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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991



# ENROLLED

SENATE BILL NO. 637

(By Senator Wooton)



PASSED March 9, 1991

In Effect from Passage

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

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

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

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

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

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

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

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

*Be it enacted by the Legislature of West Virginia:*

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

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

**§64-2-2. Division of purchasing.**

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

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

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

**§64-2-3. Division of personnel.**

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

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

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

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

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

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

31 And,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### §64-3-4. Division of energy.

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

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

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

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

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

17 Page ix, after section 35.04 add the following:

18 “\*35.05 Extra Powers of the 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 “forma-  
31 tions” in the third lines of (i) and (ii), add the words  
32 “for which a well has been.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

186 And,

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

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

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

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

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

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

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

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

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

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

245 And,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 revocation.”

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

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

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

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

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

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

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

75 authorized.

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

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

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

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

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

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

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

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

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

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

133 And,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

267 And,

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

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

271 “4.11.5 *Corrective Action Program.*

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

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

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

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

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

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

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

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

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

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

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

343 And,

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

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

348 "TABLE D  
349 SCHEDULE OF ANNUAL PERMIT FEES  
350 SEWAGE FACILITIES

351	<b>Number of Customers</b>	<b>Annual Permit Fee</b>
352	less than 1000	\$ 250
353	1000 to 1499	\$ 500
354	1500 to 1999	\$ 750
355	2000 to 2499	\$ 1000
356	2500 to 2999	\$ 1250
357	3000 to 3499	\$ 1500
358	3500 to 3999	\$ 1750
359	4000 to 4499	\$ 2000
360	4500 to 4999	\$ 2250
361	greater than 5000	\$ 2500

362 INDUSTRIAL OR OTHER WASTE FACILITIES

363	<b>Average Discharge Volume</b>	<b>Annual Permit Fee</b>
364	(gallons per day)	
365	less than 1,000	\$ 50
366	1,001 to 10,000	\$ 500
367	10,001 to 50,000	\$ 1000
368	greater than 50,000	\$ 2500''

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§64-3-10. Water resources board.**

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

5 authorized.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

181 And,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

333 (asbestos abatement licensing), are authorized.

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

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

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

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

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

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

372 subsection and renumbering the subsequent  
373 subsections.

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

377 And,

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

381 TABLE 64-30C.		
382 Individual On-Site and Innovative Alternative Type		
383 Sewage System Permit Fees		
384 Type of System		Fees for Permit
385 Class I (New or Modified)		\$100
386 Class II (New or Modified)		\$100
387 Home Aeration Unit		\$100

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

68 And,

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

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

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

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

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

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

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

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

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

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

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

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

**§64-5-8. Human rights commission.**

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

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

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

**§64-6-2. Fire commission.**

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

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

9 And,

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

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

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

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

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

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

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

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

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

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

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

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

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

82 And,

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

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

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

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

**§64-6-4. Division of public safety.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 32 (1) Is not a person of good moral character or repute;
- 33 (2) Has maintained a noisy, loud, disorderly or  
34 unsanitary establishment;
- 35 (3) Has demonstrated, either by his police record or  
36 by his record as former licensee under chapter sixty or  
37 chapter eleven, article sixteen of the West Virginia  
38 code, a lack of respect for law and order, generally, or  
39 for the laws and rules governing the sale and distribu-  
40 tion of alcoholic beverages or non-intoxicating beer;
- 41 (4) Has the general reputation of drinking alcoholic  
42 beverages to excess, or is addicted to the use of  
43 narcotics;
- 44 (5) Has misrepresented a material fact in applying to  
45 the commissioner for a license.
- 46 (b) For purposes of this regulation, the commissioner  
47 shall refuse to grant any license if he has reasonable  
48 cause to believe, as indicated by documented evidence  
49 that the applicant, or any officer, director or manager  
50 thereof, or shareholder owning twenty percent or  
51 more of its capital stock, beneficial or otherwise, or  
52 other person conducting or managing the affairs of the  
53 applicant or of the proposed licensed premises, in  
54 whole or part:
- 55 (1) Is not eighteen years of age or older;
- 56 (2) Has been convicted of a felony or other crime  
57 involving moral turpitude, and, upon such conviction,  
58 the applicant shall not be eligible for licensure within  
59 five years next preceding successful completion of all  
60 conditions of probation, discharge from parole supervi-  
61 sion or expiration of sentence;
- 62 (3) Has been convicted of violating the liquor laws of  
63 any state or the United States, and, upon such convic-  
64 tion, the applicant shall not be eligible for licensure  
65 within five years next preceding successful completion  
66 of all conditions of probation, discharge from parole  
67 supervision or expiration of sentence;
- 68 (4) Has had any license revoked under the liquor  
69 laws of any state or the United States within five years

70 next preceding the filing date of the application;

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

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

78 (7) Has been adjudicated an incompetent;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§64-7-4. Lottery commission.**

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

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

**§64-7-5. Racing commission.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§64-7-6. Tax department.**

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

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

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

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

27 nology and economics.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

488 ing” by adding the word “or.”

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

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

495 And,

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

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

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

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

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

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

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

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

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

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

**§64-8-1. Division of highways.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§64-9-1. Commissioner of agriculture.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§64-9-3. Attorney general.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

68 by striking the words "or home construction."

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

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

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

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

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

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

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

91 'to the extent permitted by statute'.

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

94 'to the extent permitted by statute'.

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

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

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

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

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

125 And,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

96 And,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§64-9-16. Board of medicine.**

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

7 “§24.12.

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

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

13 §24.16.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§64-9-20. Board of pharmacy.**

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

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

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

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

**§64-9-24. Secretary of state.**

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

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

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

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

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

**§64-9-26. State treasurer.**

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

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

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

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

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

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

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

*Homer Hick*  
.....  
Chairman Senate Committee

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

Originated in the Senate.

In effect from passage.

*Garrett Edwards*  
.....  
Clerk of the Senate

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

*Keith Bantette*  
.....  
President of the Senate

*Rollin Chubb*  
.....  
Speaker House of Delegates

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

*Gaston Caperton*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/91

Time 2:00 PM