thousand nine hundred eighty-nine, relating to the
415 state tax commissioner (exemption of property from
416 ad valorem property taxation), are authorized.

417 (v) The legislative rules filed in the state register on
418 the sixteenth day of September, one thousand nine
419 hundred eighty-eight, modified by the state tax com-
420 missioner to meet the objections of the legislative rule-
421 making review committee and refiled in the state
422 register on the thirteenth day of January, one thou-
423 sand nine hundred eighty-nine, relating to the state
424 tax commissioner (consumers sales and service tax and
425 use tax), are authorized.

426 (w) The legislative rules filed in the state register on
427 the twenty-third day of June, one thousand nine
428 hundred eighty-nine, relating to the state tax depart-
429 ment (personal income tax), are authorized.

430 (x) The legislative rules filed in the state register on
431 the twenty-ninth day of June, one thousand nine
432 hundred eighty-nine, relating to the state tax depart-
433 ment (severance tax), are authorized.

434 (y) The legislative rules filed in the state register on
435 the fourth day of August, one thousand nine hundred
436 eighty-nine, modified by the state tax department to
437 meet the objections of the legislative rule-making
438 review committee and refiled in the state register on
439 the eleventh day of December, one thousand nine
440 hundred eighty-nine, relating to the state tax depart-
441 ment (solid waste assessment fee), are authorized.

442 (z) The legislative rules filed in the state register on
443 the fourteenth day of August, one thousand nine
444 hundred eighty-nine, modified by the department of
445 tax and revenue to meet the objections of the legisla-
446 tive rule-making review committee and refiled in the
447 state register on the twelfth day of December, one
448 thousand nine hundred eighty-nine, relating to the
449 department of tax and revenue (business franchise
450 tax), are authorized.

451 (aa) The legislative rules filed in the state register on
452 the eleventh day of August, one thousand nine hun-
453 dred eighty-nine, modified by the department of tax
454 and revenue to meet the objections of the legislative
455 rule-making review committee and refiled in the state
456 register on the eleventh day of December, one thou-
457 sand nine hundred eighty-nine, relating to the depart-
458 ment of tax and revenue (business and occupation
459 tax), are authorized.

460 (bb) The legislative rules filed in the state register
461 on the fourteenth day of August, one thousand nine
462 hundred eighty-nine, modified by the department of
463 tax and revenue to meet the objections of the legisla-
464 tive rule-making review committee and refiled in the
465 state register on the nineteenth day of January, one
466 thousand nine hundred ninety, relating to the depart-
467 ment of tax and revenue (consumers sales and service
468 tax and use tax), are authorized with the amendments
469 set forth below:

470 On page eight, Section 2.28, after the word "as" by
471 inserting the words "art, science,."

472 On pages eight and nine, Section 2.28.1, after the
473 word "intellectual" by deleting the word "or" and
474 inserting in lieu thereof the words "physical and."

475 On page nine, Section 2.28.2, by deleting the words
476 "or instruction."

477 On page nine, Section 2.28.2, after the word "train-
478 ing" by adding the word "or."

479 On page nine, Section 2.28.2, by deleting the words
480 "or any portion of a school curriculum classified as
481 physical education."

482 On page nine, by deleting all of Section 2.28.2.1.

483 On page nine, Section 2.28.2.2, by deleting the section
484 number.

485 On page nine, Section 2.28.2.2, by deleting the words
486 "or instruction."

487 On page nine, Section 2.28.2.2, after the word "train-

488 ing” by adding the word “or.”

489 On page nine, Section 2.28.2.2, after the word “con-
490 ditioning” by inserting a period and striking the
491 remainder of the sentence.

492 On page one hundred twelve, Section 59.2, after the
493 words “sales of the service of cremation” by adding
494 the words “sales on perpetual care trust fund deposits.”

495 And,

496 On page one hundred twenty-eight, Section 91.2,
497 after the words “include food” by inserting the
498 following: “, as defined in section 2.30 of this rule.”

499 (cc) The legislative rules filed in the state register on
500 the eleventh day of August, one thousand nine hun-
501 dred eighty-nine, modified by the department of tax
502 and revenue to meet the objections of the legislative
503 rule-making review committee and refiled in the state
504 register on the eleventh day of December, one thou-
505 sand nine hundred eighty-nine, relating to the depart-
506 ment of tax and revenue (motor carrier road tax), are
507 authorized.

508 (dd) The legislative rules filed in the state register
509 on the eleventh day of August, one thousand nine
510 hundred eighty-nine, modified by the department of
511 tax and revenue to meet the objections of the legisla-
512 tive rule-making review committee and refiled in the
513 state register on the eleventh day of December, one
514 thousand nine hundred eighty-nine, relating to the
515 department of tax and revenue (gasoline and special
516 fuel excise tax), are authorized.

517 (ee) The legislative rules filed in the state register on
518 the eleventh day of August, one thousand nine hun-
519 dred eighty-nine, modified by the department of tax
520 and revenue to meet the objections of the legislative
521 rule-making review committee and refiled in the state
522 register on the eleventh day of December, one thou-
523 sand nine hundred eighty-nine, relating to the depart-
524 ment of tax and revenue (corporation net income tax),
525 are authorized.

526 (ff) The legislative rules filed in the state register on
527 the eleventh day of August, one thousand nine hun-
528 dred eighty-nine, modified by the department of tax
529 and revenue to meet the objections of the legislative
530 rule-making review committee and refiled in the state
531 register on the eleventh day of December, one thou-
532 sand nine hundred eighty-nine, relating to the depart-
533 ment of tax and revenue (soft drinks tax), are
534 authorized.

535 (gg) The legislative rules filed in the state register on
536 the twenty-first day of February, one thousand nine
537 hundred ninety-one, relating to the state tax commis-
538 sioner (business investment and jobs expansion tax
539 credit, corporations headquarters relocation tax credit,
540 and small business tax credit), are authorized.

§64-7-7. Office of non-intoxicating beer commissioner.

1 The legislative rules filed in the state register on the
2 tenth day of August, one thousand nine hundred
3 ninety, modified by the office of non-intoxicating beer
4 commissioner to meet the objections of the legislative
5 rule-making review committee and refiled in the state
6 register on the eighteenth day of October, one thou-
7 sand nine hundred ninety, relating to the office of
8 non-intoxicating commissioner (non-intoxicating beer
9 licensing and operations procedures), are authorized
10 with the amendment set forth below:

11 On page fifteen, section 6.2.3.1, by striking the words
12 "at least fifty percent of the members of the team are
13 employees of such brewer or distributor and".

**ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANSPORTA-
TION TO PROMULGATE LEGISLATIVE RULES.**

§64-8-1. Division of highways.

1 (a) The legislative rules filed in the state register on
2 the twenty-first day of October, one thousand nine
3 hundred eighty-three, relating to the commissioner of
4 highways (transportation of hazardous waste by high-
5 way transporters), are authorized with the amend-
6 ments set forth below:

7 Pages 3 and 7 after "40 CFR part 262" add the words
8 "as amended through March 8, 1986,."

9 Page 7 after "49 CFR parts 171-179" add the words
10 "as amended through March 8, 1986," and,

11 Page 11 after "49 CFR part 171.16" add the words "as
12 amended through March 8, 1986."

13 (b) The legislative rules filed in the state register on
14 the tenth day of August, one thousand nine hundred
15 eighty-four, relating to the commissioner of highways
16 (construction and reconstruction of state roads), are
17 authorized with the amendments set forth below:

18 Page 16, Sec. 8.08, line 21, (unnumbered), by insert-
19 ing after the word "all" the following language:
20 "reasonable and necessary" and after the word "pro-
21 ject" inserting the following language: "by the
22 Railroad."

23 Page 16, Sec. 8.08, line 22, (unnumbered), after the
24 word "the" by striking the words "Railroad's Chief."

25 Page 19, Sec. 8.08, line 25, (unnumbered), by striking
26 "Railroad's Chief" and adding the following new
27 language:

28 "Any approval by the Department of any activity by
29 the Contractor upon the right-of-way or premises of
30 any Railroad which is provided for in this Section
31 (8.08) (including, but not limited to, approval of work,
32 methods, or procedures of work to be done, and the
33 condition of premises after completion of work by the
34 Contractor) shall in no way create any liability by the
35 Department to the Railroad except to the extent
36 provided otherwise by law and the Contractor shall,
37 during all periods of construction and thereafter,
38 indemnify and save harmless the department from
39 any and all liability to the Railroad or any third
40 parties for any damages as a result of the work of the
41 Contractor, the methods and procedures for perform-
42 ing work, the failure of the Contractor to properly
43 remove equipment, surplus material and other debris
44 upon the Railroad premises, or the condition of the
45 premises of the Railroad during construction or after

46 completion of construction by the Contractor as
47 approved by the Department or otherwise."

48 Page 18, Sec. 8.08, subdivision (a), line 22, (unnum-
49 bered), by striking the words "single limit" and
50 inserting in lieu thereof the following language: "per
51 occurrence."

52 Page 19, Sec. 8.08, subdivision (b), line 8, (unnum-
53 bered), by striking the words "single limit" and
54 inserting in lieu thereof the following language: "per
55 occurrence."

56 Page 19, Sec. 8.08 (c), line 18, (unnumbered), by
57 inserting after the word "occurrence" the following
58 language: "of"; and after the word "injury" insert a
59 comma and strike the word "or."

60 (c) The legislative rules filed in the state register on
61 the seventh day of September, one thousand nine
62 hundred eighty-four, modified by the commissioner of
63 highways to meet the objections of the legislative rule-
64 making review committee and refiled in the state
65 register on the fifth day of October, one thousand nine
66 hundred eighty-four, relating to the commissioner of
67 highways (transportation of hazardous waste), are
68 authorized with the amendment set forth below:

69 Page 5, amend §3.01 by adding thereto a new subsec-
70 tion, designated subsection (4), to read as follows: "(4)
71 Before accepting hazardous waste from a rail transpor-
72 ter, a highway transporter must sign and date the
73 manifest and provide a copy to the rail transporter."

74 (d) The legislative rules filed in the state register on
75 the fourteenth day of August, one thousand nine
76 hundred eighty-four, modified by the commissioner of
77 highways to meet the objections of the legislative rule-
78 making review committee and refiled in the state
79 register on the fifth day of October, one thousand nine
80 hundred eighty-four, relating to the commissioner of
81 highways (disqualification and suspension of prequal-
82 ified contractors), are authorized.

83 (e) The legislative rules filed in the state register on
84 the twelfth day of December, one thousand nine

85 hundred eighty-five, relating to the commissioner of
86 highways (transportation of hazardous wastes by
87 vehicle upon the roads and highways of this state), are
88 authorized with the amendments set forth below:

89 On page 18, the first line of §3.03 shall read as
90 follows:

91 "3.03. Transporters who only accept Hazardous
92 Waste from."

93 (f) The legislative rules filed in the state register on
94 the first day of December, one thousand nine hundred
95 eighty-seven, modified by the commissioner of high-
96 ways to meet the objections of the legislative rule-
97 making review committee and refiled in the state
98 register on the fourteenth day of January, one thou-
99 sand nine hundred eighty-eight, relating to the com-
100 missioner of highways (traffic and safety rules and
101 regulations), are authorized with the amendment set
102 forth below:

103 On page 8, section 7.2, line 9, (unnumbered), by
104 striking everything after the word "structures."

105 (g) The legislative rules filed in the state register on
106 the first day of December, one thousand nine hundred
107 eighty-seven, relating to the commissioner of high-
108 ways (construction and reconstruction of state roads),
109 are authorized.

110 (h) The legislative rules filed in the state register on
111 the twenty-fifth day of February, one thousand nine
112 hundred eighty-seven, modified by the commissioner
113 of highways to meet the objections of the legislative
114 rule-making review committee and refiled in the state
115 register on the twenty-third day of November, one
116 thousand nine hundred eighty-seven, relating to the
117 commissioner of highways (transportation of hazard-
118 ous wastes upon the roads and highways), are
119 authorized.

120 (i) The legislative rules filed in the state register on
121 the fourteenth day of August, one thousand nine
122 hundred eighty-nine, modified by the division of
123 highways to meet the objections of the legislative rule-

124 making review committee and refiled in the state
125 register on the seventh day of December, one thou-
126 sand nine hundred eighty-nine, relating to the division
127 of highways (use of state road rights-of-way and areas
128 adjacent thereto), are authorized with the amend-
129 ments set forth below:

130 On Pages 14 and 15, Section 7.5, by deleting the
131 following language:

132 “Upon receipt of a permit application an application
133 number shall be assigned by the Division of Highways.
134 The applicant shall be notified of the temporary
135 application number and shall then be required to
136 publish a Class II legal advertisement in the newspap-
137 er(s) serving the area where the proposed outdoor
138 advertising sign, display or device is proposed to be
139 located. A copy of the certificate of publication shall be
140 provided to the Department within ten (10) days of the
141 final publication date.

142 “As a minimum the advertisement shall include the
143 application number, the location (including ownership
144 of the property upon which the sign is to be placed)
145 and shall notify the public that comments will be
146 received by the Division of Highways, Highway
147 Services Section, until 10 days after the final publica-
148 tion. The advertisement shall also state that all
149 comments must include the specific application num-
150 ber to which they refer.

151 “Any person who claims to be affected by the
152 proposed sign may submit written comments to the
153 Division of Highways, Highway Services Section, and
154 may request a public hearing within ten days of the
155 final publication. Within ten working days of the close
156 of the comment period the Division shall determine
157 whether to approve, deny, or hold a public hearing for
158 said permit.

159 “When the Division determines that a public hearing
160 is required it shall notify the person(s) who requested
161 the hearing and the permit applicant. The Division
162 shall cause notice to be published and hold the hearing
163 in accordance with Administrative Regulations, Com-

164 missioner of Highways, Chapter 17-2A, Series I (1982),
165 Section 3, Hearing Procedures (hereinafter WV Adm.
166 Reg. 17-2A).

167 “The Division Administrator shall assess the Div-
168 ision’s costs of the hearing against the permit applicant
169 or against the party requesting the hearing if he finds
170 that either the application for the permit or the
171 request for hearing was filed in bad faith.

172 “Any party adversely affected by the final decision
173 of the Division Administrator may apply for judicial
174 review through application for a writ of certiorari to
175 the Circuit Court of Kanawha County in accordance
176 with W. Va. Code §53-3-1 and W. Va. Code §14-2-2.

177 “The regulations in the preceding six paragraphs
178 relating to publication of notice of an application,
179 comments on a pending application, notice of hearing,
180 hearing on permit, assessment of costs and judicial
181 review shall not apply to an application for a permit
182 for an advertising sign, display or device to be located
183 within the boundaries of an incorporated municipality
184 or of a county-zoned commercial or industrial area.”

185 (j) The legislative rules filed in the state register on
186 the tenth day of August, one thousand nine hundred
187 eighty-nine, modified by the division of highways to
188 meet the objections of the legislative rule-making
189 review committee and refiled in the state register on
190 the seventh day of November, one thousand nine
191 hundred eighty-nine, relating to the division of high-
192 ways (construction and reconstruction of state roads),
193 are authorized.

194 (k) The legislative rules filed in the state register on
195 the fourteenth day of August, one thousand nine
196 hundred eighty-nine, modified by the division of
197 highways to meet the objections of the legislative rule-
198 making review committee and refiled in the state
199 register on the seventh day of December, one thou-
200 sand nine hundred eighty-nine, relating to the division
201 of highways (acquisition, disposal, lease and manage-
202 ment of real property and appurtenant structures and
203 relocation assistance), are authorized.

204 (l) The legislative rules filed in the state register on
205 the seventh day of September, one thousand nine
206 hundred ninety, modified by the division of highways
207 to meet the objections of the legislative rule-making
208 review committee and refiled in the state register on
209 the eighteenth day of January, one thousand nine
210 hundred ninety-one, relating to the division of high-
211 ways (traffic and safety rules and regulations), are
212 authorized.

**ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES
AND BOARDS TO PROMULGATE LEGISLATIVE
RULES.**

§64-9-1. Commissioner of agriculture.

1 (a) The legislative rules filed in the state register on
2 the sixth day of April, one thousand nine hundred
3 eighty-three, relating to the commissioner of agricul-
4 ture (schedule of charges for inspection services: fruit),
5 are authorized.

6 (b) The legislative rules filed in the state register on
7 the third day of August, one thousand nine hundred
8 eighty-three, relating to the commissioner of agricul-
9 ture (licensing of auctioneers), are authorized.

10 (c) The legislative rules filed in the state register on
11 the eighth day of February, one thousand nine hun-
12 dred eighty-four, relating to the commissioner of
13 agriculture (conduct of beef industry self-
14 improvement assessment program referendum), are
15 authorized.

16 (d) The legislative rules filed in the state register on
17 the fourth day of June, one thousand nine hundred
18 eighty-four, relating to the commissioner of agricul-
19 ture (feeding untreated garbage to swine), are
20 authorized.

21 (e) The legislative rules filed in the state register on
22 the fourth day of June, one thousand nine hundred
23 eighty-four, relating to the commissioner of agricul-
24 ture (registration, taxation and control of dogs), are
25 authorized.

26 (f) The legislative rules filed in the state register on
27 the first day of November, one thousand nine hundred
28 eighty-four, relating to the commissioner of agricul-
29 ture (public markets), are authorized.

30 (g) The legislative rules filed in the state register on
31 the tenth day of September, one thousand nine
32 hundred eighty-four, relating to the commissioner of
33 agriculture (noxious weed rules), are authorized.

34 (h) The legislative rules filed in the state register on
35 the fourth day of June, one thousand nine hundred
36 eighty-four, relating to the commissioner of agricul-
37 ture (animal disease control), are authorized.

38 (i) The legislative rules filed in the state register on
39 the fifth day of January, one thousand nine hundred
40 eighty-four, relating to the commissioner of agricul-
41 ture (use of certain picloram products), are authorized.

42 (j) The legislative rules filed in the state register on
43 the eighth day of March, one thousand nine hundred
44 eighty-five, relating to the commissioner of agriculture
45 (increasing certain fees by rules and regulations), are
46 authorized.

47 (k) The legislative rules filed in the state register on
48 the thirteenth day of January, one thousand nine
49 hundred eighty-six, modified by the commissioner of
50 agriculture to meet the objections of the legislative
51 rule-making review committee and refiled in the state
52 register on the thirty-first day of January, one thou-
53 sand nine hundred eighty-six, relating to the commis-
54 sioner of agriculture (licensing of livestock dealers),
55 are authorized.

56 (l) The legislative rules filed in the state register on
57 the eighteenth day of June, one thousand nine hun-
58 dred eighty-six, modified by the commissioner of
59 agriculture to meet the objections of the legislative
60 rule-making review committee and refiled in the state
61 register on the fifth day of January, one thousand nine
62 hundred eighty-seven, relating to the commissioner of
63 agriculture (West Virginia pesticide use and applica-
64 tion act), are authorized.

65 (m) The legislative rules filed in the state register on
66 the eighteenth day of August, one thousand nine
67 hundred eighty-six, modified by the director of the
68 division of forestry of the department of agriculture to
69 meet the objections of the legislative rule-making
70 review committee and refiled in the state register on
71 the fifth day of January, one thousand nine hundred
72 eighty-seven, relating to the director of the division of
73 forestry of the department of agriculture (ginseng),
74 are authorized.

75 (n) The legislative rules filed in the state register on
76 the tenth day of April, one thousand nine hundred
77 eighty-seven, relating to the commissioner of agricul-
78 ture (schedule of charges for inspection services: fruit),
79 are authorized.

80 (o) The legislative rules filed in the state register on
81 the thirteenth day of August, one thousand nine
82 hundred eighty-seven, modified by the commissioner
83 of agriculture to meet the objections of the legislative
84 rule-making review committee and refiled in the state
85 register on the eighth day of September, one thousand
86 nine hundred eighty-seven, relating to the commis-
87 sioner of agriculture (animal disease control), are
88 authorized.

89 (p) The legislative rules filed in the state register on
90 the fifteenth day of September, one thousand nine
91 hundred eighty-eight, relating to the commissioner of
92 agriculture (sale and distribution of commercial
93 fertilizer), are authorized.

94 (q) The legislative rules filed in the state register on
95 the fifteenth day of September, one thousand nine
96 hundred eighty-eight, modified by the commissioner
97 of agriculture to meet the objections of the legislative
98 rule-making review committee and refiled in the state
99 register on the twenty-sixth day of October, one
100 thousand nine hundred eighty-eight, relating to the
101 commissioner of agriculture (animal disease control),
102 are authorized.

103 (r) The legislative rules filed in the state register on
104 the fifteenth day of May, one thousand nine hundred

105 eighty-nine, modified by the commissioner of agricul-
106 ture to meet the objections of the legislative rule-
107 making review committee and refiled in the state
108 register on the twenty-first day of August, one thou-
109 sand nine hundred eighty-nine, relating to the com-
110 missioner of agriculture (production of milk and
111 cream for manufacturing purposes), are authorized.

112 (s) The legislative rules filed in the state register on
113 the seventh day of August, one thousand nine hundred
114 eighty-nine, modified by the commissioner of agricul-
115 ture to meet the objections of the legislative rule-
116 making review committee and refiled in the state
117 register on the twenty-third day of October, one
118 thousand nine hundred eighty-nine, relating to the
119 commissioner of agriculture (animal disease control),
120 are authorized.

121 (t) The legislative rules filed in the state register on
122 the tenth day of August, one thousand nine hundred
123 ninety, modified by the commissioner of agriculture to
124 meet the objections of the legislative rule-making
125 review committee and refiled in the state register on
126 the fifth day of October, one thousand nine hundred
127 ninety, relating to the commissioner of agriculture
128 (meat inspection), are authorized.

129 (u) The legislative rules filed in the state register on
130 the tenth day of August, one thousand nine hundred
131 ninety, modified by the commissioner of agriculture to
132 meet the objections of the legislative rule-making
133 review committee and refiled in the state register on
134 the third day of October, one thousand nine hundred
135 ninety, relating to the commissioner of agriculture
136 (agricultural liming materials), are authorized.

137 (v) The legislative rules filed in the state register on
138 the tenth day of August, one thousand nine hundred
139 ninety, modified by the commissioner of agriculture to
140 meet the objections of the legislative rule-making
141 review committee and refiled in the state register on
142 the third day of October, one thousand nine hundred
143 ninety, relating to the commissioner of agriculture
144 (public markets), are authorized.

145 (w) The legislative rules filed in the state register on
146 the nineteenth day of September, one thousand nine
147 hundred ninety, modified by the commissioner of
148 agriculture to meet the objections of the legislative
149 rule-making review committee and refiled in the state
150 register on the ninth day of November, one thousand
151 nine hundred ninety, relating to the commissioner of
152 agriculture (animal disease control), are authorized.

§64-9-3. Attorney general.

1 (a) The legislative rules filed in the state register on
2 the sixth day of December, one thousand nine hun-
3 dred eighty-four, relating to the attorney general
4 (third party dispute mechanisms), are authorized.

5 (b) The legislative rules filed in the state register on
6 the ninth day of January, one thousand nine hundred
7 eighty-five, relating to the attorney general (fair
8 treatment of crime victims and witnesses), are
9 authorized.

10 (c) The legislative rules filed in the state register on
11 the nineteenth day of September, one thousand nine
12 hundred eighty-six, modified by the attorney general
13 to meet the objections of the legislative rule-making
14 review committee and refiled in the state register on
15 the first day of December, one thousand nine hundred
16 eighty-six, relating to the attorney general (prevention
17 of unfair or deceptive acts or practices in home
18 improvement and home construction transactions), are
19 authorized. These rules were proposed by the attorney
20 general pursuant to section one hundred three, article
21 six and section one hundred two, article seven of
22 chapter forty-six-a of this code with the following
23 amendments:

24 "Amending the title to the proposed legislative rule
25 wherever said title may appear, on lines three and
26 four thereof, by striking the words 'and home
27 construction'.

28 On the index page following '3.' by striking the
29 words 'and home construction'.

30 On page 1, §1.2, line three, after the first word

31 “transactions” on line three, by striking the comma
32 and the words “and home construction transactions”
33 and on line five, by striking the period and inserting
34 the words “but shall not cover new construction of
35 single-family dwellings or rebuilding all or substan-
36 tially all of an existing or preexisting single-family
37 dwelling.”

38 Page 2, section 2.2 by striking all of lines seven and
39 eight and inserting in lieu thereof the following:

40 ‘unless: (a) it appears in printed or typed face larger
41 than the largest type used in the written contract,
42 apart’.

43 On page 2, section 2.4, by striking all of section 2.4
44 and inserting in lieu thereof a new section 2.4, to read
45 as follows:

46 “2.4 ‘Home Construction’ means, for the purpose of
47 this Rule, the repair, remodeling or the building of
48 additions to existing single-family dwelling units,
49 including single-family homes, condominium units or
50 any other dwelling unit to be used by any person
51 primarily for personal or family use, but shall not
52 include new single-family home construction or the
53 rebuilding of all or substantially all of an existing or
54 preexisting single-family dwelling.”

55 Page 3, section 2.6, on line two thereof, after the
56 second comma by inserting the word “replacement.”

57 Page 3, section 3, by striking the words “and home
58 construction” from the section heading.

59 Page 3, section 3.1, lines one and two, by striking the
60 words “or home construction.”

61 Page 4, section 3.1.4, on lines one and two thereof, by
62 striking the words “or home construction.”

63 Page 4, section 3.1.8, on line two thereof, by striking
64 the words “or home construction.”

65 Page 4, section 3.1.9, on lines two and three thereof,
66 by striking the words “or home construction.”

67 Page 5, section 3.1.12, on lines one and two thereof,

68 by striking the words "or home construction."

69 Page 6, section 3.1.26, by striking all of section 3.1.26
70 and renumbering the subsequent subsections.

71 Page 7, section 3.1.29, on lines one and two thereof,
72 by striking the words "or home construction."

73 Page 7, section 3.1.29, on line six thereof, following
74 the word "contract" by inserting a period and striking
75 the remainder of the section.

76 Page 7, following section 3.1.29 by adding a new
77 section to be designated section 3.1.29, to read as
78 follows:

79 "failed to file a certificate in the office of the Clerk
80 of the County Commission in the county in which the
81 principal place of business of the seller is located,
82 setting forth the assumed name in or by which the
83 business is being conducted in conformity with the
84 provisions of Chapter 47, Article 8, Section 2 of the
85 Code of West Virginia, 1931, as amended."

86 Page 7, section 3.2, on lines two and three thereof, by
87 striking the words, "or home solicitation sale of home
88 construction" and the comma on line three.

89 Page 9, section 4.1, on line eight thereof, by deleting
90 the period and inserting the following:

91 'to the extent permitted by statute'.

92 Page 10, section 4.2, on line 9 thereof, by striking the
93 period and inserting the following:

94 'to the extent permitted by statute'.

95 (d) The legislative rules filed in the state register on
96 the twenty-third day of September, one thousand nine
97 hundred eighty-six, modified by the attorney general
98 to meet the objections of the legislative rule-making
99 review committee and refiled in the state register on
100 the first day of December, one thousand nine hundred
101 eighty-six, relating to the attorney general (prevention
102 of unfair or deceptive acts or practices in the sale of
103 damaged goods or products), are authorized.

104 (e) The legislative rules filed in the state register on
105 the twenty-third day of September, one thousand nine
106 hundred eighty-seven, modified by the attorney
107 general to meet the objections of the legislative rule-
108 making review committee and refiled in the state
109 register on the twenty-fifth day of November, one
110 thousand nine hundred eighty-seven, relating to the
111 attorney general (administration of preneed burial
112 contracts), are authorized with the following amend-
113 ments set forth below:

114 On page 9, section 8.2 by striking the words "within
115 thirty days after the death of a contract beneficiary,"
116 and inserting in lieu thereof the following: "On or
117 before the first day of January and the first day of
118 July of each year," and after the word "provided" by
119 striking the comma and inserting in lieu thereof "after
120 the death of any contract beneficiary during the
121 previous six-month period,"

122 On page 12, section 9.7 by striking all of 9.7,

123 Beginning on page 15, by striking the entirety of
124 section 15,

125 And,

126 Beginning on page 18, by striking the entirety of
127 section 16, and by renumbering the remaining sections.

128 (f) The legislative rules filed in the state register on
129 the eleventh day of August, one thousand nine hun-
130 dred eighty-nine, modified by the attorney general to
131 meet the objections of the legislative rule-making
132 review committee and refiled in the state register on
133 the twenty-sixth day of October, one thousand nine
134 hundred eighty-nine, relating to the attorney general
135 (allowing persons who are indirectly injured by
136 violations of the West Virginia antitrust act to recover
137 damages), are authorized.

138 (g) The legislative rules filed in the state register on
139 the fourteenth day of August, one thousand nine
140 hundred eighty-nine, modified by the attorney general
141 to meet the objections of the legislative rule-making
142 review committee and refiled in the state register on

143 the fifteenth day of December, one thousand nine
144 hundred eighty-nine, relating to the attorney general
145 (health spas), are authorized.

146 (h) The legislative rules filed in the state register on
147 the tenth day of August, one thousand nine hundred
148 ninety, relating to the attorney general (authorizing
149 the attorney general to require persons upon whom
150 subpoenas are served to answer written questions
151 under oath), are authorized.

152 (i) The legislative rules filed in the state register on
153 the tenth day of August, one thousand nine hundred
154 ninety, relating to the attorney general (obtaining
155 assistance of public officials in investigations and the
156 commencement of proceedings to compel compliance),
157 are authorized.

158 (j) The legislative rules filed in the state register on
159 the tenth day of August, one thousand nine hundred
160 ninety, modified by the attorney general to meet the
161 objections of the legislative rule-making review com-
162 mittee and refiled in the state register on the twen-
163 tieth day of November, one thousand nine hundred
164 ninety, relating to the attorney general (limitation of
165 action and recovery of investigative costs and a
166 reasonable attorney's fee by the attorney general in an
167 enforcement action), are authorized.

168 (k) The legislative rules filed in the state register on
169 the tenth day of August, one thousand nine hundred
170 ninety, modified by the attorney general to meet the
171 objections of the legislative rule-making review com-
172 mittee and refiled in the state register on the twenty-
173 third day of January, one thousand nine hundred
174 ninety-one, relating to the attorney general (regulated
175 business exemption under the West Virginia antitrust
176 act), are authorized.

177 (l) The legislative rules filed in the state register on
178 the tenth day of August, one thousand nine hundred
179 ninety, modified by the attorney general to meet the
180 objections of the legislative rule-making review com-
181 mittee and refiled in the state register on the twenty-
182 second day of January, one thousand nine hundred

183 ninety-one, relating to the attorney general (defining
184 the term "federal antitrust laws" and prohibiting
185 tying and reciprocity), are authorized.

§64-9-5. Board of barbers and beauticians.

1 (a) The legislative rules filed in the state register on
2 the tenth day of June, one thousand nine hundred
3 eighty-eight, modified by the board of barbers and
4 beauticians to meet the objections of the legislative
5 rule-making review committee and refiled in the state
6 register on the eighth day of December, one thousand
7 nine hundred eighty-eight, relating to the board of
8 barbers and beauticians (minimum curriculum for
9 schools of barbering), are authorized with the amend-
10 ment set forth below:

11 On page 9, by inserting a new section, designated
12 section 3-6-14, to read as follows:

13 **"§3-6-14. Repeal of rule** — This rule will automati-
14 cally be repealed on July 1, 1991, unless extended prior
15 to that date by an act of the Legislature."

16 (b) The legislative rules filed in the state register on
17 the tenth day of June, one thousand nine hundred
18 eighty-eight, modified by the board of barbers and
19 beauticians to meet the objections of the legislative
20 rule-making review committee and refiled in the state
21 register on the eighth day of December, one thousand
22 nine hundred eighty-eight, relating to the board of
23 barbers and beauticians (qualifications, training,
24 examination and registration of instructors in barber-
25 ing and beauty culture), are authorized with the
26 amendment set forth below:

27 On page 6, by inserting a new section, designated
28 section 3-2-9, to read as follows:

29 **"§3-2-9. Repeal of rule** — This rule will automatically
30 be repealed on July 1, 1991, unless extended prior to
31 that date by an act of the Legislature."

32 (c) The legislative rules filed in the state register on
33 the tenth day of June, one thousand nine hundred
34 eighty-eight, modified by the board of barbers and

35 beauticians to meet the objections of the legislative
36 rule-making review committee and refiled in the state
37 register on the eighth day of December, one thousand
38 nine hundred eighty-eight, relating to the board of
39 barbers and beauticians (operation of barber shops and
40 schools of barbering), are authorized with the amend-
41 ment set forth below:

42 On page 5, by inserting a new section, designated
43 section 3-3-6, to read as follows:

44 “§3-3-6. **Repeal of rule** — This rule will automatically
45 be repealed on July 1, 1991, unless extended prior to
46 that date by an act of the Legislature.”

47 (d) The legislative rules filed in the state register on
48 the tenth day of June, one thousand nine hundred
49 eighty-eight, modified by the board of barbers and
50 beauticians to meet the objections of the legislative
51 rule-making review committee and refiled in the state
52 register on the eighth day of December, one thousand
53 nine hundred eighty-eight, relating to the board of
54 barbers and beauticians (curriculum and minimum
55 requirements, subjects and hour schedule, rules and
56 regulations for schools of beauty culture operation in
57 West Virginia: joint barbers and beauticians license),
58 are authorized with the amendments set forth below:

59 On page 7, by inserting a new section, designated
60 section 3-1-11, to read as follows:

61 “§3-1-11. **Repeal of rule** — This rule will automati-
62 cally be repealed on July 1, 1991, unless extended prior
63 to that date by an act of the Legislature.”

64 (e) The legislative rules filed in the state register on
65 the tenth day of June, one thousand nine hundred
66 eighty-eight, modified by the board of barbers and
67 beauticians to meet the objections of the legislative
68 rule-making review committee and refiled in the state
69 register on the eighth day of December, one thousand
70 nine hundred eighty-eight, relating to the board of
71 barbers and beauticians (operation of beauty shops and
72 schools of beauty culture), are authorized with the
73 amendments set forth below:

74 On page 4, by inserting a new section, designated
75 section 3-4-6, to read as follows:

76 “§3-4-6. **Repeal of rule** — This rule will automatically
77 be repealed on July 1, 1991, unless extended prior to
78 that date by an act of the Legislature.”

79 On page 4, by inserting a new subsection, designated
80 section 3.25, to read as follows:

81 “3.25 Notwithstanding any law to the contrary or
82 interpretation of law to the contrary, any licensed
83 beautician may trim beards or mustaches.”

84 (f) The legislative rules filed in the state register on
85 the tenth day of June, one thousand nine hundred
86 eighty-eight, modified by the board of barbers and
87 beauticians to meet the objections of the legislative
88 rule-making review committee and refiled in the state
89 register on the eighth day of December, one thousand
90 nine hundred eighty-eight, relating to the board of
91 barbers and beauticians (licensing schools of barbering
92 or beauty culture), are authorized with the amend-
93 ments set forth below:

94 On page 2, subsection 4.1, by deleting subdivision (b)
95 and relettering the remaining subdivisions.

96 And,

97 On page 6, by inserting a new section, designated
98 section 3-5-8, to read as follows:

99 “§3-5-8. **Repeal of rule** — This rule will automatically
100 be repealed on July 1, 1991, unless extended prior to
101 that date by an act of the Legislature.”

102 (g) The legislative rules filed in the state register on
103 the tenth day of August, one thousand nine hundred
104 ninety, modified by the board of barbers and beauti-
105 cians to meet the objections of the legislative rule-
106 making review committee and refiled in the state
107 register on the seventh day of December, one thou-
108 sand nine hundred ninety, relating to the board of
109 barbers and beauticians (licensing of schools of barber-
110 ing and beauty culture), are authorized with the
111 amendment set forth below:

112 On page 6, by inserting a new section, designated
113 section 3-5-8, to read as follows:

114 “**§3-5-8. Repeal of rule** — This rule will automatically
115 be repealed on July 1, 1992, unless extended prior to
116 that date by an act of the Legislature.”

117 (h) The legislative rules filed in the state register on
118 the tenth day of August, one thousand nine hundred
119 ninety, modified by the board of barbers and beauti-
120 cians to meet the objections of the legislative rule-
121 making review committee and refiled in the state
122 register on the seventh day of December, one thou-
123 sand nine hundred ninety, relating to the board of
124 barbers and beauticians (qualifications, training,
125 examination and registration of instructors in barber-
126 ing and beauty culture), are authorized with the
127 amendment set forth below:

128 On page 6, by inserting a new section, designated
129 section 3-2-9, to read as follows:

130 “**§3-2-9. Repeal of rule** — This rule will automatically
131 be repealed on July 1, 1992, unless extended prior to
132 that date by an act of the Legislature.”

133 (i) The legislative rules filed in the state register on
134 the tenth day of August, one thousand nine hundred
135 ninety, modified by the board of barbers and beauti-
136 cians to meet the objections of the legislative rule-
137 making review committee and refiled in the state
138 register on the seventh day of December, one thou-
139 sand nine hundred ninety, relating to the board of
140 barbers and beauticians (minimum curriculum for
141 schools of barbering), are authorized with the amend-
142 ment set forth below:

143 On page 7, by inserting a new section, designated
144 section 3-6-14, to read as follows:

145 “**§3-6-14. Repeal of rule** — This rule will automati-
146 cally be repealed on July 1, 1992, unless extended prior
147 to that date by an act of the Legislature.”

148 (j) The legislative rules filed in the state register on
149 the tenth day of August, one thousand nine hundred

150 ninety, modified by the board of barbers and beauti-
151 cians to meet the objections of the legislative rule-
152 making review committee and refiled in the state
153 register on the seventh day of December, one thou-
154 sand nine hundred ninety, relating to the board of
155 barbers and beauticians (curriculum and minimum
156 requirements, subjects and hour schedule, rules and
157 regulations for schools of beauty culture operation in
158 West Virginia; joint barbers and beauticians license),
159 are authorized with the amendment set forth below:

160 On page 7, by inserting a new section, designated
161 section 3-1-11, to read as follows:

162 “**§3-1-11. Repeal of rule** — This rule will automati-
163 cally be repealed on July 1, 1992, unless extended prior
164 to that date by an act of the Legislature.”

165 (k) The legislative rules filed in the state register on
166 the tenth day of August, one thousand nine hundred
167 ninety, modified by the board of barbers and beauti-
168 cians to meet the objections of the legislative rule-
169 making review committee and refiled in the state
170 register on the seventh day of December, one thou-
171 sand nine hundred ninety, relating to the board of
172 barbers and beauticians (operation of barber and
173 beauty shops and schools of barbering and beauty
174 culture), are authorized with the amendment set forth
175 below:

176 On page 4, by inserting a new section, designated
177 section 3-3-6, to read as follows:

178 “**§3-3-6. Repeal of rule** — This rule will automatically
179 be repealed on July 1, 1992, unless extended prior to
180 that date by an act of the Legislature.”

§64-9-10. West Virginia board of dental examiners.

1 (a) The legislative rules filed in the state register on
2 the eighth day of August, one thousand nine hundred
3 eighty-nine, modified by the West Virginia board of
4 dental examiners to meet the objections of the legisla-
5 tive rule-making review committee and refiled in the
6 state register on the twenty-third day of October, one
7 thousand nine hundred eighty-nine, relating to the

8 West Virginia board of dental examiners (rules and
9 regulations of the West Virginia board of dental
10 examiners), are authorized.

11 (b) The legislative rules filed in the state register on
12 the twenty-seventh day of July, one thousand nine
13 hundred ninety, modified by the West Virginia board
14 of dental examiners to meet the objections of the
15 legislative rule-making review committee and refiled
16 in the state register on the twenty-seventh day of
17 August, one thousand nine hundred ninety, relating to
18 the West Virginia board of dental examiners (rules
19 and regulations of the West Virginia board of dental
20 examiners), are authorized.

**§64-9-12. West Virginia state board of registration for
professional engineers.**

1 (a) The legislative rules filed in the state register on
2 the twenty-ninth day of November, one thousand nine
3 hundred eighty-five, modified by the West Virginia
4 state board of registration for professional engineers to
5 meet the objections of the legislative rule-making
6 review committee and refiled in the state register on
7 the twenty-eighth day of January, one thousand nine
8 hundred eighty-six, relating to the West Virginia state
9 board of registration for professional engineers (legis-
10 lative rules governing the West Virginia state board of
11 registration for professional engineers), are authorized.

12 (b) The legislative rules filed in the state register on
13 the twenty-third day of December, one thousand nine
14 hundred eighty-seven, modified by the West Virginia
15 state board of registration for professional engineers to
16 meet the objections of the legislative rule-making
17 review committee and refiled in the state register on
18 the twenty-ninth day of January, one thousand nine
19 hundred eighty-eight, relating to the West Virginia
20 state board of registration for professional engineers
21 (rules of the West Virginia state board of registration
22 for professional engineers), are authorized.

23 (c) The legislative rules filed in the state register on
24 the first day of October, one thousand nine hundred
25 ninety, modified by the West Virginia board of regis-

26 tered professional engineers to meet the objections of
27 the legislative rule-making review committee and
28 refiled in the state register on the seventeenth day of
29 January, one thousand nine hundred ninety-one,
30 relating to the West Virginia board of registered
31 professional engineers (regulations governing the
32 board of registration for registered professional engi-
33 neers), are authorized.

§64-9-15. State board of examiners of land surveyors.

1 (a) The legislative rules filed in the state register on
2 the thirty-first day of July, one thousand nine hun-
3 dred eighty-seven, modified by the state board of
4 examiners of land surveyors to meet the objections of
5 the legislative rule-making review committee and
6 refiled in the state register on the twenty-eighth day
7 of January, one thousand nine hundred eighty-eight,
8 relating to the state board of examiners of land
9 surveyors (practice of land surveying in West Vir-
10 ginia), are authorized.

11 (b) The legislative rules filed in the state register on
12 the third day of May, one thousand nine hundred
13 ninety, modified by the state board of examiners of
14 land surveyors to meet the objections of the legislative
15 rule-making review committee and refiled in the state
16 register on the first day of August, one thousand nine
17 hundred ninety, relating to the state board of examin-
18 ers of land surveyors (practice of land surveying in
19 West Virginia), are authorized.

§64-9-16. Board of medicine.

1 (a) The legislative rules filed in the state register on
2 the twelfth day of May, one thousand nine hundred
3 eighty-three, relating to the board of medicine (licens-
4 ing, disciplinary and complaint procedures; podiatry;
5 physicians assistants), are authorized with the modifi-
6 cations set forth below:

7 “§24.12.

8 (b) It shall be the responsibility of the supervising
9 physician to obtain consent in writing from the patient
10 before Type A physician assistants employed in a

11 satellite clinic may render general medical or surgical
12 services, except in emergencies.

13 §24.16.

14 (c) No physician assistant shall render nonemer-
15 gency outpatient medical services until the patient has
16 been informed that the individual providing care is a
17 physician assistant.”

18 (b) The legislative rules filed in the state register on
19 the twenty-sixth day of November, one thousand nine
20 hundred eighty-five, modified by the board of medi-
21 cine to meet the objections of the legislative rule-
22 making review committee and refiled in the state
23 register on the seventeenth day of January, one
24 thousand nine hundred eighty-six, relating to the
25 board of medicine (licensing, disciplinary and com-
26 plaint procedures; podiatry; physicians assistants), are
27 authorized.

28 (c) The legislative rules filed in the state register on
29 the eighth day of March, one thousand nine hundred
30 eighty-five, modified by the West Virginia board of
31 medicine to meet the objections of the legislative rule-
32 making review committee and refiled in the state
33 register on the eighteenth day of December, one
34 thousand nine hundred eighty-five, relating to the
35 West Virginia board of medicine (rules governing the
36 approval of medical schools not accredited by the
37 liaison committee on medical education), are
38 authorized.

39 (d) The legislative rules filed in the state register on
40 the third day of June, one thousand nine hundred
41 eighty-seven, relating to the board of medicine (fees
42 for services rendered by the board of medicine), are
43 authorized.

44 (e) The legislative rules filed in the state register on
45 the sixteenth day of September, one thousand nine
46 hundred eighty-eight, modified by the board of med-
47 icine to meet the objections of the legislative rule-
48 making review committee and refiled in the state
49 register on the twenty-fourth day of February, one

50 thousand nine hundred eighty-nine, relating to the
51 board of medicine (dispensing of legend drugs by
52 physicians and podiatrists), are authorized with the
53 following amendments:

54 Section 2.6 to read as follows: "Dispense means to
55 deliver a legend drug to an ultimate user or research
56 subject by or pursuant to the lawful order of a
57 physician or podiatrist, including the prescribing,
58 packaging, labeling, administering or compounding
59 necessary to prepare the drug for that delivery."

60 Section 3.3 to read as follows: "Physicians or podia-
61 trists who are not registered with the Board as
62 dispensing physicians may not dispense legend drugs.
63 However, the following activities by a physician or
64 podiatrist shall be exempt from the requirements of
65 section 3 through 8 applicable to dispensing physicians:

66 a. Legend drugs administered to the patient, which
67 are not controlled substance when an appropriate
68 record is made in the patient's chart.

69 b. Professional samples distributed free of charge by
70 a physician or podiatrist or certified physician assistant
71 under his or her supervision to the patient when an
72 appropriate record is made in the patient's chart; or

73 c. Legend drugs which are not controlled substances
74 provided by free clinics or under West Virginia state
75 authorized programs, including the medicaid, family
76 planning, maternal and child health, and early and
77 periodic screening and diagnosis and treatment pro-
78 grams: *Provided*, That all labeling provisions of section
79 8 shall be applicable except the requirements of
80 section 8.3 (a).

81 (f) The legislative rules filed in the state register on
82 the tenth day of August, one thousand nine hundred
83 ninety, modified by the board of medicine to meet the
84 objections of the legislative rule-making review com-
85 mittee and refiled in the state register on the first day
86 of October, one thousand nine hundred ninety, relat-
87 ing to the board of medicine (fees for services ren-
88 dered by the board of medicine), are authorized.

89 (g) The legislative rules filed in the state register on
90 the tenth day of August, one thousand nine hundred
91 ninety, modified by the board of medicine to meet the
92 objections of the legislative rule-making review com-
93 mittee and refiled in the state register on the eleventh
94 day of January, one thousand nine hundred ninety-
95 one, relating to the board of medicine (licensing, and
96 disciplinary and complaint procedures: physicians;
97 podiatrists), are authorized.

98 (h) The legislative rules filed in the state register on
99 the tenth day of August, one thousand nine hundred
100 ninety, modified by the board of medicine to meet the
101 objections of the legislative rule-making review com-
102 mittee and refiled in the state register on the eleventh
103 day of January, one thousand nine hundred ninety-
104 one, relating to the board of medicine (certification,
105 disciplinary and complaint procedures: physician
106 assistants), are authorized.

§64-9-18. Board of examiners for registered professional nurses.

1 (a) The legislative rules filed in the state register on
2 the thirteenth day of September, one thousand nine
3 hundred eighty-three, relating to the board of examin-
4 ers for registered professional nurses (qualifications of
5 graduates of foreign nursing schools for admission to
6 the professional nurse licensing examination), are
7 authorized.

8 (b) The legislative rules filed in the state register on
9 the third day of August, one thousand nine hundred
10 ninety, modified by the board of examiners for regis-
11 tered professional nurses to meet the objections of the
12 legislative rule-making review committee and refiled
13 in the state register on the twenty-eighth day of
14 September, one thousand nine hundred ninety, relat-
15 ing to the board of examiners for registered profes-
16 sional nurses (announcement of advanced nursing
17 practice), are authorized.

§64-9-20. Board of pharmacy.

1 (a) The legislative rules filed in the state register on

2 the second day of October, one thousand nine hundred
3 eighty-four, modified by the board of pharmacy to
4 meet the objections of the legislative rule-making
5 review committee and refiled in the state register on
6 the ninth day of January, one thousand nine hundred
7 eighty-five, relating to the board of pharmacy (paren-
8 teral/enteral compounding), are authorized.

9 (b) The legislative rules filed in the state register on
10 the twelfth day of September, one thousand nine
11 hundred eighty-nine, modified by the board of phar-
12 macy to meet the objections of the legislative rule-
13 making review committee and refiled in the state
14 register on the fifteenth day of November, one thou-
15 sand nine hundred eighty-nine, relating to the board
16 of pharmacy (board of pharmacy), are authorized.

17 (c) The legislative rules filed in the state register on
18 the sixth day of May, one thousand nine hundred
19 ninety, modified by the board of pharmacy to meet the
20 objections of the legislative rule-making review com-
21 mittee and refiled in the state register on the fifth day
22 of June, one thousand nine hundred ninety, relating to
23 the board of pharmacy (continuing education for the
24 licensure of pharmacists), are authorized.

§64-9-24. Secretary of state.

1 (a) The legislative rules filed in the state register on
2 the fifteenth day of April, one thousand nine hundred
3 eighty-five, modified by the secretary of state to meet
4 the objections of the legislative rule-making review
5 committee and refiled in the state register on the
6 eighth day of October, one thousand nine hundred
7 eighty-five, relating to the secretary of state (standard
8 size and format for rules and related documents filed
9 in the secretary of state's office), are authorized.

10 (b) The legislative rules filed in the state register on
11 the seventeenth day of August, one thousand nine
12 hundred eighty-seven, modified by the secretary of
13 state to meet the objections of the legislative rule-
14 making review committee and refiled in the state
15 register on the twenty-third day of September, one
16 thousand nine hundred eighty-seven, relating to the

17 secretary of state (standard size and format for rules
18 and procedures for publication of the state register or
19 parts of the state register), are authorized.

20 (c) The legislative rules filed in the state register on
21 the first day of September, one thousand nine hun-
22 dred eighty-nine, modified by the secretary of state to
23 meet the objections of the legislative rule-making
24 review committee and refiled in the state register on
25 the twentieth day of November, one thousand nine
26 hundred eighty-nine, relating to the secretary of state
27 (West Virginia farm product lien central filing sys-
28 tem), are authorized.

29 (d) The legislative rules filed in the state register on
30 the thirteenth day of August, one thousand nine
31 hundred ninety, relating to the secretary of state
32 (guidelines for the use of nicknames and other desig-
33 nations on the ballot), are authorized.

§64-9-26. State treasurer.

1 (a) The legislative rules filed in the state register on
2 the third day of January, one thousand nine hundred
3 eighty-four, relating to the state treasurer (establish-
4 ment of imprest funds), are authorized.

5 (b) The legislative rules filed in the state register on
6 the tenth day of August, one thousand nine hundred
7 ninety, modified by the state treasurer to meet the
8 objections of the legislative rule-making review com-
9 mittee and refiled in the state register on the tenth
10 day of December, one thousand nine hundred ninety,
11 relating to the state treasurer (enforcement of the
12 uniform disposition of unclaimed property act), are
13 authorized.

§64-9-28. West Virginia cable television advisory board.

1 (a) The legislative rules filed in the state register on
2 the twenty-eighth day of September, one thousand
3 nine hundred ninety, modified by the West Virginia
4 cable television advisory board to meet the objections
5 of the legislative rule-making review committee and
6 refiled in the state register on the twenty-second day
7 of January, one thousand nine hundred ninety-one,

8 relating to the West Virginia cable television advisory
9 board (franchising procedures), are authorized.

10 (b) The legislative rules filed in the state register on
11 the twenty-eighth day of September, one thousand
12 nine hundred ninety, modified by the West Virginia
13 cable television advisory board to meet the objections
14 of the legislative rule-making review committee and
15 refiled in the state register on the twenty-second day
16 of January, one thousand nine hundred ninety-one,
17 relating to the West Virginia cable television advisory
18 board (implementing regulations), are authorized.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Homer Hick
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Farrell E. Brown
.....
Clerk of the Senate

Donald G. Kopp
.....
Clerk of the House of Delegates

Kath. Benette
.....
President of the Senate

Roll. Chub
.....
Speaker House of Delegates

The within *approved* this the *2nd*.....
day of *April*....., 1990.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/91

Time 2:00 PM