WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1991

ENROLLED

SENATE BILL NO. 637
(By Senator Wooton)

PASSED March 9, 1991
In Effect from Passage
ENROLLED

Senate Bill No. 637

(BY SENATOR WOOTON)

[Passed March 9, 1991; in effect from passage.]

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 regula-
tions by the various executive or administrative agen-
cies 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 promul-
gate 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 equip-
ment 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; autho-
rizing the secretary of the department of administra-
tion 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 admin-
istration to promulgate legislative rules relating to
leasing space on behalf of state spending units, as
modified; authorizing the air pollution control commis-
sion to promulgate legislative rules relating to the
prevention and control of air pollution from the emis-
sion of volatile organic compounds from bulk gasoline
terminals; authorizing the air pollution control commis-
sion 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 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 discrimi-
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 legisla
tive 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 com
missioner to promulgate legislative rules relating to AIDS, as modified; authorizing the insurance com
missioner 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 commis­
sioner of agriculture to promulgate legislative rules
relating to agricultural liming materials, as modified;
authorizing the commissioner of agriculture to promul­
gate 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 investi­
gations 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 attor­
ney general to promulgate legislative rules relating to
the regulated business exemption under the West
Virginia antitrust act, as modified; authorizing the attor­
ey 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.

(a) The legislative rules filed in the state register on the eighteenth day of November, one thousand nine hundred eighty-eight, modified by the director of the purchasing division of the department of finance and administration to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of January, one thousand eight hundred eighty-nine, relating to the director of the purchasing division of the department of finance and administration (purchasing division), are authorized.

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

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

§64-2-3. Division of personnel.

(a) The legislative rules filed in the state register on the nineteenth day of November, one thousand nine hundred eighty-six, modified by the civil service commission to meet the objection of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, relating to the civil
(b) The legislative rules filed in the state register on
the first day of November, one thousand nine hundred
eighty-eight, modified by the civil service commission
to meet the objections of the legislative rule-making
review committee and refiled in the state register on
the twenty-third day of February, one thousand nine
hundred eighty-nine, relating to the civil service
commission (civil service system), are authorized with
the amendments set forth below:

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

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

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

And,

On page 46, section 13(f) line 2 by striking the words
“previously held”.

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

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

(a) The legislative rules filed in the state register on
the twenty-sixth day of September, one thousand nine
hundred ninety, modified by the secretary of the
day of January, one thousand nine hundred ninety-one, relating to the secretary of the department of administration (parking), are authorized.

(c) The legislative rules filed in the state register on the twenty-sixth day of September, one thousand nine hundred ninety, modified by the secretary of the department of administration to meet the objections of the legislative rule-making review committee and refilled in the state register on the twenty-fourth day of January, one thousand nine hundred ninety-one, relating to the secretary of the department of administration (leasing space on behalf of state spending 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.

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

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

(c) The legislative rules filed in the state register on
the sixteenth day of November, one thousand nine hundred eighty-three, relating to the air pollution control commission (emission standards for hazardous air pollutants) (series XV), are authorized.

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

(e) The legislative rules filed in the state register on the sixth day of January, one thousand nine hundred eighty-four, relating to the air pollution control commission (to prevent and control air pollution from hazardous waste treatment, storage or disposal facilities) (series XXV), are authorized with the amendments set forth below:

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

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

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

“The commission shall report to the legislative rule-making review committee as required by that committee, but in no event later than the first day of the regular session of the Legislature in the year one thousand nine hundred eighty-five. Such report shall include information regarding the commission’s data gathering efforts, the development of compliance programs, the progress in implementation, and such other matters as the committee may require, pertaining to the regulations hereby authorized.”

(f) The legislative rules filed in the state register on
the ninth day of January, one thousand nine hundred eighty-four, relating to the air pollution control commission (permits for construction and modification of stationary sources of air pollution for the prevention of significant deterioration) (series XIV), are authorized.

(g) The legislative rules filed in the state register on the thirtieth day of December, one thousand nine hundred eighty-eight, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of February, one thousand nine hundred eighty-nine, relating to the air pollution control commission (prevention and control of air pollution from hazardous waste treatment, storage or disposal facilities), are authorized.

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

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

(j) The legislative rules filed in the state register on
Enr. S. B. No. 637] 14

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

(k) The legislative rules filed in the state register on the sixth day of September, one thousand nine hundred eighty-nine, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety, relating to the air pollution control commission (prevention of air pollution emergency episodes), are authorized.

(l) The legislative rules filed in the state register on the sixth day of September, one thousand nine hundred eighty-nine, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety, relating to the air pollution control commission (permits for construction and major modification of major stationary sources of air pollution for the prevention of significant deterioration), are authorized.

(m) The legislative rules filed in the state register on the sixth day of September, one thousand nine hundred eighty-nine, relating to the air pollution control commission (standards of performance for new stationary sources), are authorized.

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

(o) The legislative rules filed in the state register on the sixteenth day of October, one thousand nine
hundred eighty-nine, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety, relating to the air pollution control commission (prevention and control of emissions of toxic air pollutants), are authorized.

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

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

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

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

§64-3-4. Division of energy.

(a) The legislative rules filed in the state register on the thirty-first day of March, one thousand nine 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 Administrator .......64."
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 "form-
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."
(d) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-six, modified by the director of the division of oil and gas of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, relating to the director of the division of oil and gas of the department of energy (oil and gas wells and other wells), are authorized.

(e) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-six, modified by the director of the oil and gas division of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, relating to the director of the division of oil and gas of the department of energy (certification of gas wells), are authorized.

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

(g) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-six, modified by the director of the division of oil and gas of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, relating to the director of the division of oil and gas of the department of energy (state national pollutant discharge elimination system (NPDES) program), are authorized.
(h) The legislative rules filed in the state register on the fourteenth day of November, one thousand nine hundred eighty-six, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of December, one thousand nine hundred eighty-six, relating to the commissioner of the department of energy (standards for certification of coal mine electricians), are authorized with the following amendments:

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

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

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

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

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

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

(j) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-six, modified by the commissioner of the
department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, relating to the commissioner of the department of energy (miscellaneous water pollution control), are authorized.

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

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

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

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

(o) The legislative rules filed in the state register on the third day of April, one thousand nine hundred eighty-seven, relating to the department of energy
(standards for certification of underground belt examiners for underground coal mines), are authorized.

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

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

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

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

And,

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

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

(s) The legislative rules filed in the state register on the twelfth day of May, one thousand nine hundred eighty-seven, modified by the commissioner of the department of energy to meet the objections of the
21 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
Enr. S. B. No. 637]

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

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

And,

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

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

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

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

On page one hundred fifty-three, section 12.2(c)(4),
after the number “(4)”, by inserting the words "For
permits issued after the effective date of these regulations.

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

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

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

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

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

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

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

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

On page 15, section 6.03 (c)(1) in the first full sentence, after the word “cease”, strike the remainder of the sentence and insert in lieu thereof the words “within fifteen (15) days of receipt of an order of suspension” and in the second sentence strike the word “recommence” and insert the words “continue beyond fifteen (15) days”; (c)(2) in the first full sentence, after the word “cease” by striking out the remainder of the sentence and insert in lieu thereof the words “immediately upon receipt of an order of
revocation."

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

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

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

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

Page 10-5, by striking §10B.19 and inserting in lieu thereof a new §10B.19, to read as follows: "Effluent limitations guidelines' means a regulation published by the Administrator under Section 304(b) or Section 301(b)(1)(B) of the CWA to adopt or revise effluent limitations or levels of effluent quality attainable through the application of secondary or equivalent treatment. For the coal industry these regulations are published at 40 C.F.R. Parts 434 and 133. (See: Appendix G and H)."

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

(h) The legislative rules filed in the state register on the sixth day of January, one thousand nine hundred eighty-four, relating to the department of natural resources (hazardous waste management), are
(i) The legislative rules filed in the state register on the third day of December, one thousand nine hundred eighty-four, modified by the department of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirteenth day of February, one thousand nine hundred eighty-five, relating to the department of natural resources (hazardous waste management), are authorized.

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

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

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

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

(m) The legislative rules filed in the state register on the twenty-sixth day of September, one thousand nine hundred eighty-six, modified by the department of natural resources to meet the objections of the legislative rule-making review committee and refiled in
the state register on the ninth day of December, one
thousand nine hundred eighty-six, relating to the
department of natural resources (hazardous waste
management regulations), are authorized.

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

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

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

And,

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

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

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

(r) The legislative rules filed in the state register on
the tenth day of June, one thousand nine hundred
eighty-seven, relating to the director of the depart-
ment of natural resources (outfitters and guides), are
authorized.
(s) The legislative rules filed in the state register on the ninth day of January, one thousand nine hundred eighty-seven, relating to the department of natural resources (hazardous waste management regulations), are authorized.

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

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

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

(w) The legislative rules filed in the state register on the twenty-eighth day of July, one thousand nine hundred eighty-seven, 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 seventh day of August, one thousand nine hundred eighty-seven, relating to the director of the department of natural resources (boating regulations), are authorized with the amendment set forth below:

On page 16, section 6.2, line 3 by inserting following the period "This regulation does not apply to licensed outfitters and guides." These rules were proposed by the director of the department of natural resources pursuant to section seven, article one and section twenty-two, article seven, chapter twenty of this code.
(x) The legislative rules filed in the state register on the second day of September, one thousand nine hundred eighty-eight, modified by the department of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of October, one thousand nine hundred eighty-eight, relating to the department of natural resources (hazardous waste management), are authorized.

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

(z) The legislative rules filed in the state register on the eighth day of March, one thousand nine hundred eighty-eight, modified by 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 thirtieth day of August, one thousand nine hundred eighty-eight, relating to the director of the department of natural resources (commercial sale of wildlife), are authorized.

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

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

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

(cc) The legislative rules filed in the state register on the seventeenth day of March, one thousand nine
hundred eighty-nine, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refilled in the state register on the sixteenth day of January, one thousand nine hundred ninety, relating to the division of natural resources (solid waste management), are authorized with the amendments set forth below:

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

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

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

"3.14.25. Environmental Compliance History. The chief or the director may refuse to grant any permit if he has reasonable cause to believe, as indicated by documented evidence, that the applicant, or any officer, director or manager, thereof, or shareholder owning twenty percent (20%) or more of its capital stock, beneficial or otherwise, or other person conducting or managing the affairs of the applicant or of the proposed permitted premises, in whole or part, has exhibited a pattern of violation of the environmental statutes or regulations of this State, any other state, or the federal government."

On page 104, section 4.5.4.a, by inserting after the words "at that landfill" the following:

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

And,

On pages 147 through 151, sections 4.11.5 and 4.11.6,
by deleting the current language and inserting in lieu thereof the following:

"4.11.5 Corrective Action Program.

Whenever a statistically significant increase is found in a Phase II or Phase III monitoring parameter, or when groundwater contamination is otherwise identified by the Chief at sites without monitoring programs, which is determined by the Chief to have resulted in a significant adverse effect on an aquifer, and which is attributable to a solid waste facility, the Chief may require appropriate corrective or remedial action pursuant to West Virginia Code Chapter 20, Article 5A, and Chapter 20, Article 5F to abate, remediate or correct such pollution. Any such corrective or remedial action order shall take into account any applicable groundwater quality protection standards, the existing use of such waters, the reasonable uses of such waters, background water quality, and the protection of human health and the environment."

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

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

(ff) The legislative rules filed in the state register on the seventeenth day of February, 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 ninth day of August, one thousand nine hundred eighty-nine, relating to the director of the department of natural resources (underground storage tank fee assessments), are authorized.
(gg) The legislative rules filed in the state register on
the twenty-fourth day of April, 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 twenty-second day
of May, one thousand nine hundred eighty-nine,
relating to the director of the department of natural
resources (public hunting and fishing areas), are
authorized.

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

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

On page two, after section 2.6, by inserting the
following:
"customer" means any person that purchases waste
disposal services from a facility permitted under
article five-a, chapter twenty, of the code of West
Virginia, one thousand nine hundred thirty-one, as
amended. For the purposes of these regulations,
commercial and other non-single family dwelling
customers shall be translated into customer equival-
ents by dividing the total daily estimated volume of
waste water by three hundred and fifty gallons per
day." and renumbering the remaining subsections.

On page nine, section 7.2, by striking out the words
"seven hundred fifty dollars ($750)." and inserting in
lieu thereof the following:
"determined using Table D, but in no case shall be
less than two hundred and fifty dollars ($250)."

And,

On page thirteen, by striking out all of Table D,
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**

<table>
<thead>
<tr>
<th>Number of Customers</th>
<th>Annual Permit Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 1000</td>
<td>$ 250</td>
</tr>
<tr>
<td>1000 to 1499</td>
<td>$ 500</td>
</tr>
<tr>
<td>1500 to 1999</td>
<td>$ 750</td>
</tr>
<tr>
<td>2000 to 2499</td>
<td>$ 1000</td>
</tr>
<tr>
<td>2500 to 2999</td>
<td>$ 1250</td>
</tr>
<tr>
<td>3000 to 3499</td>
<td>$ 1500</td>
</tr>
<tr>
<td>3500 to 3999</td>
<td>$ 1750</td>
</tr>
<tr>
<td>4000 to 4499</td>
<td>$ 2000</td>
</tr>
<tr>
<td>4500 to 4999</td>
<td>$ 2250</td>
</tr>
<tr>
<td>greater than 5000</td>
<td>$ 2500</td>
</tr>
</tbody>
</table>

**INDUSTRIAL OR OTHER WASTE FACILITIES**

<table>
<thead>
<tr>
<th>Average Discharge Volume</th>
<th>Annual Permit Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>(gallons per day)</td>
<td></td>
</tr>
<tr>
<td>less than 1,000</td>
<td>$ 50</td>
</tr>
<tr>
<td>1,001 to 10,000</td>
<td>$ 500</td>
</tr>
<tr>
<td>10,001 to 50,000</td>
<td>$ 1000</td>
</tr>
<tr>
<td>greater than 50,000</td>
<td>$ 2500</td>
</tr>
</tbody>
</table>

(ii) The legislative rules filed in the state register on the twenty-fifth day of July, one thousand eight 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
hundred eighty-nine, modified by the division of
natural resources to meet the objections of the legis-
slative rule-making review committee and refiled in
the state register on the twenty-fourth day of January,
one thousand nine hundred ninety, relating to the
division of natural resources (state water pollution
control revolving fund program), are authorized.

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

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

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

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

"5.1.1 The fee shall be one hundred dollars per tank
per year ($100/tank/year) for a period of not less than
one (1) year and not more than three (3) years. Second
and third year capitalization fees may be levied if
there is an inadequate surplus of funds, as determined
by the Board of Risk and Insurance Management, the
Division of Natural Resources and the Underground
Storage Tank Advisory Committee pursuant to W. Va. Code, §20-5H-7."

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

On page four, section five, subsection 5.1, after the word "requirements" by striking out the remainder of the subsection and inserting in lieu thereof, the following:

"of Title 47, Series 37 (Underground Storage Tank Fee Assessments); Title 47, Series 36, Section 4 (Notification Requirements); and Title 47, Series 37A, Section 5 (Capitalization Fees) of the Code of State Regulations and the owner or operator presents proof of the certification to the carrier."

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

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

§64-3-10. Water resources board.

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

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

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

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

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

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

(g) The legislative rules filed in the state register on
the seventh day of January, one thousand nine hun-
dred eighty-five, modified by the water resources
board to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the thirteenth day of February, one
thousand nine hundred eighty-five, relating to the
water resources board (water quality standards), are
authorized.

(h) The legislative rules filed in the state register on
the seventeenth day of October, one thousand nine
hundred eighty-five, modified by the state water
resources board to meet the objections of the legisla-
tive rule-making review committee and refiled in the
state register on the eighth day of January, one
thousand nine hundred eighty-seven, and further
modified by the state water resources board to meet
the objections of the legislative rule-making review
committee and refiled in the state register on the
twenty-fourth day of February, one thousand nine
hundred eighty-seven, relating to the state water
resources board (water quality standards), are
authorized.

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

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

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

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

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

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

(a) The legislative rules filed in the state register on the twenty-third day of October, one thousand ninety, modified by the solid waste management board to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of January, one thousand ninety-one, relating to the solid waste management board (development of comprehensive litter and solid waste control plans), are authorized.

(b) The legislative rules filed in the state register on the twenty-third day of October, one thousand ninety, modified by the solid waste management board to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of January, one thou-
sand nine hundred ninety-one, relating to the solid waste management board (disbursement of loans and grants to governmental agencies for the acquisition or construction of solid waste disposal projects), are authorized.

(c) The legislative rules filed in the state register on the twenty-third day of October, one thousand nine hundred ninety, modified by the solid waste management board to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of January, one thousand nine hundred ninety-one, relating to the solid waste management board (establishment of fee schedule and cost allocation applicable to the issuance of bonds by the board), are authorized.

(d) The legislative rules filed in the state register on the twenty-third day of October, one thousand nine hundred ninety, modified by the solid waste management board to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of January, one thousand nine hundred ninety-one, relating to the solid waste management board (development of commercial solid waste facility siting plans), are authorized.

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

The legislative rules filed in the state register on the twenty-third day of May, one thousand nine hundred ninety, modified by the board of manufactured housing construction and safety to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety, relating to the board of manufactured housing construction and safety (licensing, fees, standards, complaint handling, sanctions, recovery fund, designation of board as state administrative agency under the national manufactured housing construction and 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 eighth day of August, one thousand nine hundred ninety, modified by the division of culture and history to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of January, one thousand nine hundred ninety-one, relating to the division of culture and history (standards and procedures for granting permits to excavate archaeological sites and unmarked graves), are authorized.

ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.

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

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

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

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

(d) The legislative rules filed in the state register on the twenty-second day of October, one thousand nine hundred eighty-two, relating to the state board of health (sewage systems) with the modification pre-
presented to the legislative rule-making review committee on the sixth day of December, one thousand nine hundred eighty-two, are authorized except lines ten through seventeen, page eight of the rules shall be stricken in their entirety and the remaining paragraphs renumbered.

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

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

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

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

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

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

(j) The legislative rules filed in the state register on the twenty-fourth day of November, one thousand nine hundred eighty-two, relating to the state board of health (guardianship service), are authorized with the
exception of section 9.3 of those rules which may not be promulgated.

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

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

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

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

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

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

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

§4.1. In the first sentence delete the word “obtaining” and insert in lieu thereof the words “applying for”. In the second sentence after “4.3” add “and 4.5.”

§4.2. At the end of the second sentence, strike the
Enr. S. B. No. 637]  42

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

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

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

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

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

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

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

(s) The legislative rules filed in the state register on
the twenty-first day of December, one thousand nine
hundred eighty-four, relating to the state board of
health (licensure of medical adult day care centers),
are authorized.
(t) The legislative rules filed in the state register on the third day of October, one thousand nine hundred eighty-four, relating to the state board of health (retail food store sanitation), are authorized.

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

(v) The legislative rules filed in the state register on the twenty-ninth day of October, one thousand nine hundred eighty-five, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-seventh day of December, one thousand nine hundred eighty-five, relating to the state board of health (licensure of hospice care programs), are authorized.

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

On page 3, §3.9 shall read as follows:

"3.9 Quorum — When applied to the EMSAC, a majority of the members thereof, except in the instance when at any meeting of the EMSAC, where a quorum is not present and the director causes to be deposited in the United States mail, postage prepaid, return receipt requested, to each member of the EMSAC within three days, a notice calling a meeting of the EMSAC at some convenient place in the state of 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
the twenty-first day of November, one thousand nine hundred eighty-six, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of December, one thousand nine hundred eighty-six, relating to the state board of health (licensure of behavioral health centers), are authorized.

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

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

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

(ee) The legislative rules filed in the state register on the eleventh day of September, one thousand nine hundred eighty-seven, relating to the director of the department of health (immunization criteria for transfer students), are authorized.
(ff) The legislative rules filed in the state register on the sixteenth day of November, one thousand nine hundred eighty-seven, relating to the director of the department of health (hazardous substances), are authorized with the amendment set forth below:

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

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

(hh) The legislative rules filed in the state register on the twenty-second day of June, one thousand nine hundred eighty-eight, modified by the state board of health 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-eight, relating to the state board of health (licensure of hospice care programs), are authorized.

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

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

3.8 Water Well — Any excavation or penetration in the ground, whether drilled, bored, cored, driven or jetted that enters or passes through an aquifer for purposes that may include, but are not limited to: A water supply, exploration for water, dewatering or
heat pump wells, except that this definition shall not include ground water monitoring activities and all activities for the exploration, development, production, storage and recovery of coal, oil and gas and other mineral resources which are regulated under chapter 22, 22a or 22b of the code.

(jj) The legislative rules filed in the state register on the twenty-second day of June, one thousand nine hundred eighty-eight, modified by the state board of health 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-eight, relating to the state board of health (plumbing requirements), are authorized.

(kk) The legislative rules filed in the state register on the twenty-second day of June, one thousand nine hundred eighty-eight, modified by the state board of health 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-eight, relating to the state board of health (public water supply operators), are authorized.

(ll) The legislative rules filed in the state register on the nineteenth day of October, one thousand nine hundred eighty-eight, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of December, one thousand nine hundred eighty-eight, relating to the state board of health (volatile synthetic organic chemicals), are authorized.

(mm) The legislative rules filed in the state register on the second day of January, one thousand nine hundred ninety, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of January, one thousand nine hundred ninety, relating to the division of health
(asbestos abatement licensing), are authorized.

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

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

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

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

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

On page two, subsection 3.6, by striking out all of the
subsection and renumbering the subsequent subsections.

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

And,

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

**TABLE 64-30C.**

| Individual On-Site and Innovative Alternative Type Sewage System Permit Fees |
|-------------------------------|------------------|
| Type of System                | Fees for Permit  |
| Class I (New or Modified)     | $190             |
| Class II (New or Modified)    | $100             |
| Home Aeration Unit            | $100             |

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

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

(uu) The legislative rules filed in the state register on the seventh day of January, one thousand nine hundred ninety-one, modified by the division of health
to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of January, one thousand nine hundred ninety-one, relating to the division of health (fees for services), are authorized.

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

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

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

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

4. (d) The legislative rules filed in the state register on the fifteenth day of August, one thousand nine hundred eighty-four, relating to the health care cost review authority (hospital cost containment methodology), are authorized.

5. (e) The legislative rules filed in the state register on the twenty-fifth day of November, one thousand nine hundred eighty-five, modified by the West Virginia health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of January, one thousand nine hundred eighty-six, relating to the West Virginia health care cost review authority (interim standards for lithotripsy services), are authorized.

6. (f) The legislative rules filed in the state register on the third day of September, one thousand nine hundred eighty-seven, modified by the West Virginia
health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-seventh day of January, one thousand nine hundred eighty-eight, relating to the West Virginia health care cost review authority (exemptions from certificate of need review), are authorized.

(g) The legislative rules filed in the state register on the nineteenth day of September, one thousand nine hundred eighty-eight, modified by the health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of February, one thousand nine hundred eighty-nine, relating to the health care cost review authority (financial disclosure), are authorized.

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

On page 5, Section 4.1, after the words: “affected by the increase.” by inserting the following language: “The hospital shall also reconcile any excesses in gross revenue, gross patient revenue, gross inpatient revenue or charges per discharge. Within fifteen days of submission the Authority shall inform the hospital if it accepts the justification for excesses provided by the hospital.”

And,

On page 6, section 4.2, after the words “the excess in gross outpatient revenue” by striking the period and inserting the following:

“or if any excesses in the above categories (1
through 4) have been sufficiently justified to the Authority as required in Section 4.1 of this rule."

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

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

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

(l) The legislative rules filed in the state register on the eleventh day of September, one thousand nine hundred ninety, modified by the West Virginia health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of January, one thousand nine hundred ninety-one, relating to the West Virginia health care cost review authority (conversion of acute care beds to one hundred skilled nursing care beds), are authorized.
§64-5-4. West Virginia hospital finance authority.

(a) The legislative rules filed in the state register on the tenth day of June, one thousand nine hundred eighty-six, modified by the West Virginia hospital finance authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred eighty-seven, relating to the West Virginia hospital finance authority (establishment of fee schedule and cost allocation applicable to issuance of bonds), are authorized.

(b) The legislative rules filed in the state register on the thirtieth day of August, one thousand nine hundred ninety, modified by the West Virginia hospital finance authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of January, one thousand nine hundred ninety-one, relating to the West Virginia hospital finance authority (establishment of fee schedule and cost allocations applicable to the issuance of bonds by the West Virginia hospital finance authority), are authorized.

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

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


The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the human rights commission to meet the objections of the legislative rule-making review committee and refiled in the state register on
ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF PUBLIC SAFETY TO PROMULGATE LEGISLATIVE RULES.

§64-6-2. Fire commission.

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

On page 1, section 106, line 1, after the word “to” add the words “personal care homes caring for five or less patients or”;

And,

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

(b) The legislative rules filed in the state register on the first day of August, one thousand nine hundred eighty-six, modified by the state fire commission to meet the objection of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of October, one thousand nine hundred eighty-six, relating to the state fire commission (hazardous substance emergency response training program), are authorized.

(c) The legislative rules filed in the state register on the sixth day of September, one thousand nine hundred eighty-eight, modified by the state fire commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of December, one thousand nine hundred eighty-eight, relating to the state fire commission (state building code), are authorized.

(d) The legislative rules filed in the state register on
On page 6, section 3.03, by deleting all of subsection (A) and inserting in lieu thereof the following:

"(A) Any person who performs electrical work with respect to any property owned or leased by such person. For purposes of this subparagraph: (1) 'property owner' includes the property owner, lessee, and his or her maintenance personnel; and, (2) 'performs electrical work' includes routine maintenance, repairs, and improvements to existing structures; or."

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

On page 1, section 2.1(G), by striking out the word "underground."

(f) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-nine, modified by the state fire commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of October, one thousand nine hundred eighty-nine, relating to the state fire commission (fire code), are authorized.

(g) The legislative rules filed in the state register on the sixteenth day of July, one thousand nine hundred ninety, modified by the state fire commission to meet
the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of November, one thousand nine hundred ninety, relating to the state fire commission (state building code), are authorized with the amendments set forth below.

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

And,

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

“4.1.1 The following structures shall not be subject to inspection by local jurisdictions:

4.1.1.a Group U utility structures and storage sheds comprising an area of not more than 150 square feet which have no plumbing or electrical connections and are utilized only for residential storage purposes. (Examples include storage sheds that are for the residential storage of lawn mowers, tools, bicycles or furniture) Group U utility structures do not include those utility structures and storage sheds which have plumbing or electrical connections or are used for the storage of explosives or other hazardous or explosive-type materials.”

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

§64-6-4. Division of public safety.

(a) The legislative rules filed in the state register on
the twenty-third day of September, one thousand nine
hundred eighty-three, relating to the department of
public safety (general orders), are authorized with the
amendment set forth below:

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

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

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

(d) The Legislature hereby authorizes and directs
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. Such legislative rules, in
establishing requirements and qualifications for offi-
cial inspection stations shall not require bay doors at
such stations to be greater than eight feet in height.

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

The legislative rules filed in the state register on the
twentieth day of December, one thousand nine hun-
dred ninety, modified by the regional jail and correc-
tional facility authority to meet the objections of the
legislative rule-making review committee and refiled
in the state register on the seventeenth day of Janu-
Enr. S. B. No. 637] 58

ary, one thousand nine hundred ninety-one, relating
to the regional jail and correctional facility authority
(public hearings and site selection for private prisons),
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
the thirtieth day of December, one thousand nine
hundred eighty-two, relating to the alcohol beverage
control commission (transportation of alcoholic bever-
ages), are authorized.

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

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

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

23 "(a) For purposes of this regulation, the commis-
sioner may refuse to grant any license if he has
reasonable cause to believe, as indicated by docu-
mented evidence, that the applicant, or any officer,
director or manager thereof, or shareholder owning
twenty percent or more of its capital stock, beneficial
or otherwise, or other person conducting or managing
the affairs of the applicant or of the proposed licensed
premises, in whole or part:
(1) Is not a person of good moral character or repute;
(2) Has maintained a noisy, loud, disorderly or unsanitary establishment;
(3) Has demonstrated, either by his police record or by his record as former licensee under chapter sixty or chapter eleven, article sixteen of the West Virginia code, a lack of respect for law and order, generally, or for the laws and rules governing the sale and distribution of alcoholic beverages or non-intoxicating beer;
(4) Has the general reputation of drinking alcoholic beverages to excess, or is addicted to the use of narcotics;
(5) Has misrepresented a material fact in applying to the commissioner for a license.

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

(1) Is not eighteen years of age or older;
(2) Has been convicted of a felony or other crime involving moral turpitude, and, upon such conviction, the applicant shall not be eligible for licensure within five years next preceding successful completion of all conditions of probation, discharge from parole supervision or expiration of sentence;
(3) Has been convicted of violating the liquor laws of any state or the United States, and, upon such conviction, the applicant shall not be eligible for licensure within five years next preceding successful completion of all conditions of probation, discharge from parole supervision or expiration of sentence;
(4) Has had any license revoked under the liquor laws of any state or the United States within five years
next preceding the filing date of the application;

(5) Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed;

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

(7) Has been adjudicated an incompetent;

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

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

(e) The legislative rules filed in the state register on the first day of August, one thousand nine hundred ninety, modified by the alcohol beverage control commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of October, one thousand nine hundred ninety, relating to the alcohol beverage control commissioner (retail licensee operations), are authorized with the amendment set forth below:

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

(f) The legislative rules filed in the state register on the first day of August, one thousand nine hundred ninety, modified by the alcohol beverage control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of November, one
thousand nine hundred ninety, relating to the alcohol beverage control commissioner (licensing of retail liquor stores), are authorized.

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

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

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

(j) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the alcohol beverage control commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of October, one thousand nine hundred ninety, relating to the alcohol beverage control commissioner (retail sale of wine in grocery stores, wine specialty shops and private wine restaurants), are authorized.
§64-7-2. Agency of insurance commissioner.

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

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

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

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

(e) The legislative rules filed in the state register on the thirty-first day of July, one thousand nine hundred eighty-seven, modified by the insurance commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of November, one thousand nine hundred eighty-seven, relating to the insurance commissioner (medical malpractice loss experience and loss expense reporting requirements), are authorized.

(f) The legislative rules filed in the state register on the thirtieth day of November, one thousand nine hundred eighty-eight, modified by the insurance commissioner to meet the objections of the legislative rule-making review committee and refiled in the state
register on the twenty-first day of February, one thousand nine hundred eighty-nine, relating to the insurance commissioner (transitional requirements for the conversion of Medicare supplement insurance benefits and premiums to conform to medicare program revisions), are authorized.

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

(h) The legislative rules filed in the state register on the second day of February, one thousand nine hundred ninety, modified by the insurance commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-ninth day of May, one thousand nine hundred ninety, relating to the insurance commissioner (accident and sickness rate filing), are authorized.

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

(j) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the insurance commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of January, one thousand nine hundred ninety-one, relating to the insurance commissioner (AIDS regulations), are authorized.
(k) The legislative rules filed in the state register on the third day of December, one thousand nine hundred ninety, relating to the insurance commissioner (health insurance benefits for temporemandibular and craniomandibular disorders), are authorized.

§64-7-4. Lottery commission.

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

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

§64-7-5. Racing commission.

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

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

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

(d) The legislative rules filed with the legislative rule-making review committee on the tenth day of January, one thousand nine hundred eighty-three,
relating to the West Virginia racing commission (Rule 471), are authorized.

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

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

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

Following the word “Association” insert a period and strike the remainder of the sentence.

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

Following the word “Association” insert a period and strike the remainder of the sentence.

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

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

(k) The legislative rules filed in the state register on the twentieth day of September, one thousand nine hundred eighty-three, relating to the West Virginia
racing commission (Rule 609A) greyhound racing, are authorized.

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

(m) The legislative rules filed in the state register on the twentieth day of September, one thousand nine hundred eighty-three, relating to the West Virginia racing commission (Rule 645) thoroughbred racing, are authorized.

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

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

(p) The legislative rules filed in the state register on the twenty-fifth day of September, one thousand nine hundred eighty-four, relating to the West Virginia racing commission (thoroughbred racing — Rule 808), are authorized.

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

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

(s) The legislative rules filed in the state register on
the third day of September, one thousand nine hundred eighty-seven, modified by the West Virginia racing commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of December, one thousand nine hundred eighty-seven, relating to the West Virginia racing commission (greyhound racing), are authorized.

(t) The legislative rules filed in the state register on the thirty-first day of July, one thousand nine hundred eighty-seven, modified by the West Virginia racing commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of December, one thousand nine hundred eighty-seven, relating to the West Virginia racing commission (thoroughbred racing), are authorized with the amendments set forth below:

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

“All moneys held by any licensee for the payment of outstanding and unredeemed pari-mutuel tickets, if not claimed within ninety (90) days after the close of the horse race meeting in connection with which the tickets were issued, shall be turned over by the licensee to the Racing Commission within fifteen (15) days after the expiration of such ninety (90) day period and the licensee shall give such information as the Racing Commission may require concerning such outstanding and unredeemed tickets; viz. The outs ledger enumerating all outstanding tickets at the close of each meeting, to contain a record of all tickets redeemed in the ninety (90) day following period, together with all redeemed tickets which shall bear the stamp of the cashier(s) making redemption: A stamp indicating “Outs Ticket.” In addition, a statement to accompany said ledger and tickets, setting forth the quantity and amount of each denomination redeemed in the ninety (90) day period, with a grand
total indicating the sum paid in "Outs." This sum subtracted from the outs on the closing day to equal the remittance of the Association in settlement of the "Out" account for the meeting."

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

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

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

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

(y) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the West Virginia racing commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of January, one thousand nine hundred ninety-one, relating to the West Virginia racing commission (thoroughbred racing), are authorized.
(z) The legislative rules filed in the state register on the twenty-ninth day of October, one thousand nine hundred ninety, modified by the West Virginia racing commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of January, one thousand nine hundred ninety-one, relating to the West Virginia racing commission (greyhound racing), are authorized with the amendment set forth below:

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

§64-7-6. Tax department.

(a) The legislative rules filed in the state register on the fifth day of January, one thousand nine hundred eighty-four, relating to the state tax commissioner (appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes), are authorized with the amendments set forth below:

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

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

On page 11, section 11.04 (b)(11), definition of "Mineable Coal," by striking the subsection and substituting in lieu thereof the following: "(11) Mineable Coal. Coal which can be mined under present day mining tech-
On page 25, section 11.04 (c)(2)(C), entitled “Property Tax Component,” by striking the subsection and inserting in lieu thereof the following: “(C) Property Tax Component — This component will be derived by multiplying the assessment rate by the statewide average of tax rates on Class III property.”

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

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

On page 53, section 11.05 (h) by striking the symbol and figures “($5.00)” and inserting in lieu thereof the following: “($1.00).”

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

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

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

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

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

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

(b) The legislative rules filed in the state register on
the twenty-eighth day of September, one thousand
nine hundred eighty-four, relating to the state tax
commissioner (estimated personal income tax), are
authorized with the amendments set forth below:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(8) Farm buildings. — The term 'farm buildings' shall mean structures which directly contribute to the operation of the farm, and shall include tenant houses and quarters furnished farm employees without rent as a part of the terms of their employment."
Page 10.11, Section 10.04; delete the word "November" and insert in lieu thereof the word "September."
Delete the period following the word "valuation" and add the words, "for the assessment year beginning July first of each year."

Page 10.11, Section 10.04, insert the following subdivision: "(12) Application Form: The application form required to be filed with the assessor on or before September first of each year shall require certification that the farm complies with criteria set forth in Section 10.05(c) of these regulations, and renewal applications from year to year shall be sufficient upon statement certifying that no change has been made in the use of farm property which would disqualify 'farm use' classification for assessment purposes."
Renumber the subdivisions of Section 10.04 following the new 10.04(12); formerly 10.04(12) through 10.04(28), to 10.04(13) through 19.04(29), respectively.

Page 10.14, Section 10.04(28) (formerly 10.04(27)); following the words "woodland products" insert a comma and the words "such as nuts or fruits harvested" and add a comma following the words "human consumption" on Page 10.15.

Page 10.16, Section 10.05, subsection (a), following the words "land is used for farm purposes" by striking the period and inserting in lieu thereof a colon and the following: "Provided, That the true and actual value of all farm used, occupied and cultivated by their owners or bona fide tenants shall be arrived at according to the fair and reasonable value of the property for the purpose for which it is actually used regardless of what the value of the property would be if used for some other purpose; and that the true and actual value shall be arrived at by giving consideration to the fair and reasonable income which the same might be expected to earn under normal conditions in the locality wherein situated, if rented: Provided, however, That nothing herein shall alter the method of assessment of lands or minerals owned by domestic or foreign corporations."
Page 10.16, Section 10.05(b), first clause; following the words “following factors shall be” insert the words “indicative of but not conclusive” and delete the word “considered.”

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

Page 10.17, Section 10.05(b)(7); delete the section and insert in lieu thereof the words “(7) Whether or not the farmer practices ‘custom farming’ on the land in question.”

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

Page 10.17, Section 10.05(b)(11), first sentence; following the word “sales” insert the words “for nonfarm uses.”

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

Page 10.17, Section 10.05(b)(12)(B); following the words “contiguous to” insert the words “or operated in common with.”

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

Page 10.18, Section 10.05(b)(12)(B); delete the semicolons and the words “it was purchased at the same time as the tract so used.” Delete the period following the word “purposes” and add the words “or any nonfarm use.”

Page 10.19, Section 10.05(c)(2); following the words “Provided, That no” delete the word “reason” and insert in lieu thereof the words “individual event.”

Page 10.20, Section 10.05(c)(4)(C); following the words
“(1,000) minimum production value” insert the words “or the small farm five hundred dollars ($500) minimum production and sale.”

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

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

“(2) Farm buildings. — Rental value of farm buildings and other improvements on the farmland shall be valued by determining the replacement cost of the building or structure by usual farm construction practices, and farm labor standards and subtracting therefrom depreciation. Both of these determinations shall be made in accordance with the tax department’s real property appraisal manual as filed in the state register in accordance with chapter 29A of the code of West Virginia, 1931, as amended, and as it relates to agricultural buildings and structures. One (1) acre of land shall be assigned to all buildings as a unit situated on the property, regardless of the actual acreage occupied by such buildings and shall be appraised at its farm-use valuation based on the highest class of farmland present on the farm.”

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

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

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

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

Page 10.31, Section 10.05(f)(3)(C)(2)(b); following the last sentence insert the sentence “An individual employed other than in farming is not an unincorporated business.”
Page 10.35, Section 10.07, Title; following the word "Farmland" insert the words "and Structures Situated Thereon."

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

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

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

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

(g) The legislative rules filed in the state register on the twenty-sixth day of March, one thousand nine hundred eighty-six, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of February, one thousand nine hundred eighty-seven, relating to the state tax commissioner (review of appraisals by county commissions sitting as administrative appraisal review boards), are authorized.

(h) The legislative rules filed in the state register on the twenty-sixth day of March, one thousand nine hundred eighty-six, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of February, one thousand nine hundred eighty-seven, relating to the state tax commissioner (review of appraisals by a circuit court
On page 3, §18.3.1 is stricken in its entirety and a new §18.3.1 is inserted in lieu thereof to read as follows:

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

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

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

(k) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-six, relating to the state tax commissioner (guidelines for assessors to assure fair and uniform personal property values), are authorized.
(l) The legislative rules filed in the state register on
the eighteenth day of August, one thousand nine
hundred eighty-six, modified by the state tax commis-
sioner to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the tenth day of December, one thousand
nine hundred eighty-six, relating to the state tax
commissioner (registration of transient vendors), are
authorized.

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

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

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

(p) The legislative rules filed in the state register on
the seventeenth day of August, one thousand nine
hundred eighty-seven, modified by the state tax
commissioner to meet the objections of the legislative
rule-making review committee and refiled in the state
register on the twenty-second day of January, one
thousand nine hundred eighty-eight, relating to the
state tax commissioner (consumers sales and service
tax and use tax), are authorized.
(q) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-seven, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirteenth day of January, one thousand nine hundred eighty-eight, relating to the state tax commissioner (appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes), are authorized.

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

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

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

(u) The legislative rules filed in the state register on the nineteenth day of September, one thousand nine hundred eighty-eight, modified by the state tax commissioner to meet the objections of the legislative rule-
making review committee and refiled in the state register on the twenty-fourth day of February, one thousand nine hundred eighty-nine, relating to the state tax commissioner (exemption of property from ad valorem property taxation), are authorized.

(v) The legislative rules filed in the state register on the sixteenth day of September, one thousand nine hundred eighty-eight, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirteenth day of January, one thousand nine hundred eighty-nine, relating to the state tax commissioner (consumers sales and service tax and use tax), are authorized.

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

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

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

(z) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of December, one thousand nine hundred eighty-nine, relating to the department of tax and revenue (business franchise tax), are authorized.
(aa) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-nine, relating to the department of tax and revenue (business and occupation tax), are authorized.

(bb) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of January, one thousand nine hundred ninety, relating to the department of tax and revenue (consumers sales and service tax and use tax), are authorized with the amendments set forth below:

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

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

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

On page nine, Section 2.28.2, after the word "training" by adding the word "or."

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

On page nine, by deleting all of Section 2.28.2.1.

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

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

On page nine, Section 2.28.2.2, after the word "train-
by adding the word “or.”

On page nine, Section 2.28.2.2, after the word “conditioning” by inserting a period and striking the remainder of the sentence.

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

And,

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

(cc) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-nine, relating to the department of tax and revenue (motor carrier road tax), are authorized.

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

(ee) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-nine, relating to the department of tax and revenue (corporation net income tax), are authorized.
83 [Enr. S. B. No. 637

(ff) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-nine, relating to the department of tax and revenue (soft drinks tax), are authorized.

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

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

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

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

ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANSPORTATION TO PROMULGATE LEGISLATIVE RULES.

§64-8-1. Division of highways.

(u) The legislative rules filed in the state register on the twenty-first day of October, one thousand nine hundred eighty-three, relating to the commissioner of highways (transportation of hazardous waste by highway transporters), are authorized with the amendments 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 "40 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
completion of construction by the Contractor as approved by the Department or otherwise.”

Page 18, Sec. 8.08, subdivision (a), line 22, (unnumbered), by striking the words “single limit” and inserting in lieu thereof the following language: “per occurrence.”

Page 19, Sec. 8.08, subdivision (b), line 8, (unnumbered), by striking the words “single limit” and inserting in lieu thereof the following language: “per occurrence.”

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

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

Page 5, amend §3.01 by adding thereto a new subsection, designated subsection (4), to read as follows: “(4) Before accepting hazardous waste from a rail transporter, a highway transporter must sign and date the manifest and provide a copy to the rail transporter.”

(d) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-four, modified by the commissioner of highways to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of October, one thousand nine hundred eighty-four, relating to the commissioner of highways (disqualification and suspension of prequalified contractors), are authorized.

(e) The legislative rules filed in the state register on the twelfth day of December, one thousand nine
hundred eighty-five, relating to the commissioner of highways (transportation of hazardous wastes by vehicle upon the roads and highways of this state), are authorized with the amendments set forth below:

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

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

(f) The legislative rules filed in the state register on the first day of December, one thousand nine hundred eighty-seven, modified by the commissioner of highways to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of January, one thousand nine hundred eighty-eight, relating to the commissioner of highways (traffic and safety rules and regulations), are authorized with the amendment set forth below:

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

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

(h) The legislative rules filed in the state register on the twenty-fifth day of February, one thousand nine hundred eighty-seven, modified by the commissioner of highways to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of November, one thousand nine hundred eighty-seven, relating to the commissioner of highways (transportation of hazardous wastes upon the roads and highways), are authorized.

(i) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the division of highways to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the seventh day of December, one thou-
sand nine hundred eighty-nine, relating to the division
of highways (use of state road rights-of-way and areas
adjacent thereto), are authorized with the amend-
ments set forth below:

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

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

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

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

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

"The Division Administrator shall assess the Division's costs of the hearing against the permit applicant or against the party requesting the hearing if he finds that either the application for the permit or the request for hearing was filed in bad faith.

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

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

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

(k) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the division of highways to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred eighty-nine, relating to the division of highways (acquisition, disposal, lease and management of real property and appurtenant structures and relocation assistance), are authorized.
(l) The legislative rules filed in the state register on
the seventh day of September, one thousand nine
hundred ninety, modified by the division of highways
to meet the objections of the legislative rule-making
review committee and refiled in the state register on
the eighteenth day of January, one thousand nine
hundred ninety-one, relating to the division of high-
ways (traffic and safety rules and regulations), are
authorized.

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

§64-9-1. Commissioner of agriculture.

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

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

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

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

(e) The legislative rules filed in the state register on
the fourth day of June, one thousand nine hundred
eighty-four, relating to the commissioner of agricul-
ture (registration, taxation and control of dogs), are
authorized.
(f) The legislative rules filed in the state register on the first day of November, one thousand nine hundred eighty-four, relating to the commissioner of agriculture (public markets), are authorized.

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

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

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

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

(k) The legislative rules filed in the state register on the thirteenth day of January, one thousand nine hundred eighty-six, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirty-first day of January, one thousand nine hundred eighty-six, relating to the commissioner of agriculture (licensing of livestock dealers), are authorized.

(l) The legislative rules filed in the state register on the eighteenth day of June, one thousand nine hundred eighty-six, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of January, one thousand nine hundred eighty-seven, relating to the commissioner of agriculture (West Virginia pesticide use and application act), are authorized.
(m) The legislative rules filed in the state register on the eighteenth day of August, one thousand nine hundred eighty-six, modified by the director of the division of forestry of the department of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of January, one thousand nine hundred eighty-seven, relating to the director of the division of forestry of the department of agriculture (ginseng), are authorized.

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

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

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

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

(r) The legislative rules filed in the state register on the fifteenth day of May, one thousand nine hundred
eighty-nine, modified by the commissioner of agriculture to meet the objections of the legislative rule-making committee and refiled in the state register on the twenty-first day of August, one thousand nine hundred eighty-nine, relating to the commissioner of agriculture (production of milk and cream for manufacturing purposes), are authorized.

(s) The legislative rules filed in the state register on the seventh day of August, one thousand nine hundred eighty-nine, modified by the commissioner of agriculture to meet the objections of the legislative rule-making committee and refiled in the state register on the twenty-third day of October, one thousand nine hundred eighty-nine, relating to the commissioner of agriculture (animal disease control), are authorized.

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

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

(v) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the commissioner of agriculture to meet the objections of the legislative rule-making committee and refiled in the state register on the third day of October, one thousand nine hundred ninety, relating to the commissioner of agriculture (public markets), are authorized.
(w) The legislative rules filed in the state register on the nineteenth day of September, one thousand nine hundred ninety, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the ninth day of November, one thousand nine hundred ninety, relating to the commissioner of agriculture (animal disease control), are authorized.


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

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

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

"Amending the title to the proposed legislative rule wherever said title may appear, on lines three and four thereof, by striking the words ‘and home construction’.

On the index page following ‘3.’ by striking the words ‘and home construction’.

On page 1, §1.2, line three, after the first word
“transactions” on line three, by striking the comma
and the words “and home construction transactions”
and on line five, by striking the period and inserting
the words “but shall not cover new construction of
single-family dwellings or rebuilding all or substan-
tially all of an existing or preexisting single-family
dwelling.”

Page 2, section 2.2 by striking all of lines seven and
eight and inserting in lieu thereof the following:
‘unless: (a) it appears in printed or typed face larger
than the largest type used in the written contract,
apart’.

On page 2, section 2.4, by striking all of section 2.4
and inserting in lieu thereof a new section 2.4, to read
as follows:
“2.4 ‘Home Construction’ means, for the purpose of
this Rule, the repair, remodeling or the building of
additions to existing single-family dwelling units,
including single-family homes, condominium units or
any other dwelling unit to be used by any person
primarily for personal or family use, but shall not
include new single-family home construction or the
rebuilding of all or substantially all of an existing or
preexisting single-family dwelling.’”

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

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

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

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

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

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

Page 5, section 3.1.12, on lines one and two thereof,
by striking the words "or home construction."

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

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

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

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

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

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

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

'to the extent permitted by statute'.

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

'to the extent permitted by statute'.

(d) The legislative rules filed in the state register on the twenty-third day of September, one thousand nine hundred eighty-six, modified by the attorney general to meet the objections of the legislative rule-making review committee and refilled in the state register on the first day of December, one thousand nine hundred eighty-six, relating to the attorney general (prevention of unfair or deceptive acts or practices in the sale of damaged goods or products), are authorized.
(e) The legislative rules filed in the state register on the twenty-third day of September, one thousand nine hundred eighty-seven, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of November, one thousand nine hundred eighty-seven, relating to the attorney general (administration of preneed burial contracts), are authorized with the following amendments set forth below:

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

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

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

And,

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

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

(g) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on
(h) The legislative rules filed in the state register on
the tenth day of August, one thousand nine hundred
ninety, relating to the attorney general (authorizing
the attorney general to require persons upon whom
subpoenas are served to answer written questions
under oath), are authorized.

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

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

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

(l) The legislative rules filed in the state register on
the tenth day of August, one thousand nine hundred
ninety, modified by the attorney general to meet the
objections of the legislative rule-making review com-
mittee and refiled in the state register on the twenty-
second day of January, one thousand nine hundred
§§64-9-5. Board of barbers and beauticians.

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

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

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

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

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

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

(c) The legislative rules filed in the state register on the tenth day of June, one thousand nine hundred eighty-eight, modified by the board of barbers and
beauticians to meet the objections of the legislative
rule-making review committee and refiled in the state
register on the eighth day of December, one thousand
nine hundred eighty-eight, relating to the board of
barbers and beauticians (operation of barber shops and
schools of barbering), are authorized with the amend-
ment set forth below:

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

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

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

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

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

(e) The legislative rules filed in the state register on
the tenth day of June, one thousand nine hundred
eighty-eight, modified by the board of barbers and
beauticians to meet the objections of the legislative
rule-making review committee and refiled in the state
register on the eighth day of December, one thousand
nine hundred eighty-eight, relating to the board of
barbers and beauticians (operation of beauty shops and
schools of beauty culture), are authorized with the
amendments set forth below:
On page 4, by inserting a new section, designated section 3-4-6, to read as follows:

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

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

"3.25 Notwithstanding any law to the contrary or interpretation of law to the contrary, any licensed beautician may trim beards or mustaches."

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

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

And,

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

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

(g) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the board of barbers and beauticians to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred ninety, relating to the board of barbers and beauticians (licensing schools of barbering and beauty culture), are authorized with the amendment set forth below:
On page 6, by inserting a new section, designated section 3-5-8, to read as follows:

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

(h) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the board of barbers and beauticians to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred ninety, relating to the board of barbers and beauticians (qualifications, training, examination and registration of instructors in barbering and beauty culture), are authorized with the amendment set forth below:

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

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

(i) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the board of barbers and beauticians to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred ninety, relating to the board of barbers and beauticians (minimum curriculum for schools of barbering), are authorized with the amendment set forth below:

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

"§3-6-14. **Repeal of rule** — This rule will automatically be repealed on July 1, 1992, unless extended prior to that date by an act of the Legislature."

(j) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred
ninety, modified by the board of barbers and beauticians to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred ninety, relating to the board of barbers and beauticians (curriculum and minimum requirements, subjects and hour schedule, rules and regulations for schools of beauty culture operation in West Virginia; joint barbers and beauticians license), are authorized with the amendment set forth below:

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

"§3-1-11. Repeal of rule — This rule will automatically be repealed on July 1, 1992, unless extended prior to that date by an act of the Legislature."

(k) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the board of barbers and beauticians to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred ninety, relating to the board of barbers and beauticians (operation of barber and beauty shops and schools of barbering and beauty culture), are authorized with the amendment set forth below:

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

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

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

(a) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred eighty-nine, modified by the West Virginia board of dental examiners to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of October, one thousand nine hundred eighty-nine, relating to the
§64-9-12. West Virginia state board of registration for professional engineers.

(a) The legislative rules filed in the state register on the twenty-ninth day of November, one thousand nine hundred eighty-five, modified by the West Virginia state board of registration for professional engineers to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of January, one thousand nine hundred eighty-six, relating to the West Virginia state board of registration for professional engineers (legislative rules governing the West Virginia state board of registration for professional engineers), are authorized.

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

(c) The legislative rules filed in the state register on the first day of October, one thousand nine hundred ninety, modified by the West Virginia board of dental examiners (rules and regulations of the West Virginia board of dental examiners), are authorized.
ened professional engineers to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of January, one thousand nine hundred ninety-one, relating to the West Virginia board of registered professional engineers (regulations governing the board of registration for registered professional engineers), are authorized.


(a) The legislative rules filed in the state register on the thirty-first day of July, one thousand nine hundred eighty-seven, modified by the state board of examiners of land surveyors to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of January, one thousand nine hundred eighty-eight, relating to the state board of examiners of land surveyors (practice of land surveying in West Virginia), are authorized.

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

§64-9-16. Board of medicine.

(a) The legislative rules filed in the state register on the twelfth day of May, one thousand nine hundred eighty-three, relating to the board of medicine (licensing, disciplinary and complaint procedures; podiatry; physicians assistants), are authorized with the modifications set forth below:

§24.12.

(b) It shall be the responsibility of the supervising physician to obtain consent in writing from the patient before Type A physician assistants employed in a
satellite clinic may render general medical or surgical services, except in emergencies.

§24.16.

(c) No physician assistant shall render nonemergency outpatient medical services until the patient has been informed that the individual providing care is a physician assistant.

(b) The legislative rules filed in the state register on the twenty-sixth day of November, one thousand nine hundred eighty-five, modified by the board of medicine to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of January, one thousand nine hundred eighty-six, relating to the board of medicine (licensing, disciplinary and complaint procedures; podiatry; physicians assistants), are authorized.

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

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

(e) The legislative rules filed in the state register on the sixteenth day of September, one thousand nine hundred eighty-eight, modified by the board of medicine to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of February, one
Enr. S. B. No. 637

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

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

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

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

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

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

(f) The legislative rules filed in the state register on
the tenth day of August, one thousand nine hundred
ninety, modified by the board of medicine to meet the
objections of the legislative rule-making review com-
mmittee and refiled in the state register on the first day
of October, one thousand nine hundred ninety, relat-
ing to the board of medicine (fees for services ren-
dered by the board of medicine), are authorized.
107

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

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

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

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

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

§64-9-20. Board of pharmacy.

(a) The legislative rules filed in the state register on
the second day of October, one thousand nine hundred eighty-four, modified by the board of pharmacy to meet the objections of the legislative rule-making review committee and refiled in the state register on the ninth day of January, one thousand nine hundred eighty-five, relating to the board of pharmacy (parenteral/enteral compounding), are authorized.

(b) The legislative rules filed in the state register on the twelfth day of September, one thousand nine hundred eighty-nine, modified by the board of pharmacy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of November, one thousand eight hundred ninety, relating to the board of pharmacy (board of pharmacy), are authorized.

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


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

(b) The legislative rules filed in the state register on the seventeenth day of August, one thousand nine hundred eighty-seven, modified by the secretary of state to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of September, one thousand nine hundred eighty-seven, relating to the
secretary of state (standard size and format for rules and procedures for publication of the state register or parts of the state register), are authorized.

(c) The legislative rules filed in the state register on the first day of September, one thousand nine hundred eighty-nine, modified by the secretary of state to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of November, one thousand nine hundred eighty-nine, relating to the secretary of state (West Virginia farm product lien central filing system), are authorized.

(d) The legislative rules filed in the state register on the thirteenth day of August, one thousand nine hundred ninety, relating to the secretary of state (guidelines for the use of nicknames and other designations on the ballot), are authorized.


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

(b) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the state treasurer to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of December, one thousand nine hundred ninety, relating to the state treasurer (enforcement of the uniform disposition of unclaimed property act), are authorized.


(a) The legislative rules filed in the state register on the twenty-eighth day of September, one thousand nine hundred ninety, modified by the West Virginia cable television advisory board to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of January, one thousand nine hundred ninety-one,
relating to the West Virginia cable television advisory board (franchising procedures), are authorized.

(b) The legislative rules filed in the state register on the twenty-eighth day of September, one thousand nine hundred ninety, modified by the West Virginia cable television advisory board to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of January, one thousand nine hundred ninety-one, relating to the West Virginia cable television advisory board (implementing regulations), are authorized.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within this the day of 1990.

Governor