WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1993

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ENROLLED

HOUSE BILL No. 100

(By Delegate Mr. Speaker, Mr. Chambers, and Delegate Burk)
[By Request of the Executive]

Passed May 26, 1993

In Effect From Passage
ENROLLED

H. B. 100

(By Mr. Speaker, Mr. Chambers, and Delegate Burk)
[By Request of the Executive]

[Passed May 25, 1933; in effect from passage.]

AN ACT to amend and reenact sections three and eight, 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 two new sections, designated sections nine and ten; to amend and reenact sections one, two, eight, ten, eleven, twelve, thirteen, fourteen and fifteen, article three of said chapter; to further amend said article by adding thereto three new sections, designated sections sixteen, seventeen and eighteen; to amend and reenact sections one, two, three and six, article five of said chapter; to amend and reenact sections two and three, article six of said chapter; to further amend said article by adding thereto a new section, designated section six; to amend and reenact sections two, three, five and six, article seven of said chapter; to amend and reenact section two, article eight of said chapter; to amend and reenact sections one, twelve, sixteen, eighteen, twenty, twenty-one, twenty-three, twenty-four, twenty-eight and thirty-one, article nine of said chapter; and to further amend said article by adding thereto two new sections, designated sections thirty-four and thirty-five, 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
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executive and administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the state register; authorizing certain of the agencies to promulgate legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing and directing certain of the agencies to amend legislative rules filed in the code of state regulations; authorizing the division of personnel to promulgate legislative rules relating to the administrative rules and regulations of the division, as modified and amended; authorizing the ethics commission to promulgate legislative rules relating to complaints, investigations and hearings, as modified; authorizing the ethics commission to promulgate legislative rules relating to the ethics commission, as modified; authorizing the ethics commission to promulgate legislative rules relating to advisory opinions, as modified; authorizing the consolidated public retirement board to promulgate legislative rules relating to general provisions, as modified; authorizing the consolidated public employees retirement board to promulgate legislative rules relating to the public employees retirement system, as modified and amended; authorizing the consolidated public retirement board to promulgate legislative rules relating to the teachers' defined benefit retirement system, as modified and amended; authorizing the consolidated public retirement board to promulgate legislative rules relating to the teachers' defined contribution system, as modified; authorizing the consolidated public retirement board to promulgate legislative rules relating to benefit determination and appeal, as modified; authorizing the committee for the purchase of commodities and services from the handicapped to promulgate legislative rules relating to the procurement list: committee for the purchase of commodities and services from the handicapped, as modified and amended; authorizing the committee for the purchase of commodities and services from the handicapped to promulgate legislative rules relating to
qualifications for participation: committee for the purchase of commodities and services from the handicapped, as modified and amended; authorizing the committee for the purchase of commodities and services from the handicapped to promulgate legislative rules relating to fair market price determination, as modified and amended; 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, as modified and amended; authorizing the air pollution control commission to promulgate legislative rules relating to confidential information; authorizing the air pollution control commission to promulgate legislative rules relating to serious and minor violations of applicable rules; authorizing the air pollution control commission to promulgate legislative rules relating to permits for construction and major modification of major stationary sources of air pollution for the prevention of significant deterioration, as amended; authorizing the air pollution control commission to promulgate legislative rules relating to the prevention and control of air pollution from the operation of coal preparation plants and coal handling operations, as modified; authorizing the air pollution control commission to promulgate legislative rules relating to the requirements for pre-construction review, determination of emission offsets for proposed new or modified stationary sources of air pollutants and emission trading for intrasource pollutants, as modified and amended; authorizing the air pollution control commission to promulgate legislative rules relating to the submission of emission statements for volatile organic compound emissions and oxides of nitrogen emissions, as modified and amended; authorizing the division of banking to promulgate legislative rules relating to implementing the West Virginia community reinvestment act, as modified; authorizing the division of natural resources to promulgate legislative rules relating to water pollution control permit fee schedules, as amended; authorizing the division of natural resources to promulgate legislative rules relating to the commercial sale of wildlife, as modified; authorizing the
division of natural resources to promulgate legislative rules relating to deer hunting, as modified; authorizing the division of natural resources to promulgate legislative rules relating to defining the terms to be used concerning all hunting and trapping regulations, as modified; authorizing the division of natural resources to promulgate legislative rules relating to dog training, as modified; authorizing the division of natural resources to promulgate legislative rules relating to general hunting regulations, as modified; authorizing the division of natural resources to promulgate legislative rules relating to general trapping regulations, as modified; authorizing the division of natural resources to promulgate legislative rules relating to special migratory bird hunting regulations, as modified; authorizing the division of natural resources to promulgate legislative rules relating to prohibitions when hunting and trapping, as modified and amended; authorizing the division of natural resources to promulgate legislative rules relating to the revocation of hunting and fishing licenses, as modified and amended; authorizing the division of natural resources to promulgate legislative rules relating to special bear hunting regulations, as modified; authorizing the division of natural resources to promulgate legislative rules relating to special requirements concerning boating, as modified; authorizing the division of natural resources to promulgate legislative rules relating to special waterfowl hunting regulations, as modified; authorizing the division of natural resources to promulgate legislative rules relating to wild boar hunting, as modified; authorizing the division of natural resources to promulgate legislative rules relating to wild turkey hunting, as modified; authorizing the division of natural resources to promulgate legislative rules relating to West Virginia wildlife management areas, as modified; authorizing the division of natural resources to promulgate legislative rules relating to the recycling assistance fund grant program, as modified; authorizing the water resources board to promulgate legislative rules relating to underground injection control, as amended; authorizing the water resources board to promulgate legislative
rules relating to the national pollutant discharge elimination system (NPDES), as amended; authorizing the water resources board to promulgate legislative rules relating to groundwater standards, as modified; authorizing the water resources board to promulgate legislative rules relating to requirements governing water quality standards, as modified and amended; authorizing the West Virginia economic development authority to promulgate legislative rules relating to the West Virginia capital company act: establishment of the application procedures to implement the act, as modified; authorizing the solid waste management board to promulgate legislative rules relating to the disbursement of grants to solid waste authorities, as modified; authorizing the board of manufactured housing construction and safety to promulgate legislative rules relating to the West Virginia manufactured housing construction and safety standards act, as modified; authorizing the division of tourism and parks to promulgate legislative rules relating to the public use of West Virginia state parks, state forests and state hunting and fishing areas under the division of tourism and parks, as modified and amended; authorizing the public energy authority to promulgate legislative rules relating to the rules and procedures for application for and environmental assessment of projects seeking qualification for the public energy authority's assistance, as modified; authorizing the division of forestry to promulgate legislative rules relating to sediment control during commercial timber-harvesting operations - logger certification, as modified; authorizing the division of forestry to promulgate legislative rules relating to sediment control during commercial timber-harvesting operations - licensing, as modified and amended; authorizing the division of environmental protection to promulgate legislative rules relating to an operator's designation of bona fide future use of oil and gas wells - qualification for inactive status, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to oil and gas wells and other wells, as modified; authorizing the division of environmental protection to promulgate legislative rules
relating to abandoned wells, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to underground storage tank assessment fees, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to underground storage tanks; authorizing the division of environmental protection to promulgate legislative rules relating to hazardous waste management, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to the groundwater protection act fee schedule, as modified; authorizing the director of the office of miners' health, safety and training to promulgate legislative rules relating to the standards for certification of blasters for surface coal mines and surface areas of underground coal mines, as modified; authorizing the department of health and human resources to promulgate legislative rules relating to infectious medical waste, as modified and amended; authorizing the department of health and human resources to promulgate legislative rules relating to residential board and care homes, as modified; authorizing the division of health to promulgate legislative rules relating to trauma center or facility designation, as modified; authorizing the division of health to promulgate legislative rules relating to primary care center seed money grants, as modified; authorizing the division of health to promulgate legislative rules relating to primary care center uncompensated care grants, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to the exemption for birthing centers, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to the exemption for primary care hospitals, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to the exemption for new primary care services, as modified; authorizing the health care cost review authority to promulgate legislative rules relating to the temporary approval of discount contracts for border hospitals, as modified; authorizing the workers' compensation fund to promulgate legislative rules relating to self-insured employers,
as modified; authorizing the division of workers’ compensation to promulgate legislative rules relating to protocols and procedures for performing medical evaluations in noise-induced hearing loss claims, as modified; authorizing and directing the division of workers’ compensation to promulgate legislative rules relating to the enforcement of reporting and payment requirements (85 CSR 11), as amended; authorizing the state fire commission to promulgate legislative rules relating to electrician licensing, as modified; authorizing jail and correctional facility standards commission to promulgate legislative rules relating to West Virginia minimum standards for construction, operation and maintenance of jails, as modified and amended; authorizing and directing the jail and prison standards commission to promulgate legislative rules relating to West Virginia minimum standards for construction, operation and maintenance of holding facilities (95 CSR 3), as amended; authorizing the state emergency response commission to promulgate legislative rules relating to the commission, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to the regulation of credit life insurance and credit accident and sickness insurance; authorizing the insurance commissioner to promulgate legislative rules relating to filing fees for purchasing groups and for risk retention groups not chartered in this state, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to the group coordination of benefits, as amended; authorizing the insurance commissioner to promulgate legislative rules relating to permanent regulations on medicare supplement insurance, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to individual and employer group minimum benefits for accident and sickness insurance policies, as modified and amended; authorizing the insurance commissioner to promulgate legislative rules relating to long-term care insurance, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to standards for uniform health care administration, as modified; authorizing the state board of investments to
promulgate legislative rules relating to the reporting of state debt to the board, as modified; authorizing the racing commission to promulgate legislative rules relating to pari-mutuel wagering; 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; authorizing and directing the division of tax to promulgate legislative rules relating to the division of tax (consumers sales and service tax and use tax), (110 CSR 15), as amended; authorizing the division of tax to promulgate legislative rules relating to bingo; authorizing the division of motor vehicles to promulgate legislative rules relating to motor vehicle dealers, wreckers/ dismantlers/ rebuilders and license services, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to commercial feed, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to general groundwater protection rules for fertilizers and manures, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to primary and secondary containment of fertilizers, as modified and amended; authorizing the commissioner of agriculture to promulgate legislative rules relating to general groundwater protection rules for pesticides, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to bulk pesticide operational rules, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to non-bulk pesticide rules for permanent operational areas, as modified; authorizing the board of registration for professional engineers to promulgate legislative rules relating to the board, as modified and amended; authorizing the board of medicine to promulgate legislative rules relating to licensing, disciplinary and complaint procedures: physicians and podiatrists, as modified; authorizing the board of medicine to promulgate legislative rules relating to certification, disciplinary and complaint procedures and continuing education for physician assistants, as modified and amended;
authorizing the board of examiners for registered professional nurses to promulgate legislative rules relating to limited prescriptive authority for nurses in advanced practice, as modified; authorizing the board of pharmacy to promulgate legislative rules relating to the board, as modified and amended; authorizing the board of examiners of psychologists to promulgate legislative rules relating to penalties and fees, as modified; authorizing the board of examiners of psychologists to promulgate legislative rules relating to the qualifications for licensure as a psychologist, as modified; authorizing the real estate commission to promulgate legislative rules relating to the requirements in licensing real estate brokers and salesmen and in the conduct of a brokerage business, as modified; authorizing the secretary of state to promulgate legislative rules relating to the filing fee for credit service organizations, as modified; authorizing the secretary of state to promulgate legislative rules relating to combined voter registration and driver licensing programs, as modified; authorizing the West Virginia cable television advisory board to promulgate legislative rules relating to implementing regulations, as modified; authorizing the real estate appraiser licensing and certification board to promulgate legislative rules relating to requirements of licensure and certification, as modified; authorizing the board of occupational therapy to promulgate legislative rules relating to the administration of the board, as modified; and authorizing the board of social work examiners to promulgate legislative rules relating to qualifications for licensure as a social worker, as modified.

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

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

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

§64-2-3. Division of personnel.

(a) The legislative rules filed in the state register on the nineteenth day of November, one thousand nine hundred eighty-six, modified by the civil service commission to meet the objection of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, relating to the civil service commission (civil service system), are authorized.

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

On page fifteen, section 5.05(d), after the words “established in” by striking out the remainder of the sentence and inserting in lieu thereof the words “Chapter 29-6A of the Code of West Virginia, as amended.”
On page fifteen, section 5.06, after the words “established in” by striking out the remainder of the sentence and inserting in lieu thereof the words “Chapter 29-6A of the Code of West Virginia, as amended.”

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

And,

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

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

(d) The legislative rules filed in the state register on the seventeenth day of September, one thousand nine hundred ninety-two, modified by the division of personnel to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of February, one thousand nine hundred ninety-three, relating to the division of personnel (administrative rules and regulations of the West Virginia division of personnel), are authorized, with the following amendments:

On page 5, section 3, subsection 42, after the word “affected”, by striking the word “classified”, and inserting in lieu thereof the word “state”; And,

On page 66, subsection 17.01(e)(3), after the words “provisions of” by striking out the words “W.V. Code §§3-8-3, §3-8-4 or §3-8-5(e), or serve as a ballot commissioner or election official working inside a polling place; or sell tickets to political affairs to employees in the classified services; or post or distribute campaign literature in a classified employee’s worksite; or wear apparel bearing
political logos or endorsements during work hours when observed by or in contact with the public" and inserting the words "sections three, four or five-e, article eight, chapter three of the Code of West Virginia, as amended."

And,

On page 67, subsection 17.04, by striking all of subsection 17.04.


(a) The legislative rules filed in the state register on the thirty-first day of January, one thousand nine hundred ninety-one, modified by the ethics commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirty-first day of October, one thousand nine hundred ninety-one, relating to the ethics commission (contributions), are authorized, with the amendment set forth below:

On page one, subsection 3.4, by striking out the words "use their official title or position in the endorsement or support of" and inserting in lieu thereof "endorse".

(b) The legislative rules filed in the state register on the thirty-first day of January, one thousand nine hundred ninety-one, modified by the ethics commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirty-first day of October, one thousand nine hundred ninety-one, relating to the ethics commission (gifts), are authorized, with the amendments set forth below:

On page two, subsection 3.1, by striking out the word "significant";

On page two, section four, subsection 4.1, by striking out "$20" and inserting in lieu thereof "$25";

On page three, subsection 4.2, after the words "hotel room" by inserting a period and striking out the remainder of the sentence;

On page three, subsection 5.1, by striking out the word
“unlawful” and inserting in lieu thereof “improper”;

On page three, subsection 5.1, after the words “health club fees” by striking out the period and adding “, unless such expenses are offered to all of the panelists or speakers.”;

On page four, subsection 6.2, by striking out the word “unlawful” and inserting in lieu thereof “improper”.

And,

On page four, section 7, at the end of the section by striking out the period and adding the following: “: Provided, That public officials and public employees may accept complimentary tickets to sporting events, if the tickets are incidental to the conduct of their official or ceremonial duties.”

(c) The legislative rules filed in the state register on the thirty-first day of January, one thousand nine hundred ninety-one, modified by the ethics commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirty-first day of October, one thousand nine hundred ninety-one, relating to the ethics commission (interest in public contracts), are authorized, with the amendment set forth below:

On page two, subsection 6.2, by striking out the words “complete in every particular and including the exact” and inserting in lieu thereof “including the”.

(d) The legislative rules filed in the state register on the thirty-first day of January, one thousand nine hundred ninety-one, modified by the ethics commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirty-first day of October, one thousand nine hundred ninety-one, relating to the ethics commission (lobbying), are authorized, with the amendment set forth below:

On page three, subsection 4.3, after the words “copies of forms” by inserting a period and striking out the remainder of the sentence.

(e) The legislative rules filed in the state register on
the thirty-first day of January, one thousand nine
hundred ninety-one, modified by the ethics commission
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
seventeenth day of December, one thousand nine
hundred ninety-one, relating to the ethics commission
(private gain), are authorized, with the amendments set
forth below:

On page one, subsection 2.2, after the words “A public
official” by inserting “acting in his or her capacity as
a public official”;

On page one, subsection 2.2, after the words “the
public official.” by adding a new sentence to read as
follows: “The provisions of this subsection shall not apply
to a public official acting in his or her private capacity.”;

On pages one and two, by striking out all of section
three;

On pages two through four, by renumbering the
remaining sections;

On page two, subsection 4.1, by striking out the words
“persons in high office” and inserting in lieu thereof “a
public official or public employee”;

On page two, subsection 4.1, by striking out the words
“close friends” and inserting in lieu thereof “cohabitat-
ing sexual partners”;

On page two, subsection 4.2, after the word “sister”
by striking out the remainder of the sentence and
inserting in lieu thereof “or spouse.”;

On page two, subsection 4.3, by striking out the words
“close friend” and inserting in lieu thereof “cohabitating
sexual partner”;

On page three, subdivision 4.3.b, by striking out the
words “close friend” and inserting in lieu thereof
“cohabitating sexual partner”;

On page three, by striking out all of paragraph 4.3.b.2
and inserting in lieu thereof a new paragraph 4.3.b.2 to
read as follows:
"A public official or public employee should at least have some independent person take part in the selection. He or she should avoid using a subordinate for the independent person."

On page three, by striking out all of subsection 4.4 and inserting in lieu thereof a new subsection to read as follows:

"4.4 All hiring by public officials and public employees of relatives prior to the twenty-ninth day of February, one thousand nine hundred ninety-two is not subject to review under the ethics act, in Chapter 6B of the W. Va. Code."

On page three, subsection 4.5, by striking out the words "close friend" and inserting in lieu thereof "cohabitating sexual partner";

On page three, after subsection 4.5, by adding thereto a new subsection, designated subsection 4.6, to read as follows:

"4.6 It is improper for a public official or public employee to terminate the employment of a person without sufficient cause for the purpose of hiring a relative, friend or political supporter."

On page three, subsection 5.2, after the words "supervisor during work hours.", by adding the following sentence: "This subsection does not apply to de minimus work or services."

On page four, by striking out all of subsection 6.2 and inserting in lieu thereof a new subsection 6.2, to read as follows:

"6.2 Improper Use-Public officials and public employees shall not use government property for personal projects or activities that result in private gain. This subsection does not apply to the de minimus use of government property."

And,

On page four, by striking out all of section 9 and inserting in lieu thereof a new section 9 to read as
follows:

"Full-time appointed public officials and part-time and full-time public employees may not receive private compensation for performing private work during public work hours. This section shall not apply to de minimus private work."

(f) The legislative rules filed in the state register on the thirty-first day of January, one thousand nine hundred ninety-one, modified by the ethics commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of December, one thousand nine hundred ninety-one, relating to the ethics commission (voting), are authorized, with the amendments set forth below:

On page one, subsection 2.2, by striking out the second and third paragraphs of subsection 2.2;

And,

On page one, after subsection 2.3, by adding a new subsection, designated subsection 2.4 to read as follows:

"2.4 In any case where a Senator or Delegate is voting as part of their official duties of office, the members of the Senate and the members of the House of Delegates are governed by the rules of their respective houses. The provisions of subsection 2.3 of this rule shall not apply to members of the Legislature when acting as a member thereof."

(g) The legislative rules filed in the state register on the thirty-first day of January, one thousand nine hundred ninety-one, modified by the ethics commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of December, one thousand nine hundred ninety-one, relating to the ethics commission (employment), are authorized, with the amendments set forth below:

On page two, subsection 3.3, by striking out the words "if there is a reasonable probability that the person will
be regulated. There must be” and inserting in lieu thereof “upon”;

On page two, subdivision 4.2.c, after the word “prohibition” by inserting the words “for all practical purposes”;

On page three, by striking out all of subsections 4.5, 4.6 and 4.7;

And,

On page three, by renumbering the remaining subsections.

(h) The legislative rules filed in the state register on the ninth day of September, one thousand nine hundred ninety-two, modified by the ethics commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of January, one thousand nine hundred ninety-three, relating to the ethics commission (complaints, investigations and hearings), are authorized.

(i) The legislative rules filed in the state register on the ninth day of September, one thousand nine hundred ninety-two, modified by the ethics commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of January, one thousand nine hundred ninety-three, relating to the ethics commission (ethics commission), are authorized.

(j) The legislative rules filed in the state register on the ninth day of September, one thousand nine hundred ninety-two, modified by the ethics commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of January, one thousand nine hundred ninety-three, relating to the ethics commission (advisory opinions), are authorized.


(a) The legislative rules filed in the state register on the fifth day of November, one thousand nine hundred ninety-one, modified by the consolidated public retire-
ment board to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the sixteenth day of September, one thou-
sand nine hundred ninety-two, relating to the consoli-
dated public retirement board (general provisions), are
authorized.

(b) The legislative rules filed in the state register on
the fifth day of November, one thousand nine hundred
ninety-one, modified by the consolidated public retire-
ment board to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the sixteenth day of December, one thousand
nine hundred ninety-two, relating to the consolidated
public retirement board (public employees retirement
system), are authorized with the amendment set forth
below:

“On page one, subsection §162-5-2 after the word
‘hereby’ by striking out the word ‘appealed’ and
inserting in lieu thereof the word ‘repealed’.”

(c) The legislative rules filed in the state register on
the fifth day of November, one thousand nine hundred
ninety-one, modified by the consolidated public retire-
ment board to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the sixteenth day of December, one thousand
nine hundred ninety-two, relating to the consolidated
public retirement board (teachers' defined benefit
retirement system), are authorized with the amendment
set forth below:

“On page one, subsection §162-4-2 after the word
‘hereby’ by striking out the word ‘appealed’ and
inserting in lieu thereof the word ‘repealed’.”

(d) The legislative rules filed in the state register on
the fourth day of November, one thousand nine hundred
ninety-one, modified by the consolidated public retire-
ment board to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the sixteenth day of September, one thou-
sand nine hundred ninety-two, relating to the consoli-
dated public retirement board (teachers' defined
(c) The legislative rules filed in the state register on the fifth day of November, one thousand nine hundred ninety-one, modified by the consolidated public retirement board to meet the objections of the legislative rule-making committee and refiled in the state register on the twenty-second day of January, one thousand nine hundred ninety-three, relating to the consolidated public retirement board (benefit determination and appeal), are authorized.

§64-2-10. Committee for the purchase of commodities and services from the handicapped.

(a) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, modified by the committee for the purchase of commodities and services from the handicapped to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of February, one thousand nine hundred ninety-three, relating to the committee for the purchase of commodities and services from the handicapped (procurement list: committee for the purchase of commodities and services from the handicapped), are authorized with amendments set forth below:

On page two, subsection 2.9., by striking out the entirety of said subsection and inserting in lieu thereof the following: “‘Nonprofit workshops’, ‘workshops’ and ‘rehabilitation facility’ means an establishment (a) where any manufacture or handiwork is carried on, (b) which is operated either by a public agency or by a cooperative or by a nonprofit private corporation or nonprofit association, in which no part of the net earnings thereof inures, or may lawfully inure, to the benefit of any private shareholder or individual, (c) which is operated for the primary purpose of providing remunerative employment to blind or severely disabled persons who cannot be absorbed into the competitive labor market, and (d) which shall be approved, as evidenced by a certificate of approval, by the state board
of vocational education, division of vocational rehabilitation.

On page three, subsection 2.13., by striking out the entirety of said subsection;

On page five, subsection 4.2., by striking out the word "facility" and inserting in lieu thereof the word "workshop";

And,

On page six, subsection 4.7., by striking out the words 'certified or approved'..

(b) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, modified by the committee for the purchase of commodities and services from the handicapped to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of February, one thousand nine hundred ninety-three, relating to the committee for the purchase of commodities and services from the handicapped (qualifications for participation: committee for the purchase of commodities and services from the handicapped), are authorized with amendments set forth below:

"On page one, subsection 2.1., by striking out the entirety of said subsection;

On page one, subsection 2.3., by striking out the entirety of said subsection;

On page two, subsection 2.7., by striking out the entirety of said subsection;

On page two, subsection 2.8., by striking out the entirety of said subsection;

On page three, subsection 2.10., by striking out the entirety of said subsection and inserting in lieu thereof the following 'Nonprofit workshop', 'workshop' and 'rehabilitation facility' means an establishment (a)

which is operated either by a public agency or by a
cooperative or by a nonprofit private corporation or nonprofit association, in which no part of the net earnings thereof inures, or may lawfully inure, to the benefit of any private shareholder or individual. (c) which is operated for the primary purpose of providing remunerative employment to blind or severely disabled persons who cannot be absorbed into the competitive labor market, and (d) which shall be approved, as evidenced by a certificate of approval, by the state board of vocational education, division of vocational rehabilitation.

And,

On page four, subdivision 3.1.1.e.D., by striking out the entirety of said subsection and inserting in lieu thereof the following: “To comply with state and federal laws regarding safety standards and wage payment.”

(c) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, modified by the committee for the purchase of commodities and services from the handicapped to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of February, one thousand nine hundred ninety-three, relating to the committee for the purchase of commodities and services from the handicapped (fair market price determinations), are authorized with amendments set forth below:

“On page one, subsection 2.1., by striking out the entirety of said subsection;”

On page one, subsection 2.2., by striking out the entirety of said subsection;

On page two, subsection 2.10., by striking out the entirety of said subsection;

On page two, subsection 2.11., by striking out the entirety of said subsection;

On page three, subsection 2.14., by striking out the entirety of said subsection and inserting in lieu thereof the following:
"Nonprofit workshop', 'workshop' and 'rehabilitation facility' mean an establishment (a) where any manufacture or handiwork is carried on, (b) which is operated either by a public agency or by a cooperative or by a nonprofit private corporation or nonprofit association, in which no part of the net earnings thereof inures, or may lawfully inure, to the benefit of any private shareholder or individual, (c) which is operated for the primary purpose of providing remunerative employment to blind or severely disabled persons who cannot be absorbed into the competitive labor market, and (d) which shall be approved, as evidenced by a certificate of approval, by the state board of vocational education, division of vocational rehabilitation."

On page four, subdivision 3.3.1., by striking out the last sentence.;

And,

On page five, subdivision 3.4.1., by striking out the last two sentences."

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

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

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

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

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

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

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

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

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

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

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

(f) The legislative rules filed in the state register on the ninth day of January, one thousand nine hundred eighty-four, relating to the air pollution control commission (permits for construction and modification of stationary sources of air pollution for the prevention of significant deterioration) (series XIV), are authorized.
(g) The legislative rules filed in the state register on the thirtieth day of December, one thousand nine hundred eighty-eight, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of February, one thousand nine hundred eighty-nine, relating to the air pollution control commission (prevention and control of air pollution from hazardous waste treatment, storage or disposal facilities), are authorized.

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

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

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

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

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

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

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

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

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

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

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

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

(t) The legislative rules filed in the state register on
the eighteenth day of December, one thousand nine
hundred ninety-one, modified by the air pollution
control commission to meet the objections of the
legislative rule-making review committee and refiled in
the state register on the fifteenth day of December, one
thousand nine hundred ninety-two, relating to the air
pollution control commission (regulations to prevent and
control air pollution from the emission of volatile
organic compounds), are authorized with the amend-
ments set forth below:

"On page 26, subsection §45-21-9.2, by striking all of
§45-21-9.2 and inserting in lieu thereof a new §45-21-9.2,
to read as follows:

"9.2 Registration. — Within thirty (30) days after May
31, 1993, all persons owning and/or operating a source subject to this regulation and not previously registered shall have registered such source(s) with the chief. Provided, That on a case-by-case basis, the chief may extend the 30-day period for the registration of sources to allow sources up to one hundred eighty (180) days after May 31, 1993 to register. The information required for registration shall be determined and provided in the manner specified by the chief. Registration forms shall be requested from the chief by the owner or operator of such source(s).”

And,

“On page fifty-six, subsection §45-21-20.5a by striking out all of line “a” and its equivalent column and inserting in lieu thereof the words “a = Surface area coated per day in terms of square meters divided by 100 or surface area coated per day in terms of square feet divided by 1000.”

And,

“On page one hundred eighty-three, subsection §45-21-40.2 after the words “control technology (RACT) in section” by striking the numbers “2.57.” and inserting in lieu thereof the numbers “2.60.”

(u) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, relating to the air pollution control commission (confidential information), are authorized.

(v) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, relating to the air pollution control commission (serious and minor violations of applicable rules), are authorized.

(w) The legislative rules filed in the state register on the thirty-first day of August, one thousand nine hundred ninety-two, relating to the air pollution control commission (permits for construction and major modification of major stationary sources of air pollution for the prevention of significant deterioration), are authorized with the amendments set forth below:
“On page fourteen, subsection §45.13.6.5 after the word "within" by striking the word "twelve (12)" and inserting in lieu thereof the word "six (6)".

(x) The legislative rules filed in the state register on the twenty-eighth day of August, one thousand nine hundred ninety-two, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the air pollution control commission (regulations to prevent and control air pollution from the operation of coal preparation plants and coal handling operations), are authorized.

(y) The legislative rules filed in the state register on the thirty-first day of August, one thousand nine hundred ninety-two, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the air pollution control commission (requirements for pre-construction review, determination of emission offsets for proposed new or modified stationary sources of air pollutants and emission trading for intrasource pollutants), are authorized with amendments set forth below:

“On page twenty-one, subsection §45.19.12.5 after the word "within" by striking the word "twelve (12)" and inserting in lieu thereof the word "six (6)".

(z) The legislative rules filed in the state register on the twenty-eighth day of August, one thousand nine hundred ninety-two, modified by the air pollution control commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the air pollution control commission (requiring the submission of emission statements for volatile organic compound emissions and oxides of nitrogen emissions), are authorized with the amendments set forth below:
"On page four, section 2.27. after the words 'VOC or' by striking out the words '100 tons per year or more of'."

§64-3-2. Division of banking.

(a) The legislative rules filed in the state register on the eleventh day of June, one thousand nine hundred eighty-two, relating to commissioner of banking (communication terminals and interchange systems), are authorized.

(b) The legislative rules filed in the state register on the fifteenth day of December, one thousand nine hundred eighty-three, relating to the commissioner of banking (consumer credit sales), are authorized.

(c) The legislative rules filed in the state register on the nineteenth day of August, one thousand nine hundred eighty-three, relating to the commissioner of banking (legal lending limit), are authorized.

(d) The legislative rules filed in the state register on the seventh day of November, one thousand nine hundred eighty-six, modified by the commissioner of banking to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-six, relating to the commissioner of banking (implementing the West Virginia community reinvestment act), are authorized.

(e) The legislative rules filed in the state register on the twenty-fifth day of October, one thousand nine hundred eighty-eight, modified by the commissioner of banking to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred eighty-eight, relating to the commissioner of banking (subsidiary bank holding the stock of its parent company as collateral), are authorized.

(f) The legislative rules filed in the state register on the twelfth day of August, one thousand nine hundred ninety-one, modified by the division of banking to meet the objections of the legislative rule-making review committee and refiled in the state register on the
fifteenth day of November, one thousand nine hundred ninety-one, relating to the division of banking (West Virginia consumer credit and protection act), are authorized.

(g) The legislative rules filed in the state register on the ninth day of August, one thousand nine hundred ninety-one, modified by the division of banking to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of November, one thousand nine hundred ninety-one, relating to the division of banking (lease financing transactions), are authorized.

(h) The legislative rules filed in the state register on the ninth day of August, one thousand nine hundred ninety-one, modified by the division of banking to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of November, one thousand nine hundred ninety-one, relating to the division of banking (operation of state-chartered financial institutions in West Virginia), are authorized.

(i) The legislative rules filed in the state register on the twelfth day of August, one thousand nine hundred ninety-one, modified by the division of banking to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of November, one thousand nine hundred ninety-one, relating to the division of banking (West Virginia industrial bank and industrial loan company act), are authorized.

(j) The legislative rules filed in the state register on the twelfth day of August, one thousand nine hundred ninety-one, modified by the division of banking to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of November, one thousand nine hundred ninety-one, relating to the division of banking (West Virginia consumer credit and protection act and the money and interest article of chapter forty-seven), are authorized.
(k) The legislative rules filed in the state register on the ninth day of August, one thousand nine hundred ninety-one, modified by the division of banking to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of November, one thousand nine hundred ninety-one, relating to the division of banking (permissible additional charges in connection with a consumer credit sale), are authorized.

(l) The legislative rules filed in the state register on the twenty-sixth day of June, one thousand nine hundred ninety-two, modified by the division of banking to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of August, one thousand nine hundred ninety-two, relating to the division of banking (general rules implementing the West Virginia community reinvestment act), are authorized.

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

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

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

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

And,

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

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

Page 9, section 4.04, line five, add the following
20 paragraph:
21 "Upon request of any applicant, the division shall
22 meet with the applicant for prefiling review of the
23 application. The division, with the cooperation of the
24 solid waste authority, shall assist the applicant in
25 preparing a complete and proper application which
26 would not be rejected as incomplete."
27
28 On page 15, section 6.03(c)(1) in the first full sentence,
29 after the word "cease", strike the remainder of the
30 sentence and insert in lieu thereof the words "within
31 fifteen (15) days of receipt of an order of suspension" and
32 in the second sentence strike the word "recommence"
33 and insert the words "continue beyond fifteen (15) days";
34 (c)(2) in the first full sentence, after the word "cease"
35 by striking out the remainder of the sentence and insert
36 in lieu thereof the words "immediately upon receipt of
37 an order of revocation."
38
39 (c) The legislative rules filed in the state register on
40 the twenty-sixth day of September, one thousand nine
41 hundred eighty-four, relating to the department of
42 natural resources (public use of state parks, forests,
43 hunting and fishing areas), are authorized.
44
45 (d) The legislative rules filed in the state register on
46 the seventh day of November, one thousand nine
47 hundred eighty-four, relating to the department of
48 natural resources (surface mining reclamation), are
49 authorized.
50
51 (e) The legislative rules filed in the state register on
52 the seventh day of November, one thousand nine
53 hundred eighty-four, relating to the department of
54 natural resources (coal refuse disposal), are authorized.
55
56 (f) The legislative rules filed in the state register on
57 the ninth day of November, one thousand nine hundred
58 eighty-four, relating to the department of natural
59 resources (transfer of the state national pollutant
60 discharge elimination system program), are authorized
61 with the amendment set forth below:
62
63 Page 10-5, by striking §10B.19 and inserting in lieu
64 thereof a new §10B.19, to read as follows: "Effluent
limitations guidelines' means a regulation published by
the Administrator under Section 304(b) or Section
301(b)(1)(B) of the CWA to adopt or revise effluent
limitations or levels of effluent quality attainable
through the application of secondary or equivalent
treatment. For the coal industry these regulations are
published at 40 C.F.R. Parts 434 and 133. (See:
Appendix G and H)."

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

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

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

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

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

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

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

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

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

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

And,

On page four, §1.9.1.a by inserting the words “which-ever is less,” after the words “ten percent or more of gross personal income for a calendar year.”
(p) The legislative rules filed in the state register on the fifth day of March, one thousand nine hundred eighty-six, relating to the department of natural resources (hazardous waste management), are authorized.

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

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

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

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

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

(v) The legislative rules filed in the state register on the sixteenth day of December, one thousand nine hundred eighty-seven, modified by the department of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of January, one thousand nine hundred eighty-eight, relating to the department of natural resources (solid waste management), are authorized.
(w) The legislative rules filed in the state register on the twenty-eighth day of July, one thousand nine hundred eighty-seven, modified by the director of the department of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of August, one thousand nine hundred eighty-seven, relating to the director of the department of natural resources (boating regulations), are authorized with the amendment set forth below:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And,

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

4.11.5. Corrective Action Program.

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

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

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

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

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

On page five, section 3.3, by deleting the following:

“Submitted fees are not refundable.”

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

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

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

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

And,

On page thirteen, by striking out all of Table D, Schedule of Annual Permit Fees, and inserting in lieu thereof a new Table D, designated "Schedule of Annual Permit Fees", to read as follows:

"TABLE D
SCHEDULE OF ANNUAL PERMIT FEES
SEWAGE FACILITIES

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

INDUSTRIAL OR OTHER WASTE FACILITIES

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

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

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

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

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

(mm) The legislative rules filed in the state register on the fifteenth day of June, one thousand nine hundred ninety, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of August, one thousand nine hundred ninety, relating to the division of natural resources (underground storage tank insurance trust fund), are authorized with the amendment set forth below:
On page four, after subsection 5.1, by inserting a new subdivision 5.1.1 to read as follows:

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

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

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

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

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

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

(qq) The legislative rules filed in the state register on
the first day of July, one thousand nine hundred ninety-
one, modified by the division of natural resources to
meet the objections of the legislative rule-making review
committee and refiled in the state register on the
nineteenth day of September, one thousand nine
hundred ninety-one, relating to the division of natural
resources (special motorboating regulations), are
authorized.

(rr) The legislative rules filed in the state register on
the first day of May, one thousand nine hundred ninety-
one, modified by the division of natural resources to
meet the objections of the legislative rule-making review
committee and refiled in the state register on the
twenty-second day of July, one thousand nine hundred
ninety-one, relating to the division of natural resources
(special fishing regulations), are authorized with the
amendment set forth below:

On page one, by striking out subsection 2.1 and
inserting in lieu thereof, a new subsection 2.1, to read
as follows:

"2.1 "Daylight hours" means the time period between
sixty minutes before sunrise and sixty minutes after
sunset."

(ss) The legislative rules filed in the state register on
the first day of July, one thousand nine hundred ninety-
one, modified by the division of natural resources to
meet the objections of the legislative rule-making review
committee and refiled in the state register on the
ten-twenty-first day of November, one thousand nine
hundred ninety-one, relating to the division of natural
resources (boating regulations), are authorized.

(tt) The Legislature hereby authorizes and directs the
division of natural resources to promulgate the legisla-
tive rule relating to water pollution control permit fee
schedules, 47 CSR 26, effective the twenty-second day
of April, one thousand nine hundred ninety-one, with the
amendment set forth below:

On page eight, subdivision 7.4.1, at the end of the
subdivision by striking the period and adding the
following:

": Provided, That if the chief determines that a facility
is in substantial compliance with its existing permit, the
fee is one thousand two hundred fifty dollars
($1,250.00)."

(uu) The Legislature hereby authorizes and directs
the division of natural resources to amend its rules
relating to water pollution control permit fee schedules
which were filed in the code of state regulations (47 CSR
26) on the thirteenth day of April, one thousand nine
hundred ninety-two, with the following amendments set
forth below:

On page nine, after section 7.5, by inserting the
following:

"7.6. Facilities Discharging Stormwater. The annual
permit fee for a facility that discharges stormwater only
shall be determined through the use of Table F of these
regulations.

7.7. Aquaculture facilities. The annual permit fees
for aquaculture facilities that are subject to the
provisions of the water pollution control regulations
shall be determined by Table G of these regulations."

And after Table E, on page ten, by inserting Table
F, designated "Schedule of Annual Permit Fees For
Facilities Discharging Stormwater," and inserting
Table G, designated "Schedule of Annual Permit Fees
For Aquaculture Facilities" to read as follows:

"TABLE F
SCHEDULE OF ANNUAL PERMIT FEES FOR
FACILITIES DISCHARGING STORMWATER
Average Discharge Volume
(gallons per day) Annual Permit Fee

519
520
521
522
less than 5,001 .................................. $ 50
5,001 to 15,000 ................................ $125
15,001 to 50,000 .............................. $250
50,001 to 100,000 ............................ $500
greater than 100,000 .......................... $750"

TABLE G
SCHEDULE OF ANNUAL PERMIT FEES FOR AQUACULTURE FACILITIES

<table>
<thead>
<tr>
<th>#Feed/Month</th>
<th>Annual Fee</th>
<th>Application Fee (Initial and Reissue)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5,000 to 9,999</td>
<td>$ 250</td>
<td>$ 250</td>
</tr>
<tr>
<td>10,000 to 14,999</td>
<td>$ 500</td>
<td>$ 250</td>
</tr>
<tr>
<td>15,000 to 19,999</td>
<td>$ 750</td>
<td>$ 250</td>
</tr>
<tr>
<td>20,000 to 24,999</td>
<td>$1,000</td>
<td>$ 250</td>
</tr>
<tr>
<td>25,000 to 29,999</td>
<td>$1,250</td>
<td>$ 250</td>
</tr>
<tr>
<td>greater than 30,000</td>
<td>$1,750</td>
<td>$ 250&quot;</td>
</tr>
</tbody>
</table>

(vv) The legislative rules filed in the state register on the seventeenth day of September, one thousand nine hundred ninety-two, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of December, one thousand nine hundred ninety-two, relating to the division of natural resources (commercial sale of wildlife), are authorized.

(ww) The legislative rules filed in the state register on the ninth day of September, one thousand nine hundred ninety-two, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred ninety-two, relating to the division of natural resources (deer hunting), are authorized.

(xx) The legislative rules filed in the state register on the ninth day of September, one thousand nine hundred ninety-two, modified by the division of natural resources
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
seventh day of December, one thousand nine hundred
ninety-two, relating to the division of natural resources
(definition the terms to be used concerning all hunting
and trapping regulations), are authorized.

(yy) The legislative rules filed in the state register on
the ninth day of September, one thousand nine hundred
ninety-two, modified by the division of natural resources
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
seventh day of December, one thousand nine hundred
ninety-two, relating to the division of natural resources
(dog training), are authorized.

(zz) The legislative rules filed in the state register on
the ninth day of September, one thousand nine hundred
ninety-two, modified by the division of natural resources
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
seventh day of December, one thousand nine hundred
ninety-two, relating to the division of natural resources
(general hunting regulations), are authorized.

(aaa) The legislative rules filed in the state register
on the ninth day of September, one thousand nine
hundred ninety-two, modified by the division of natural
resources to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the seventh day of December, one thousand
nine hundred ninety-two, relating to the division of
natural resources (general trapping regulations), are
authorized.

(bbb) The legislative rules filed in the state register
on the ninth day of September, one thousand nine
hundred ninety-two, modified by the division of natural
resources to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the seventh day of December, one thousand
nine hundred ninety-two, relating to the division of
natural resources (special migratory bird hunting
regulations), are authorized.
The legislative rules filed in the state register on the ninth day of September, one thousand nine hundred ninety-two, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred ninety-two, relating to the division of natural resources (prohibitions when hunting and trapping), are authorized with the amendments set forth below:

"On page two, subsection 3.9., by striking out the words 'No person may use portable tree stands on public lands' and inserting in lieu thereof the words 'No person may use tree stands, except for portable tree stands, on public lands.'"

The legislative rules filed in the state register on the twenty-first day of April, one thousand nine hundred ninety-two, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of December, one thousand nine hundred ninety-two, relating to the division of natural resources (revocation of hunting and fishing licenses), are authorized with the amendments set forth below:

"On page two, subsection 4.1., by striking out the word 'court' and inserting in lieu thereof the word 'commission';"

And,

"On page two, subdivision 4.1.1, by striking out the word 'court' and inserting in lieu thereof the word 'commission.'"

The legislative rules filed in the state register on the ninth day of September, one thousand nine hundred ninety-two, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred ninety-two, relating to the division of natural resources (special bear hunting regulations), are authorized.
The legislative rules filed in the state register on the seventeenth day of September, one thousand nine hundred ninety-two, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of December, one thousand nine hundred ninety-two, relating to the division of natural resources (special requirements concerning boating), are authorized with the following amendment set forth below:

On page one, after subdivision 3.1, by inserting a new subdivision, designated 3.2, to read as follows:

3.2. The Pipestem Creek Cove portion of Bluestone Lake in Bluestone State Park is designated for marina use only and is restricted from fishing and other recreational use not directly related to use as a marina.

The legislative rules filed in the state register on the ninth day of September, one thousand nine hundred ninety-two, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred ninety-two, relating to the division of natural resources (special waterfowl hunting regulations), are authorized.

The legislative rules filed in the state register on the ninth day of September, one thousand nine hundred ninety-two, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred ninety-two, relating to the division of natural resources (wild boar hunting), are authorized.

The legislative rules filed in the state register on the ninth day of September, one thousand nine hundred ninety-two, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of December, one thousand nine hundred ninety-two, relating to the division of natural resources (wild boar hunting), are authorized.
(wild turkey hunting), are authorized.

(iii) The legislative rules filed in the state register on the tenth day of September, one thousand nine hundred ninety-two, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of December, one thousand nine hundred ninety-two, relating to the division of natural resources (West Virginia wildlife management areas), are authorized.

(kkk) The legislative rules filed in the state register on the seventeenth day of September, one thousand nine hundred ninety-two, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of January, one thousand nine hundred ninety-three, relating to the division of natural resources (recycling assistance fund grant program), are authorized.

§64-3-10. Water resources board.

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

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

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

(d) The legislative rules filed in the state register on the fifteenth day of November, one thousand nine hundred eighty-three, relating to the state water resources board (state national pollutant discharge elimination system (NPDES) program), are authorized.
(e) The Legislature hereby authorizes and directs the state water resources board to promulgate rules relating to water quality standards in exact conformity with the rules relating to water quality standards tendered to the secretary of state on the seventh day of March, one thousand nine hundred eighty-four, by the executive secretary of the state water resources board, to be received and filed for inclusion in the state register by the secretary of state.

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

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

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

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

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

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

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

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

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

(o) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine
hundred ninety-two, relating to the water resources
board (underground injection control), are authorized
with the amendments set forth below:

"On page two, subsection §46-9-2.3. by deleting the
entire subsection and by renumbering the following
subsections.

"On page three, subsection §46-9-2.7. after the word
"means" by striking out the remainder of the sentence
and inserting in lieu thereof the words ‘the personnel of
the Office of Water Resources and the personnel of the
Office of Oil and Gas and the Commissioner.”

"On page three, subsection §46-9-2.11. after the word
"means” by striking out the remainder of the sentence
and inserting in lieu thereof the words “Chief of the
Office of Water Resources of the Division of Environ-
mental Protection.”

"On page seven, subsection §46-9-2.59.b. by striking
out the sentence and inserting in lieu thereof the words
“which is not an exempted aquifer.”

"On page eight, subsection §46-9-3.1.b.1. after the
words “permit application for a” by striking out the
words “Class II or III” and inserting in lieu thereof the
words “Class 2 or 3”

"On page nine, subsection §46-9-4.1. by striking out
the words “Class I” and inserting in lieu thereof the
words “Class 1”.

"On page nine, subsection §46-9-4.2. by striking out
the words “Class II” and inserting in lieu thereof the
words “Class 2”.

"On page nine, subsection §46-9-4.3. by striking out
the words “Class III” and inserting in lieu thereof the
words “Class 3.”
“On page ten, subsection §46-9-4.4. by striking out the words “Class IV” and inserting in lieu thereof the words “Class 4.”

“On page ten, subsection §46-9-4.5. by striking out the definition and inserting in lieu thereof the words “Class 5. Injection wells not included in Classes 1, 2, 3, or 4. Class 5 wells include, but are not limited to”

“On page eleven, subsection §46-9-4.5.r. after the word “associated” by striking out the word “wit” and inserting in lieu thereof the word “with”.

“On page twelve, subsection §46-9-5.3.b. after the words “possible objective method:” by striking out the remainder of the subsection and inserting in lieu thereof the following:

Where “r” is equal to the square root of a quantity which consists of a numerator divided by the denominator where the numerator is equal to 2.25 multiplied by “K” multiplied by “H” multiplied by “t”; and, the denominator is equal to “S” multiplied by 10 to the “x” power. And, where “x” is equal to a numerator divided by a denominator, where the numerator is equal to four multiplied by “pi” multiplied by “K” multiplied by “H” multiplied by the quantity equal to the product of (“h(subscript w)” minus “h(subscript bo)”)) multiplied by “S(subscript p)G(subscript b)”; and, the denominator is equal to 2.3 multiplied by “Q”:

Where “r” is equal to the radius of endangering influence from injection well (length);

“k” is equal to hydraulic conductivity of the injection zone (length/time)

“H” is equal to thickness of the injection zone (length);

“t” is equal to time of injection (time);

“S” is equal to storage coefficient (dimensionless);

“Q” is equal to injection rate (volume/time);

“h(subscript bo)” is equal to observed original hydrostatic head of injection zone (length) measured from the base of the lowermost underground source of drinking
water;

"h(subscript w)" is equal to hydrostatic head of underground source of drinking water (length) measured from the base of the lowest underground source of drinking water;

"S(subscript p)G(subscript b)" is equal to specific gravity of fluid in the injection zone (dimensionless); and,

"pi" is equal to 3.142 (dimensionless).

"On page fifteen, subsection §46-9-6.2.c.1. by striking out the words “Class II” and inserting in lieu thereof the words “Class 2”;

"On page fifteen, subsection §46-9-6.2.c.2. by striking out the words “Class III” and inserting in lieu thereof the words “Class 3”;

"On page fifteen, subsection §46-9-7.1. after the words “using any” by striking out the words “Class I” and inserting in lieu thereof the words “Class 1”; 

"On page sixteen, subsection §46-9-7.3.b. after the words “comply with the” by striking out the word “requirements” and inserting in lieu thereof the word “requirements”; 

"On page eighteen, subsection §46-9-8.2.c. after the word “All” by striking out the words “Class I” and inserting in lieu thereof the words “Class 1”;

"On page nineteen, subsection §46-9-8.2.e. after the words “construction of new” by striking out the words “Class I” and inserting in lieu thereof the words “Class 1”;

"On page twenty-five, subsection §46-9-10.2. after the words “construction of” by striking out the words “Class III” and inserting in lieu thereof the words “Class 3.”;

"On page twenty-six, subsection §46-9-10.2.a. after the words “All new” by striking out the words “Class III” and inserting in lieu thereof the words “Class 3.”;

"On page twenty-six, subsection §46-9-10.2.b. after the
words “parts of” by striking out the words “Class III” and inserting in lieu thereof the words “Class 3”;

“On page twenty-six, subsection §46-9-10.2.c. after the words “construction of the new” by striking out the words “Class III” and inserting in lieu thereof the words “Class 3”; 

“On page twenty-six, subsection §46-9-10.2.c. after the words “each type of” by striking out the words “Class III” and inserting in lieu thereof the words “Class 3”;

“On page thirty, subsection §46-9-10.4.c.2. after the words “Chief reported” by striking out the word “wit” and inserting in lieu thereof the word “with”;

“On page forty, subsection §46-9-13.2.d.3. after the words “than one” by striking out the word “(10” and inserting in lieu thereof the word “(1)”

“On page forty, subsection §46-9-13.3.b. after the words “application to” by striking out the word “he” and inserting in lieu thereof the word “the”;

“On page forty-six, subsection §46-9-13.9.a. after the words “drinking water” by striking out the words “(corrective action)” by inserting in lieu thereof the words “(corrective action)”

“On page fifty-eight, subsection §46-9-13.18.a.3.ii. after the words “stayed State” by striking out the word “promulgation” and inserting in lieu thereof the word “promulgated”

And,

“On page sixty, subsection §46-9-13.22.b.1. after the word “gradient” by inserting a comma.”

(p) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, relating to the water resources board (national pollutant discharge elimination system (NPDES)), are authorized with the amendments set forth below:

“On page seventy-two, subsection §46-2-14.1 after the word “dischargers” by striking the remainder of the
sentence and inserting in lieu thereof the words “and
POTWs shall comply with the requirements of the Clean
Water Act and the regulations at 40 CFR 403 promul-
gated thereunder.”

“On page seventy-two, subsection §46-2-14.1.a.5. after
the words “accommodate such heat.” by inserting a new
subsection §46-2-14.1.a.6. to read as follows:

“6. Petroleum oil, non-biodegradable cutting oil, or
products of mineral oil origin in amounts that will cause
Interference or Pass Through.”

(q) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine
hundred ninety-two, modified by the water resources
board to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the sixteenth day of February, one thousand
nine hundred ninety-three, relating to the water
resources board (requirements governing groundwater
standards), are authorized.

(r) The legislative rules filed in the state register on
the twenty-first day of August, one thousand nine
hundred ninety-one, modified by the water resources
board to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the sixteenth day of February, one thousand
nine hundred ninety-three, relating to the water
resources board (requirements governing water quality
standards), are authorized with the amendment set forth
below:

On page nineteen, by striking out all of subdivision
8.2.c. and inserting in lieu thereof a new subdivision
8.2.c, to read as follows:

“A final determination on the critical design flow for
carcinogens is not made in this rule, in order to permit
further review and study of that issue. Following the
conclusion of such review and study, the Legislature
may again take up the authorization of this rule for
purposes of addressing the critical design flow for
carcinogens: Provided, That until such time as the
§64-3-11. Economic development authority.

(a) The legislative rules filed in the state register on the twenty-sixth day of May, one thousand nine hundred eighty-nine, modified by the West Virginia economic development authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of January, one thousand nine hundred ninety, relating to the West Virginia economic development authority (general administration of the West Virginia capital company act and the establishment of the application procedures to implement the act), are authorized.

(b) The legislative rules filed in the state register on the twentieth day of September, one thousand nine hundred ninety-one, modified by the West Virginia economic development authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of August, one thousand nine hundred ninety-two, relating to the West Virginia economic development authority (general administration of the West Virginia capital company act: establishment of the application procedures to implement the act), are authorized.

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

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

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

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

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

(e) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine
hundred ninety-two, modified by the solid waste
management board to meet the objections of the
legislative rule-making review committee and refiled in
the state register on the seventeenth day of February,
one thousand nine hundred ninety-three, relating to the
solid waste management board (rules and regulations
for the disbursement of grants to solid waste authori-
ties), are authorized.

§64-3-13. Board of manufactured housing construction
and safety.
§ 64-3-14. Division of tourism and parks.

(a) The legislative rules filed in the state register on the twenty-sixth day of April, one thousand nine hundred ninety-one, modified by the division of tourism and parks to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-seventh day of September, one thousand nine hundred ninety-one, relating to the division of tourism and parks (public use of West Virginia state parks, state forests and state hunting and fishing areas under the division of tourism and parks), are authorized with the amendment set forth below:

On page five, subsection 2.21 by striking out the words "and Tomlinson Run".

(b) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine
hundred ninety-two, modified by the division of tourism
and parks to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the eleventh day of December, one thousand
nine hundred ninety-two, relating to the division of
tourism and parks (public use of West Virginia state
parks, state forests and state hunting and fishing areas
under the division of tourism and parks), are authorized
with the amendment set forth below:

"On page five, section 2.21, after the words ‘posted
signs’ by striking out the period and inserting a colon
and the words ‘Provided, That any person, group or
association sponsoring a private party at the restaurant
at Chief Logan State Park may provide beer, wine,
liquor and all other alcoholic beverages for guests at the
private party as long as the party is not open to the
general public.’”

§64-3-15. Public energy authority.

(a) The legislative rules filed in the state register on
the twentieth day of December, one thousand nine
hundred ninety, modified by the public energy authority
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twenty-sixth day of July, one thousand nine hundred
ninety-one, relating to the public energy authority
(establishment of rules and procedure for the exercise
of the powers of eminent domain for qualified projects),
are authorized.

(b) The legislative rules filed in the state register on
the twentieth day of December, one thousand nine
hundred ninety, modified by the public energy authority
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twenty-sixth day of July, one thousand nine hundred
ninety-one, relating to the public energy authority
(establishment of a fee schedule and cost allocations to
the issuance of bonds by the West Virginia public
energy authority), are authorized.

(c) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine
hundred ninety-two, modified by the public energy
authority to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the seventeenth day of February, one
thousand nine hundred ninety-three, relating to the
public energy authority (rules and procedures for
application for and environmental assessment of pro-
jects seeking qualification for public energy authority’s
assistance), are authorized.

§64-3-16. Division of forestry.

(a) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine
hundred ninety-two, modified by the division of forestry
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twentieth day of January, one thousand nine hundred
ninety-three, relating to the division of forestry (sediment
control during commercial timber-harvesting
operations - logger certification), are authorized.

(b) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine
hundred ninety-two, modified by the division of forestry
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
sixteenth day of December, one thousand nine hundred
ninety-two, relating to the division of forestry (sediment
control during commercial timber-harvesting operations
- licensing), are authorized with the amendment set
forth below:

On page five, by striking out all of subsection 6.7.

§64-3-17. Division of environmental protection.

(a) The legislative rules filed in the state register on
the eleventh day of October, one thousand nine hundred
ninety-one, modified by the division of environmental
protection to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the ninth day of November, one thousand
nine hundred ninety-two, relating to the division of
environmental protection (operator’s designation of bona
The legislative rules filed in the state register on the third day of September, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (oil and gas wells and other wells), are authorized.

The legislative rules filed in the state register on the third day of September, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (abandoned wells), are authorized.

The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (underground storage tank assessment fees), are authorized.

The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, relating to the division of environmental protection (underground storage tanks), are authorized.

The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one
thousand nine hundred ninety-three, relating to the division of environmental protection (hazardous waste management), are authorized.

(g) The legislative rules filed in the state register on the third day of March, one thousand nine hundred ninety-two, modified by the division of environmental protection to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (groundwater protection act fee schedule), are authorized.

§64-3-18. Director of the office of miners' health, safety and training.

The legislative rules filed in the state register on the thirteenth day of November, one thousand nine hundred ninety-two, modified by the director of the office of miners' health, safety and training to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of February, one thousand nine hundred ninety-three, relating to the director of the office of miners' health, safety and training (rules and regulations governing the standards for certification of blasters for surface coal mines and surface areas of underground coal mines), are authorized.

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

§64-5-1. Department of health and human resources.

(a) The legislative rules filed in the state register on the twenty-second day of January, one thousand nine hundred ninety, modified by the secretary of the department of health and human resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of January, one thousand nine hundred ninety, relating to the secretary of the department of health and human resources (implementation of omnibus health care act), are authorized.
(b) The legislative rules filed in the state register on the twenty-second day of January, one thousand nine hundred ninety, modified by the secretary of the department of health and human resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of January, one thousand nine hundred ninety, relating to the secretary of the department of health and human resources (implementation of omnibus health care act payment provisions), are authorized.

(c) The legislative rules filed in the state register on the twentieth day of March, one thousand nine hundred ninety-two, modified by the department of health and human resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of November, one thousand nine hundred ninety-two, relating to the department of health and human resources (infectious medical waste), are authorized with the amendments set forth below:

"On page seventeen, subsection 8.2, by after the words '(45) days.' by inserting the following language: 'Facilities that treat infectious medical waste on-site shall not store the infectious medical waste more than thirty (30) days.';

On page twenty-one, subdivision 10.1.2., by after the words 'disposed of' striking out the words 'as solid waste' and inserting in lieu thereof the words 'in the same manner as ash from solid waste incineration and as provided in subdivision 10.2.5. of this rule.';

On page twenty-six, subsection 11.7., by after the words 'permit to' inserting the words 'own, operate and';

On page twenty-six, subsection 11.7., by striking out the word 'publish' and inserting in lieu thereof the words 'announce the public hearing required by subsection 11.9. of this rule by publishing';

On page twenty-six, by further amending subsection 11.7. by adding thereto a new subdivision, designated subdivision 11.7.1.4. to read as follows: 'The announce-
ment of the date, time and place where the hearing is
to be conducted, shall be made at least fourteen (14) but
not more than forty-five (45) days prior to the hearing;

And,

On page twenty-six, subsection 11.9, by after the
words 'proposing to' inserting the words 'own, construct
and'.

(d) The legislative rules filed in the state register on
the third day of September, one thousand nine hundred
ninety-two, modified by the department of health and
human resources to meet the objections of the legislative
rule-making review committee and refiled in the state
register on the twenty-seventh day of January one
thousand nine hundred ninety-three, relating to the
department of health and human resources (residential
board and care homes), are authorized.

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

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

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

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

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

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

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

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

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

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

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

(j) The legislative rules filed in the state register on
the twenty-fourth day of November, one thousand nine
hundred eighty-two, relating to the state board of health
(guardianship service), are authorized with the excep-
tion of section 9.3 of those rules which may not be
promulgated.
(k) The legislative rules filed in the state register on
the third day of June, one thousand nine hundred eighty-
two, relating to the state board of health (controlled
substances research program and certification), are
authorized.

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

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

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

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

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

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

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

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

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

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

And,

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

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

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

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

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

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

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

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

On page 3, §3.9 shall read as follows:

"3.9 Quorum — When applied to the EMSAC, a majority of the members thereof, except in the instance when at any meeting of the EMSAC, where a quorum is not present and the director causes to be deposited in the United States mail, postage prepaid, return receipt requested, to each member of the EMSAC within three days, a notice calling a meeting of the EMSAC at some convenient place in the state of West Virginia two weeks after the meeting at which no quorum was present. Quorum means any number of members of the EMSAC who attend such subsequent meeting. Any member
missing two consecutive meetings shall be removed from the EMSAC."

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

And,

On page 7, §4.10.1 shall read as follows:

"4.10.1 every applicant for certification as an EMSP prior to such certification, shall demonstrate his or her knowledge and ability by undergoing a written examination and a demonstration of skills, and by attaining a passing score on the same. Passing score shall be the same for all testing programs."

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

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

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

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

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

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

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

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

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

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

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

(hh) The legislative rules filed in the state register on the twenty-second day of June, one thousand nine hundred eighty-eight, modified by the state board of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of September, one thousand nine hundred eighty-eight, relating to the state board of health (licensure of hospice care programs), are authorized.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And,

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

### TABLE 64-30C.

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

<table>
<thead>
<tr>
<th>Type of System</th>
<th>Fees for Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I (New or Modified)</td>
<td>$100</td>
</tr>
<tr>
<td>Class II (New or Modified)</td>
<td>$100</td>
</tr>
<tr>
<td>Home Aeration Unit</td>
<td>$100</td>
</tr>
</tbody>
</table>

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

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

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

(vv) The legislative rules filed in the state register on the twenty-eighth day of December, one thousand nine hundred ninety, modified by the division of health to meet the objections of the legislative rule-making review committee and refiled in the state register on the
twenty-sixth day of July, one thousand nine hundred ninety-one, relating to the division of health (specialized health procedures), are authorized.

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

(xx) The legislative rules filed in the state register on the tenth day of September, one thousand nine hundred ninety-one, modified by the secretary of the department of health and human resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the third day of January, one thousand nine hundred ninety-two, relating to the secretary of the department of health and human resources (retail food store sanitation), are authorized.

(yy) The Legislature hereby authorizes and directs the division of health to promulgate the legislative rule relating to swimming pools and bathing beaches, 64 CSR 16, effective the fifth day of May, one thousand nine hundred eighty, with the amendment set forth below:

On page five, section 11.3 by striking out the period following the word “beach” and adding the following: "Provided, That at hotels, motels, apartment complexes, or condominiums which have swimming pools of five feet or less in depth at the deepest point, employment of lifeguards is recommended but not mandatory, whether or not the establishment charges an admission fee (gate receipt, annual pass or membership dues). If no lifeguards are employed, the management shall post a sign in a prominent location near the swimming pool stating “SWIM AT YOUR OWN RISK—ALL PERSONS UNDER THE AGE OF 14 MUST BE ACCOMPANIED BY AN ADULT.”

(zz) The legislative rules filed in the state register on the sixteenth day of September, one thousand nine
hundred ninety-two, modified by the division of health
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
seventeenth day of November, one thousand nine
hundred ninety-two, relating to the division of health
(trauma center or facility designation), are authorized.

The legislative rules filed in the state register
on the second day of November, one thousand nine
hundred ninety-two, modified by the division of health
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
nineteenth day of February, one thousand nine hundred
ninety-three, relating to the division of health (primary
care center seed money grants), are authorized.

The legislative rules filed in the state register
on the second day of November, one thousand nine
hundred ninety-two, modified by the division of health
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
nineteenth day of February, one thousand nine hundred
ninety-three, relating to the division of health (primary
care center uncompensated care grants), are authorized.

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

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

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

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

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

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

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

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

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

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

And,

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

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

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

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

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

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

(m) The legislative rules filed in the state register on the twelfth day of August, one thousand nine hundred ninety-one, modified by the health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of November, one thousand nine hundred ninety-one, relating to the health care cost review authority (health services offered by health professionals), are authorized.

(n) The legislative rules filed in the state register on the first day of May, one thousand nine hundred ninety-one, modified by the health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of July, one thousand ninety-one, relating to the health care cost review authority (review for automatic rate changes), are authorized.

(o) The legislative rules filed in the state register on the ninth day of August, one thousand nine hundred ninety-one, modified by the health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of October, one thousand
nine hundred ninety-one, relating to the health care cost
review authority (certificate of need), are authorized.

(p) The legislative rules filed in the state register on
the twelfth day of August, one thousand nine hundred
ninety-one, modified by the health care cost review
authority to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the sixteenth day of October, one thousand
nine hundred ninety-one, relating to the health care cost
review authority (exemption for shared services), are
authorized with the amendments set forth below:

On page six, subsection 4.4, after the words “Charles-
ston newspapers”, by striking out the word “and” and
inserting in lieu thereof a comma;

On page six, subsection 4.4, after the words “State
Register” by adding the words “and a newspaper of
general circulation within the area of the facility.”;

On page seven, subsection 4.5, after the words “notice
in the Saturday Charleston newspapers”, by striking out the
word “and” and inserting in lieu thereof a comma;

On page seven, subsection 4.5, before the words “the
state agency shall within ten”, by striking out the
comma and inserting the words “and a newspaper of
general circulation within the area of the facility”;

And,

On page seven, subsection 4.5, after the words “decision in the Saturday Charleston newspapers”, by
striking out the remainder of the sentence and inserting in lieu thereof the following: “, the state register and a
newspaper of general circulation within the area of the
facility.”.

(q) The legislative rules filed in the state register on
the twenty-seventh day of June, one thousand nine
hundred ninety-one, modified by the health care cost
review authority to meet the objections of the legislative
rule-making review committee and refiled in the state
register on the twenty-third day of September, one
thousand nine hundred ninety-one, relating to the health
care cost review authority (development of life care retirement centers), are authorized.

(r) The legislative rules filed in the state register on the twenty-seventh day of June, one thousand nine hundred ninety-one, modified by the health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of September, one thousand nine hundred ninety-one, relating to the health care cost review authority (conversion of acute care beds to skilled nursing care beds), are authorized.

(s) The legislative rules filed in the state register on the ninth day of August, one thousand nine hundred ninety-one, modified by the health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety-two, relating to the health care cost review authority (financial disclosure), are authorized with the amendment set forth below:

On page eighteen, after subsection 5.3, by adding thereto a new subsection, designated subsection 5.4, to read as follows:

“5.4 A covered facility which is a nonprofit, community-based primary care center providing primary care services without regard to ability to pay which provides the board with a year-end audited financial statement prepared in accordance with generally accepted auditing standards and with governmental auditing standards issued by the comptroller general of the United States shall be considered to have complied with the disclosure requirements of sections 3 and 4 of this rule.”

(t) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, modified by the health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of November, one thousand nine hundred ninety-two, relating to the health care cost review authority (exemption for birthing centers), are...
(u) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, modified by the health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of November, one thousand nine hundred ninety-two, relating to the health care cost review authority (exemption for primary care hospitals), are authorized.

(v) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, modified by the health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of November, one thousand nine hundred ninety-two, relating to the health care cost review authority (exemption for new primary care services), are authorized.

(w) The legislative rules filed in the state register on the ninth day of September, one thousand nine hundred ninety-two, modified by the health care cost review authority to meet the objections of the legislative rule-making review committee and refiled in the state register on the first day of February, one thousand nine hundred ninety-three, relating to the health care cost review authority (temporary approval of discount contracts for border hospitals), are authorized.

§64-5-6. Workers' compensation.

(a) The legislative rules filed in the state register on the fourteenth day of November, one thousand nine hundred eighty-three, relating to the workers' compensation commissioner (employers' excess liability fund), are authorized.

(b) The legislative rules filed in the state register on the twenty-fifth day of October, one thousand nine hundred eighty-four, relating to the workers' compensation commissioner (time limits for the administrative proceedings of adjudications and awards), are
(c) The legislative rules filed in the state register on the twenty-fifth day of October, one thousand nine hundred eighty-four, modified by the workers’ compensation commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the ninth day of January, one thousand nine hundred eighty-five, relating to the workers’ compensation commissioner (self-insured employers), are authorized.

(d) The legislative rules filed in the state register on the twenty-fifth day of October, one thousand nine hundred eighty-four, modified by the workers’ compensation commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of December, one thousand nine hundred eighty-four, relating to the workers’ compensation commissioner (payment of attorney’s fees), are authorized.

(e) The legislative rules filed in the state register on the sixth day of August, one thousand nine hundred eighty-five, relating to the workers’ compensation commissioner (standards for medical examination in occupational pneumoconiosis claims), are authorized with the amendments set forth below:

On page 1, the second and third unnumbered paragraphs on page one are amended to read as follows:

“When two or more ventilatory function tests performed in reasonably close proximity in time produce differing but acceptable results, the Commissioner, at the request of the O.P. Board, may direct the parties to furnish additional evidence and/or order additional testing at the laboratory utilized by the O.P. Board or other laboratories, all for the purpose of determining whether any of the results are unreliable or incorrect or are clearly attributable to some identifiable disease or illness other than occupational pneumoconiosis.”

When blood gas studies are performed and abnormal values are obtained and thereafter new blood gas studies
are performed and normal or significantly higher values are further obtained, the Commissioner, at the request of the O. P. Board, may direct the parties to furnish additional evidence and/or order additional studies at the laboratory utilized by the O. P. Board or other laboratories, all for the purpose of determining whether any of the values are unreliable or incorrect or are clearly attributable to some identifiable disease or illness other than occupational pneumoconiosis.”

And,

On page 7, paragraph (11) is amended to read as follows:

“(11) It is recognized that arterial blood gas studies done in laboratories throughout this state are obtained at different altitudes. Only by ‘standardizing’ for altitude can an equitable assessment be made of impairment when values of arterial oxygen are being measured at remarkably different altitudes. Therefore, the results reported from laboratories should include the name of the laboratory and the date and time of the testing, altitude of the laboratory and barometric pressure at the laboratory on the day the samples were collected. The O. P. Board will evaluate the arterial blood gas values by converting those values to the average altitude of Charleston, West Virginia. For this purpose, it shall be sufficient to add 1 mmHg to each arterial oxygen tension for each 300 feet or fraction thereof that the testing laboratory is located above the average altitude of Charleston, because the relationship of barometric pressure (altitude) and alveolar oxygen is approximately linear up to 4,000 feet as long as the subject breathes room air.

As an example, Bluefield is located approximately 2,600 feet above sea level. Charleston is approximately 600 feet above sea level. Thus, arterial oxygen values obtained in Bluefield should have 6.67 mmHg added to them before applying the table to them to obtain ‘percent impairment.’ The calculations are as follows:

‘Bluefield (2,600’) minus Charleston (600’) equals 2,000’
differential 2,000' divided by 300' altitude equals 6.67
6.67 multiplied by 1 mmHg per 300' altitude equals 6.67 mmHg."

(f) The legislative rules filed in the state register on the ninth day of August, one thousand nine hundred eighty-five, modified by the workers' compensation commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of January, one thousand nine hundred eighty-six, relating to the workers' compensation commissioner (administration of the coal-workers' pneumoconiosis fund), are authorized.

(g) The legislative rules filed in the state register on the thirtieth day of November, one thousand nine hundred eighty-nine, modified by the division of workers' compensation to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety, relating to the division of workers' compensation (enforcement of reporting and payment requirements), are authorized.

(h) The legislative rules filed in the state register on the sixteenth day of January, one thousand nine hundred ninety, modified by the division of workers' compensation to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of January, one thousand nine hundred ninety, relating to the division of workers' compensation (self-insured employers), are authorized.

(i) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, modified by the workers' compensation fund to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of January, one thousand nine hundred ninety-three, relating to the workers' compensation fund (self-insured employers), are authorized.

(j) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine
hundred ninety-two, modified by the division of workers' compensation to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of January, one thousand nine hundred ninety-three, relating to the division of workers' compensation (protocols and procedures for performing medical evaluations in noise-induced hearing loss claims), are authorized.

(k) The Legislature hereby authorizes and directs the division of workers' compensation to amend its rules relating to enforcement of reporting and payment requirements which were filed in the code of state regulations (85 CSR 11) on the thirtieth day of March, one thousand nine hundred ninety, with the amendments set forth below:

On page one, by striking out all of subsection 2.8 and inserting in lieu thereof a new subsection 2.8 to read as follows:

"2.8 The term "employer" has the meaning ascribed to that term by West Virginia Code, §23-2-1, which includes, but is not limited to, any individual, firm, partnership, limited partnership, copartnership, joint venture, association, corporation, organization, receiver, estate, trust, guardian, executor, administrator, or any other entity regularly employing another person or persons for the purpose of carrying on any form of industry, service or business in this state."; and

On page 3, after subsection 3.8, by inserting a new subsection 3.9, to read as follows:

"3.9 Any person required to collect, truthfully account for, and pay over to the commissioner any premium, premium deposit, interest, or penalty pursuant to the provisions of West Virginia Code, §23-2-1, et. seq., who willfully fails to collect the premium, premium deposit, interest or penalty, or truthfully account for and pay over the premium, premium deposit, interest or penalty, or willfully attempts in any manner to evade or defeat any premium, premium deposit, interest or penalty or the payment thereof, is, in addition to other penalties
provided by law, liable for a penalty equal to the total amount of the premium, premium deposit, interest or penalty evaded, or not collected, or not accounted for and paid over. The penalty is a personal obligation of the responsible person immediately due and owing to the commissioner and, in addition thereto, is a lien enforceable against all the property of the person.”

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

§64-6-2. Fire commission.

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

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

And,

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

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

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

(d) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the state fire commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of January, one thousand nine hundred ninety, relating to the state fire commission (electrician licensing), are authorized with the following amendment:

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

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

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

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

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

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

And,

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

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

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

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

§64-6-3. Jail and correctional facility standards commission.

(a) The legislative rules filed in the state register on the fifth day of November, one thousand nine hundred eighty-seven, relating to the jail and prison standards commission (West Virginia minimum standards for construction, operation and maintenance of jails), are authorized.

(b) The legislative rules filed in the state register on the ninth day of May, one thousand nine hundred eighty-eight, modified by the jail and prison standards commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-seventh day of February, one thousand nine hundred eighty-nine, relating to the jail and prison standards commission (West Virginia minimum standards for construction, operation and maintenance of holding facilities), are authorized.

(c) The legislative rules filed in the state register on the eighteenth day of March, one thousand nine hundred eighty-eight, modified by the jail and prison standards commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-seventh day of February, one thousand nine hundred eighty-nine, relating to the jail and prison standards commission (West Virginia minimum standards for construction, operation and maintenance of prisons), are authorized.

(d) The Legislature hereby authorizes and directs the jail and prison standards commission to amend its rules relating to West Virginia minimum standards for construction, operation and maintenance of jails which
were filed in the code of state regulations (95 CSR 1) on the fifth day of April, one thousand nine hundred eighty-eight, with the following amendment set forth below:

On page 7, §8.10 by striking out in the first sentence, after the word “house”, the following words: “no less than four (4)” and

On page 30 by adding a new section 17.21 to read as follows:

“17.21 Visitation to Home County. To the extent that the previous subsections provide requirements for visitation with inmates housed in regional jail facilities, it is the intent that such requirements apply only to visitation provided in a regional jail facility. When visitation with family and friends is required to be provided to a person incarcerated in a regional jail facility in a location other than the regional jail, the following provisions shall apply:

17.21.1 The regional jail need not assume the responsibility for transportation to the home county seat of a person incarcerated in the regional jail facility for visitation with their family and friends unless that person has had no visits from family and friends in the previous three months.

17.21.2 In providing any transportation under subsection 17.21.1 the regional jail has the right to schedule such transportation for visits with family and friends of the person incarcerated in a manner which would utilize to the utmost the regional jail’s regularly scheduled trips to each of the respective counties it serves, including the scheduling of round-trips, so long as a minimum of 30 minutes is available for visitation.

17.21.3 The regional jail need not assume any responsibility for transportation under subsection 17.21.1 when the distance from the regional jail to the respective county seat is less than two hours driving time.”

(e) The legislative rules filed in the state register on the twentieth day of September, one thousand nine hundred ninety-one, modified by the jail and correc-
tional facility standards commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the ninth day of July, one thousand nine hundred ninety-two, relating to the jail and correctional facility standards commission (minimum standards for construction, operation and maintenance of jails), are authorized, with the following amendment:

On page 4, section 1.1, by striking everything after the word “Scope” and inserting in lieu thereof the following: “This legislative rule establishes minimum standards and procedures for new jail facilities completed after the fifth day of April, one thousand nine hundred eighty-eight, and shall serve only as guidelines for jail facilities that were in operation prior to fifth day of April, one thousand nine hundred eighty-eight.”

(f) The Legislature hereby authorizes and directs the jail and prison standards commission to amend its rules relating to West Virginia minimum standards for construction, operation and maintenance of holding facilities which were filed in the code of state regulations (95 CSR 3) on the twenty-seventh day of June, one thousand nine hundred eighty-nine, with the following amendment:

On page 30, by striking out all of §8.7, and renumbering the following subsections.

§64-6-6. State emergency response commission.

The legislative rules filed in the state register on the ninth day of December, one thousand nine hundred ninety-one, modified by the state emergency response commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred ninety-two, relating to the state emergency response commission (SERC legislative rules), are authorized.
§64-7-2. Insurance commissioner.

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

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

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

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

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

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

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

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

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

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

(k) The legislative rules filed in the state register on the third day of December, one thousand nine hundred ninety, relating to the insurance commissioner (health
insurance benefits for temporomandibular and cranio-
mandibular disorders), are authorized.

(l) The legislative rules filed in the state register on
the twelfth day of August, one thousand nine hundred
ninety-one, modified by the insurance commissioner to
meet the objections of the legislative rule-making review
committee and refiled in the state register on the
thirteenth day of January, one thousand nine hundred
ninety-two, relating to the insurance commissioner
(guaranteed loss ratios as applied to individual sickness
and accident insurance policies), are authorized.

(m) The legislative rules filed in the state register on
the ninth day of August, one thousand nine hundred
ninety-one, modified by the insurance commissioner to
meet the objections of the legislative rule-making review
committee and refiled in the state register on the
thirteenth day of January, one thousand nine hundred
ninety-two, relating to the insurance commissioner
(examiners' compensation, qualifications and classifica-
tion), are authorized.

(n) The legislative rules filed in the state register on
the seventeenth day of July, one thousand nine hundred
ninety-one, modified by the insurance commissioner to
meet the objections of the legislative rule-making review
committee and refiled in the state register on the
thirteenth day of January, one thousand nine hundred
ninety-two, relating to the insurance commissioner
(permanent regulations on Medicare supplement insu-
rance), are authorized.

(o) The legislative rules filed in the state register on
the twelfth day of August, one thousand nine hundred
ninety-one, modified by the insurance commissioner to
meet the objections of the legislative rule-making review
committee and refiled in the state register on the
thirteenth day of January, one thousand nine hundred
ninety-two, relating to the insurance commissioner
("tail" malpractice insurance covering certain medical
and allied health care providers), are authorized.

(p) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine
hundred ninety-two, relating to the insurance commis-

(q) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine
hundred ninety-two, modified by the insurance commis-

(s) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine
hundred ninety-two, relating to the insurance commis-

(t) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine

119 hundred ninety-two, relating to the insurance commis-
120 sioner (regulation of credit life insurance and credit
121 accident and sickness insurance), are authorized.
122
122 (q) The legislative rules filed in the state register on
123 the eighteenth day of September, one thousand nine
124 hundred ninety-two, modified by the insurance commis-
125 sioner to meet the objections of the legislative rule-
126 making review committee and refiled in the state
127 register on the tenth day of December, one thousand
128 nine hundred ninety-two, relating to the insurance
129 commissioner (filing fees for purchasing groups and for
130 risk retention groups not chartered in this state), are
131 authorized.
132
132 (r) The legislative rules filed in the state register on
133 the fourteenth day of October, one thousand nine
134 hundred ninety-two, relating to the insurance commis-
135 sioner (group coordination of benefits), are authorized
136 with the amendments set forth below:
137
137 “On page six, subsection 2.1.9., after the words ‘If a
138 person is covered by more than one employer group
139 minimum benefits plan, the order of benefits determi-
140 nation rules of this regulation decide the order in which
141 their benefits are determined in relation to each other’
142 by inserting a colon and the words ‘Provided, That
143 under the provisions of West Virginia Code §5-16-12(a),
144 coverage issued pursuant to the Public Employees
145 Insurance Act is secondary to an employer group
146 minimum benefits plan and any other applicable health
147 insurance coverage.’”
148
148 (s) The legislative rules filed in the state register on
149 the eighteenth day of September, one thousand nine
150 hundred ninety-two, modified by the insurance commis-
151 sioner to meet the objections of the legislative rule-
152 making review committee and refiled in the state
153 register on the fifteenth day of January, one thousand
154 nine hundred ninety-three, relating to the insurance
155 commissioner (permanent regulations on medicare
156 supplement insurance), are authorized.
hundred ninety-two, modified by the insurance commis-

sioner to meet the objections of the legislative rule-

making review committee and refiled in the state

register on the fifteenth day of January, one thousand

nine hundred ninety-three, relating to the insurance

commissioner (individual and employer group minimum

benefits, accident and sickness insurance policies), are

authorized with the amendments set forth below:

"On page two, subsection 3.2 by striking out the period

and inserting the following: 'other than coverage issued

pursuant to the Public Employees Insurance Act, as

provided in West Virginia Code §5-16-12(a).’"

(u) The legislative rules filed in the state register on

the eighteenth day of September, one thousand nine

hundred ninety-two, modified by the insurance commis-

sioner to meet the objections of the legislative rule-

making review committee and refiled in the state

register on the fifteenth day of January, one thousand

nine hundred ninety-three, relating to the insurance

commissioner (long-term care insurance), are

authorized.

(v) The legislative rules filed in the state register on

the eighteenth day of September, one thousand nine

hundred ninety-two, modified by the insurance commis-

sioner to meet the objections of the legislative rule-

making review committee and refiled in the state

register on the fifteenth day of January, one thousand

nine hundred ninety-three, relating to the insurance

commissioner (standards for uniform health care

administration), are authorized.

§64-7-3. Board of investments.

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

the third day of January, one thousand nine hundred

eighty-four, relating to the state board of investments

(selection of state depositories for disbursement accounts

through competitive bidding), are authorized.

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

the third day of January, one thousand nine hundred

eighty-four, relating to the state board of investments
(administration of the consolidated fund), are authorized.

(c) The legislative rules filed in the state register on the ninth day of January, one thousand nine hundred ninety, modified by the state board of investments to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of January, one thousand nine hundred ninety, relating to the state board of investments (administration of the consolidated fund), are authorized.

(d) The legislative rules filed in the state register on the ninth day of January, one thousand nine hundred ninety, modified by the state board of investments to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of January, one thousand nine hundred ninety, relating to the state board of investments (administration of the consolidated pension fund), are authorized.

(e) The legislative rules filed in the state register on the thirtieth day of November, one thousand nine hundred ninety, modified by the state board of investments to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of May, one thousand nine hundred ninety-one, relating to the state board of investments (establishment of imprest funds), are authorized.

(f) The legislative rules filed in the state register on the thirtieth day of November, one thousand nine hundred ninety, modified by the state board of investments to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of May, one thousand nine hundred ninety-one, relating to the state board of investments (administration of the consolidated pension fund by the West Virginia state board of investments), are authorized.

(g) The legislative rules filed in the state register on
the thirtieth day of November, one thousand nine hundred ninety, modified by the state board of investments to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of May, one thousand nine hundred ninety-one, relating to the state board of investments (procedures for processing payments from the state treasury), are authorized.

(h) The legislative rules filed in the state register on the thirtieth day of November, one thousand nine hundred ninety, modified by the state board of investments to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of May, one thousand nine hundred ninety-one, relating to the state board of investments (selection of state depositories for disbursement accounts through competitive bidding), are authorized.

(i) The legislative rules filed in the state register on the thirtieth day of November, one thousand nine hundred ninety, modified by the state board of investments to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of May, one thousand nine hundred ninety-one, relating to the state board of investments (administration of the consolidated fund by the West Virginia state board of investments), are authorized.

(j) The legislative rules filed in the state register on the thirtieth day of November, one thousand nine hundred ninety, modified by the state board of investments to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of May, one thousand nine hundred ninety-one, relating to the state board of investments (selection of state depositories for receipt accounts), are authorized with the amendment set forth below:

On page three, section four, by striking out the period after the word "agency" and adding the words "but shall
select a depository in the same community or geographical area as the agency.”

(k) The legislative rules filed in the state register on
the thirtieth day of November, one thousand nine
hundred ninety, modified by the state board of invest-
ments to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the seventeenth day of May, one thousand
nine hundred ninety-one, relating to the state board of
investments (procedures for deposit of moneys with the
board of investments and treasurer's office by state
agencies), are authorized.

(l) The legislative rules filed in the state register on
the sixth day of November, one thousand nine hundred
ninety-one, modified by the state board of investments
 to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twenty-first day of August, one thousand nine hundred
ninety-two, relating to the state board of investments
(reporting of state debt to the West Virginia state board
of investments), are authorized.

§64-7-5. Racing commission.

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

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

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

(d) The legislative rules filed with the legislative rule-
making review committee on the tenth day of January,
one thousand nine hundred eighty-three, relating to the
West Virginia racing commission (Rule 471), are
authorized.
(e) The legislative rules filed in the state register on
the tenth day of January, one thousand nine hundred
eighty-three, relating to the West Virginia racing
commission (Rule 526), are authorized.

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

(g) The legislative rules filed in the state register on
the twentieth day of September, one thousand nine
hundred eighty-three, relating to the West Virginia
racing commission (Rule 108) greyhound racing, are
authorized with the amendment set forth below:
Following the word “Association” insert a period and
strike the remainder of the sentence.

(h) The legislative rules filed in the state register on
the twentieth day of September, one thousand nine
hundred eighty-three, relating to the West Virginia
racing commission (Rule 108) thoroughbred racing, are
authorized with the amendment set forth below:
Following the word “Association” insert a period and
strike the remainder of the sentence.

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

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

(k) The legislative rules filed in the state register on
the twentieth day of September, one thousand nine
hundred eighty-three, relating to the West Virginia
racing commission (Rule 609A) greyhound racing, are
authorized.
(l) The legislative rules filed in the state register on the twentieth day of September, one thousand nine hundred eighty-three, relating to the West Virginia racing commission (Rule 627) greyhound racing, are authorized.

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

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

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

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

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

(r) The legislative rules filed in the state register on the sixth day of August, one thousand nine hundred eighty-four, relating to the West Virginia racing commission (greyhound racing — Rule 845-1), are authorized.

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

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

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

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

(v) The legislative rules filed in the state register on
the eighteenth day of January, one thousand nine
hundred eighty-nine, modified by the West Virginia
racing commission to meet the objections of the legis-

tative rule-making review committee and refiled in the
state register on the twentieth day of February, one
thousand nine hundred eighty-nine, relating to the West
Virginia racing commission (greyhound racing), are
authorized.

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

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

(y) The legislative rules filed in the state register on
the tenth day of August, one thousand nine hundred
ninety, modified by the West Virginia racing commis-
sion to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
fourteenth day of January, one thousand nine hundred
ninety-one, relating to the West Virginia racing commis-
sion (thoroughbred racing), are authorized.

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

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

(aa) The legislative rules filed in the state register on
the twenty-ninth day of July, one thousand nine hundred
ninety-one, modified by the racing commission to meet
the objections of the legislative rule-making review
committee and refiled in the state register on the
twentieth day of September, one thousand nine hundred
ninety-one, relating to the racing commission (thoroughbred racing), are authorized.

(bb) The legislative rules filed in the state register on
the fifteenth day of August, one thousand nine hundred
ninety-one, relating to the West Virginia racing commis-
sion (greyhound racing), are authorized.

(cc) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine
hundred ninety-two, relating to the racing commission
( pari-mutuel wagering), are authorized.

(dd) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine
hundred ninety-two, modified by the racing commission
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twenty-sixth day of January, one thousand nine hundred
ninety-three, relating to the racing commission (thoroughbred racing), are authorized.

(ee) The legislative rules filed in the state register on
the eighteenth day of September, one thousand nine
hundred ninety-two, modified by the racing commission
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twenty-sixth day of January, one thousand nine hundred
ninety-three, relating to the racing commission (grey-
hound racing), are authorized.

§64-7-6. Department of tax and revenue; division of tax;
and state tax commissioner.
(a) The legislative rules filed in the state register on the fifth day of January, one thousand nine hundred eighty-four, relating to the state tax commissioner (appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes), are authorized with the amendments set forth below:

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

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

On page 11, section 11.04(b)(11), definition of “Mineable Coal,” by striking the subsection and substituting in lieu thereof the following: “(11) Mineable Coal. Coal which can be mined under present day mining technology and economics.”

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

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

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

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

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

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

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

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

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

And,

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

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

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

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

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

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

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

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

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

Page i, TABLE OF CONTENTS. Section 10; following the words “Valuation of Farmland” add the words “and of Structures Situated Thereon.”

Page 10.1, Title; following the word “FARMLAND” insert the words “AND STRUCTURES SITUATED THEREON.”

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

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

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

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

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

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

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

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

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

“(8) Farm buildings. — The term ‘farm buildings’ shall mean structures which directly contribute to the operation of the farm, and shall include tenant houses and quarters furnished farm employees without rent as a part of the terms of their employment.”

Page 10.11, Section 10.04; delete the word “November” and insert in lieu thereof the word “September.” Delete the period following the word “valuation” and add the words, “for the assessment year beginning July first of each year.”

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

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

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

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

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

Page 10.17, Section 10.05(b)(7); delete the section and insert in lieu thereof the words “(7) Whether or not the farmer practices ‘custom farming’ on the land in question.”
Page 10.17, Section 10.05(b)(9); following the word "type" add a comma and insert the word "utility."

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

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

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

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

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

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

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

Page 10.23, Section 10.05(d)(3)(B), third sentence; following the word "If" insert the words "timber from."

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

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

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

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

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

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

Page 10.31, Section 10.05(f)(3)(C)(2)(b); following the last sentence insert the sentence "An individual employed other than in farming is not an unincorporated business."

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

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

And,

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

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

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

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

(h) The legislative rules filed in the state register on the twenty-sixth day of March, one thousand nine hundred eighty-six, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of February, one thousand nine hundred eighty-seven, relating to the state tax commissioner (review of appraisals by a circuit court on certiorari), are authorized with the following amendment:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(bb) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the department of tax and revenue to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of January, one thousand nine hundred ninety, relating to the department of tax and revenue (consumers sales and service tax and use
465 tax), are authorized with the amendments set forth
466 below:
467 On page eight, Section 2.28, after the word “as” by
468 inserting the words “art, science,”.
469 On pages eight and nine, Section 2.28.1, after the word
470 “intellectual” by deleting the word “or” and inserting in
471 lieu thereof the words “physical and”.
472 On page nine, Section 2.28.2, by deleting the words “or
473 instruction.”
474 On page nine, Section 2.28.2, after the word “training”
475 by adding the word “or”.
476 On page nine, Section 2.28.2, by deleting the words “or
477 any portion of a school curriculum classified as physical
478 education.”
479 On page nine, by deleting all of Section 2.28.2.1.
480 On page nine, Section 2.28.2.2, by deleting the section
481 number.
482 On page nine, Section 2.28.2.2, by deleting the words
483 “or instruction.”
484 On page nine, Section 2.28.2.2, after the word
485 “training” by adding the word “or”.
486 On page nine, Section 2.28.2.2, after the word
487 “conditioning” by inserting a period and striking the
488 remainder of the sentence.
489 On page one hundred twelve, Section 59.2, after the
490 words “sales of the service of cremation” by adding the
491 words “sales on perpetual care trust fund deposits.”
492 And,
493 On page one hundred twenty-eight, Section 91.2, after
494 the words “include food” by inserting the following: “,
495 as defined in section 2.30 of this rule,”.
496 (cc) The legislative rules filed in the state register on
497 the eleventh day of August, one thousand nine hundred
498 eighty-nine, modified by the department of tax and
499 revenue to meet the objections of the legislative rule-
making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred eighty-nine, relating to the department of tax and revenue (motor carrier road tax), are authorized.

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

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

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

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

(hh) The legislative rules filed in the state register on the twentieth day of December, one thousand nine hundred ninety, modified by the state tax commissioner.
(ii) The legislative rules filed in the state register on the twenty-second day of April, one thousand nine hundred ninety-one, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of September, one thousand nine hundred ninety-one, relating to the state tax commissioner (bingo rules and regulations), are authorized.

(jj) The legislative rules filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-one, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of September, one thousand nine hundred ninety-one, relating to the state tax commissioner (property transfer tax), are authorized.

(kk) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the division of tax to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventh day of January, one thousand nine hundred ninety-two, relating to the division of tax (municipal business and occupation tax), are authorized with the amendments set forth below:

On page forty-six, section 2g, by striking out all of subsection 2g.3;

And,

On pages forty-six and forty-seven, by renumbering the remaining subsections.

(l) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred
ninety-one, modified by the division of tax to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety-two, relating to the division of tax (soft drinks tax), are authorized with the amendments set forth below:

On page six, subsection 5.2, in the section heading, by striking out the word “breakfast” and inserting in lieu thereof “certain bottled”;

And,

On page six, subsection 5.2, after the word “mixes” by inserting the words “low-alcoholic brewed beverages such as near beer.”

The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the division of tax to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety-two, relating to the division of tax (corporation net income tax), are authorized with the amendment set forth below:

On page twelve, subdivision 6.4.3, by striking out all of subdivision 6.4.3.

The legislative rules filed in the state register on the eighteenth day of June, one thousand nine hundred ninety-one, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety-two, relating to the state tax commissioner (appraisal of producing and reserve oil and natural gas property for periodic statewide reappraisals for ad valorem property tax purposes), are authorized.

The legislative rules filed in the state register on the ninth day of August, one thousand nine hundred ninety-one, modified by the state tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety-two,
relating to the state tax commissioner (severance tax), are authorized.

(pp) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the division of tax to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety-two, relating to the division of tax (business franchise tax), are authorized.

(qq) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the division of tax to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of January, one thousand nine hundred ninety-two, relating to the division of tax (exceptions to confidentiality of taxpayer information and disclosure of certain taxpayer information), are authorized.

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

On page six, by deleting all of subdivisions 2.25.2 and 2.25.4;

On page six, subsection 2.25 by renumbering the remaining subdivisions;

On page forty-five, paragraph 8.1.1.1, after the words “licensed social workers”, by inserting “enrolled agents, professional foresters,”;

On page forty-five, paragraph 8.1.1.1, after the word “electricians”, by striking out the words “enrolled agents”;
On page forty-five, paragraph 8.1.1.1, after the word "musicians" by striking out the word "auctioneers,;"

On page fifty-six, subdivision 9.2.19, after the word "laws" by striking out the colon and inserting the following "; such as, for example, sales by credit unions under W. Va. Code §31-10-33 the sale of services by owners, trainers or jockeys which are essential to the effective conduct of a horse or dog racing meeting under W. Va. Code §19-23-12, or the commission of an auctioneer licensed under W. Va. Code §19-2C-1 et seq.;"

On page one hundred five, subsection 33.5, by striking out the words "child care;"

On page one hundred ten, subsection 38.1 after the words "daily charge." by inserting the following sentence: "The daily charge subject to the consumers sales and service tax does not include complimentary items such as shampoo, coffee and newspapers given to guests by hotels and motels;"

On page one hundred forty-three, subsection 86.1, after the word "auctioneer" by inserting the following "licensed under W. Va. Code §19-2C-1 et seq.;"

On page one hundred forty-three, subsection 86.1, after the word "is" by inserting the word "not;"

On page one hundred forty-three, subsection 86.2 after the word "tax" by inserting the following "on the full sales price of the sales;"

On page one hundred forty-three, subsection 86.3, in the last sentence after the word "services" by inserting the following "by an auctioneer not licensed in accordance with the W. Va. Code §19-2C-1 et seq.;"

On page one hundred forty-three, subsection 86.3, in the last sentence after the word "sold" by striking out the period and adding the following ": Provided, That an auctioneer licensed in accordance with W. Va. Code §19-2C-1 et seq. is not required to collect sales tax on such fees or commissioners;"

And,
On page one hundred forty-three, subsection 86.4, by striking out the first sentence and inserting, in lieu thereof, the following sentence: "An auctioneer is taxable on all of his or her purchases except purchases for resale."

(ss) The legislative rules filed in the state register on the eighteenth day of September, one thousand nine hundred ninety-two, relating to the division of tax (bingo), are authorized.

(tt) The Legislature hereby authorizes and directs the division of tax to amend its rule relating to consumers sales and service tax and use tax which were filed in the code of state regulations (110 CSR 15) on the twenty-seventy day of April, one thousand nine hundred ninety-two, with the following amendment:

‘On page fifty-eight, by striking out all of subparagraph 9.3.4.3.d and by renumbering the remaining subparagraph,’”; and,

On page one hundred eight, section 38.1, after the words “daily charge.” by striking out the words “The daily charge subject to the consumer sales and service tax does not include complimentary items such as shampoo, coffee and newspapers given to guests by hotels and motels.” and inserting in lieu thereof the following:

“Notwithstanding the fact that persons engaged in the rendering of a service are required to pay tax on their purchases for use and/or consumption in rendering such services, the purchase by hotels, motels, tourist homes and rooming houses of complimentary items such as shampoos, coffee and newspapers given to guests by such hotels, motels, tourist homes and rooming houses are not taxable.”

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

§64-8-2. Division of motor vehicles.

(a) The legislative rules filed in the state register on the second day of December, one thousand nine hundred
eighty-two, relating to the commissioner of motor
vehicles (denial of driving privileges), are authorized
with the amendments set forth below:

By inserting the words “licensed in the United States”
after the phrase “physician of the applicant’s choice,” on
page five, line two, and page seven, line one; and by
striking out the words “licensed vision specialist” and
inserting in lieu thereof the words “an optometrist or
ophthalmologist licensed in the United States,” on page
five, line three, and on page seven, line two.

(b) The legislative rules filed in the state register on
the ninth day of November, one thousand nine hundred
eighty-three, relating to the commissioner of motor
vehicles (driving under the influence, driver’s license
revocation administrative hearings), are authorized.

(c) The legislative rules filed in the state register on
the fifteenth day of December, one thousand nine
hundred eighty-three, relating to the department of
motor vehicles (safety and treatment program), are
authorized.

(d) The legislative rules filed in the state register on
the sixteenth day of June, one thousand nine hundred
eighty-three, relating to the commissioner of motor
vehicles (compulsory insurance), are authorized.

(e) The legislative rules filed in the state register on
the twentieth day of November, one thousand nine
hundred eighty-four, relating to the commissioner of
motor vehicles (titling a vehicle), are authorized.

(f) The legislative rules filed in the state register on
the tenth day of September, one thousand nine hundred
eighty-four, modified by the commissioner of motor
vehicles to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the fifth day of October, one thousand nine
hundred eighty-four, relating to the commissioner of
motor vehicles (compulsory motor vehicle liability
insurance), are authorized.

(g) The legislative rules filed in the state register on
the fifth day of August, one thousand nine hundred
eighty-five, modified by the commissioner of motor
vehicles to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the fourth day of October, one thousand nine
hundred eighty-five, relating to the commissioner of
motor vehicles (eligibility for reinstatement following
suspension or revocation of driving privileges), are
authorized.

(h) The legislative rules filed in the state register on
the fifth day of August, one thousand nine hundred
eighty-five, relating to the commissioner of motor
vehicles (the administration and enforcement of motor
vehicle inspections), are authorized.

(i) The legislative rules filed in the state register on
the twenty-fifth day of July, one thousand nine hundred
eighty-six, modified by the commissioner of motor
vehicles to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the ninth day of October, one thousand nine
hundred eighty-six, relating to the commissioner of
motor vehicles (seizure of a driver's license and issuance
of a temporary driver's license), are authorized.

(j) The legislative rules filed in the state register on
the twenty-fifth day of July, one thousand nine hundred
eighty-six, modified by the commissioner of motor
vehicles to meet the objections of the legislative rule-
making review committee and refiled in the state
register on the ninth day of October, one thousand nine
hundred eighty-six, relating to the commissioner of
motor vehicles (federal safety standards inspection
program), are authorized.

(k) The legislative rules filed in the state register on
the seventeenth day of August, one thousand nine
hundred eighty-seven, modified by the commissioner of
motor vehicles (eligibility for reinstatement following
denial, suspension, revocation or nonrenewal of driving privileges), are
authorized with the amendments set forth below:

On page 7, section 7.2 after the words "75 m.p.h.", add the words "except on highways where the established speed limit is 65 m.p.h., and conviction was in excess of 80 m.p.h."

And,

On page 14, section 8.1 by inserting the words "not to exceed fifteen hours" after the word "course" and in section 8.2 by inserting the words "not to exceed fifteen hours" after the word "course".

(I) The legislative rules filed in the state register on the twenty-second day of November, one thousand nine hundred eighty-eight, modified by the commissioner of motor vehicles to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of January, one thousand ninety-nine, relating to the commissioner of motor vehicles (denial, suspension, revocation or nonrenewal of driving privileges), are authorized.

(m) The legislative rules filed in the state register on the thirteenth day of August, one thousand nine hundred ninety-one, modified by the division of motor vehicles to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of September, one thousand nine hundred ninety-one, relating to the division of motor vehicles (denial, suspension, revocation or nonrenewal of driving privileges), are authorized with the amendment set forth below:

"On page nine, after the words "Following too closely", by striking out the number "3" and inserting in lieu thereof the number "2".

(n) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the division of motor vehicles to meet the objections of the legislative rule-making review committee and refiled in the state register on the seventeenth day of November, one thousand nine hundred ninety-two, relating to the
division of motor vehicles (motor vehicle dealers, wreckers/ dismantlers/ rebuilders and license services), are authorized.

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

§64-9-1. Commissioner of agriculture.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(x) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred
ninety-one, modified by the commissioner of agriculture
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twenty-fourth day of September, one thousand nine
hundred ninety-one, relating to the commissioner of
agriculture (commercial feed), are authorized with the
amendments set forth below:

On page two, after subsection 3.3., by adding a new
subsection, designated subsection 3.4., to read as follows:

"3.4. The commissioner will not assess a tonnage fee
on any commercial feed or feed ingredients used in the
manufacture of poultry contract feed."

On page five, after subsection 4.3.m., by adding a new
subsection, designated subsection 4.3.n., to read as
follows:

"4.3.n. The commissioner will consider poultry
contract feed to be customer-formula feed."

And,

On page eight, after subsection 5.5., by adding a new
subsection, designated subsection 5.6., to read as follows:

"5.6. Poultry contract feed labels shall conform to the
requirements of W. Va. Code §19-14-8(d), except that:

5.6.a. The name of the grower or feeder will substitute
for the requirements for the name of the purchaser; and,
5.6.b. The net weight (avoirdupois) of the commercial
feed and each feed ingredient used in the feed shall not
be required to be listed."

(y) The legislative rules filed in the state register on
the fourth day of June, one thousand nine hundred
ninety-one, modified by the commissioner of agriculture
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
second day of August, one thousand nine hundred
ninety-one, relating to the commissioner of agriculture
(wood destroying insect treatment standards), are
authorized.

(z) The legislative rules filed in the state register on
the twentieth day of December, one thousand nine hundred ninety, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirtieth day of April, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (fee structure for the pesticide control act of 1990), are authorized.

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

(bb) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of September, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (West Virginia plant pest act), are authorized.

(cc) The legislative rules filed in the state register on the twenty-sixth day of July, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of October, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (licensing of pesticide businesses), are authorized.

(dd) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the second day of October, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (certified pesticide applicators), are authorized.
The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (assessment of civil penalties and procedures for consent agreements and negotiated settlements), are authorized.

The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (aerial application of herbicides to rights-of-way), are authorized.

The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (frozen desserts and imitation frozen desserts), are authorized, with the amendment set forth below:

On page twelve, by striking out all of section 15 and substituting a new section 15, to read as follows:


15.1. The commissioner may assess a violation of W. Va. Code §19-11B-1 et seq. or of these rules against the manufacturer of product and/or the distributor of the mix used to manufacture the product.

15.2. The commissioner will assess any violations of W. Va. Code §19-11B-1 et seq. or of this rule to the distributor for mix sampled from unopened containers."
The company will not be assessed additional cumulative notices of violations until the commissioner has determined that the firm has had adequate notice of the previous notice, generally 10 days from the mailing of the notice of violation.

15.3. Whenever one of the last five consecutive official product sample(s) taken on separate days within a one year period are found to be adulterated or misbranded, the commissioner shall send a written “First Notice” to the manufacturer or distributor whichever is appropriate. This notice shall notify the manufacturer or distributor of the violation of W. Va. Code §19-11B-1 et seq. or of these rules and the enforcement policy established by this section of the rule.

15.4. Whenever two of the last five consecutive official product sample(s) taken on separate days within a one year period are found to be adulterated or misbranded the commissioner shall send a written “Second Notice” to the manufacturer or distributor whichever is appropriate.

15.4.a. The commissioner shall collect additional official product sample(s) within 21 days of the sending of a Second Notice to the manufacturer or distributor, but shall not collect product samples before the lapse of 7 days from the sending of a Second Notice.

15.5. Whenever three of the last five consecutive official product sample(s) taken on separate days within a one year period are found to be adulterated or misbranded the commissioner shall send a written “Third Notice” to the manufacturer or distributor whichever is appropriate.

15.5.a. The commissioner shall collect additional official product sample(s) within 21 days of the sending of the Third Notice to the manufacturer or distributor, but shall not collect additional product samples before the lapse of 7 days from the date of sending of the notice.

15.6. The commissioner will issue a “Shut-down Order” for a period of 24 hours to a manufacturer or distributor when the record of the firm indicates that
effective action has not been taken to correct the causes
of the violations, for instance when three out of the last
five samples from the same machine are violative. The
“Shut-down Order” will normally be issued with the
“Third Notice”. The “Shut-down Order” will give the
reasons for the order, state the portion of the manufact-
turing or distributing operation that is prohibited from
operating while the order is in effect, give conditions of
the order, state the length of time that the Shut-down
Order will be in effect and specify a time and place for
a hearing to be held in this matter. Except that in the
case where the public health, safety or welfare is at risk,
the commissioner will issue an immediate Shut-down
Order and give notice to the manufacturer or distributor
under the provisions of subdivision 15.6.a. of this rule.

15.6.a. The commissioner will issue an immediate
Shut-down Order without giving the manufacturer or
distributor the opportunity to be heard where there is
a hazard to the public health, safety or welfare. In these
cases, the manufacturer or distributor will be given the
opportunity to request a hearing before the commis-
sioner after the notification of the order is received by
the manufacturer or distributor. All Shut-down Orders
issued due to noncompliance with subdivisions 8.1.c.,
8.1.d. or 8.1.g. of this rule are considered to involve a
risk to the public health, safety or welfare.

15.6.b. The manufacturer or distributor will be
responsible for causing all operations covered by the
Shut-down Order to cease and follow all other conditions
of the order. At the end of the period of the order, the
manufacturer or distributor may resume operations
without further action by the commissioner.

15.7. If after a Shut-down Order has been issued the
commissioner finds that effective corrective action has
not been taken, he may issue a suspension of the Frozen
Desserts Manufacturer Permit. The suspension shall
state the time that the suspension will become effective,
give the reasons for the suspension and specify a time
and place for a hearing to be held in this matter. Except
that in the case of a summary suspension the commis-
sioner will give the manufacturer the opportunity to
request a hearing in this matter subsequent to the notification of the suspension.

15.7.a. All suspensions due to nonconformance to subdivisions 8.1.c., 8.1.d. or 8.1.g. of this rule are summary suspensions.

15.7.b. A suspension of the Frozen Desserts Manufacturer Permit remains in effect until the manufacturer submits and the commissioner accepts a written plan of correction and a request for a reinstatement of the permit.

15.7.c. The commissioner has seven days from the date of receipt of this application to respond to a suspension in the case of violations of subdivisions 8.1.c., 8.1.d. or 8.1.g. of this rule and fourteen days to respond for all other violations of W. Va. Code §19-11B-1 et seq. or these rules. The commissioner will accept or deny the application for a reinstatement of the permit and will give the terms and conditions under which the permit will be reinstated.

15.8. If the commissioner finds that after the firm has resumed production following a suspension of their Frozen Desserts Manufacturer Permit that effective corrective action has not been taken, then the commissioner will hold a hearing to determine if the Frozen Desserts Manufacturer Permit should be revoked.

15.9. Persons who manufacture a product on an intermittent or infrequent basis, so that the standard enforcement policy cannot apply, will enter into a consent agreement with the commissioner for correction of all items found to be not in conformance with W. Va. Code §19-11B-1 et seq. or these rules.

15.10. Whenever an antibiotic or pesticide residue test is found to be above tolerance, the commissioner shall notify the manufacturer and/or distributor immediately of this fact and shall begin an investigation to determine the cause of the residue. The commissioner shall require that any person found to be responsible for the residue shall correct the cause of the residue prior to the resumption of the manufacturing or distribution of the
15.11. A person who performs a recall by voluntarily removing product from sale and distribution in an effective manner so as to limit the potential harm to the health and well-being of the public may be eligible for exemptions from the normal enforcement policy. The commissioner shall consider the facts of each case when making a decision on an exemption.

15.12. The commissioner may apply the enforcement policy in a liberal manner in cases where all official product sample results that involve a product in the form actually sold to the public have been found to be in conformance with W. Va. Code §19-11B-1 et seq. or these rules.

15.13. The commissioner may suspend the standard enforcement policy in cases where such action is necessary to protect the public health, safety or welfare.

15.14. Resamples will only be taken from machines that were shown to be producing violative product the previous visit, except for resamples needed to check that the nonviolative status is being maintained according to the following schedule:

15.14.a. After a first notice and one nonviolative sample, resamples will be taken between 5 to 6 months after the nonviolative sample.

15.14.b. After a second notice and one nonviolative sample, resamples will be taken between 3-4 months after the nonviolative sample.

15.14.c. Other resamples may be considered necessary to determine that the nonviolative status is being maintained.”

(hh) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety-one, relating to the commissioner of
agriculture (West Virginia apiary law of 1991), are authorized.

(ii) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (disposal of dead poultry), are authorized with the amendments set forth below:

On page two, section two, by adding a new subsection to read as follows:

"2.8 "Disposal pit" means an opening dug in the ground to a minimum depth of six feet, containing a minimum capacity of 150 cubic feet, covered with a minimum of 12 inches of dirt, and provided with one or more openings for the introduction of poultry. The openings shall be a minimum size of eight inches square and equipped with tight lids. A disposal pit shall be located in a site which will prevent contamination of the groundwater or the surface water. This site should conform to the standards established in this rule."

On page two, subsection 3.1 after the word "incinerator," by adding the words "disposal pit,"

And,

On page two, by adding a new section, designated section 4, to read as follows:

"§61-1C-4. Standards for Site Location for Disposal Pits.

1 4.1 No part of a disposal pit system shall be located in a poorly drained or filled area, or in any area where seasonal flooding occurs.

4.2 No part of a disposal pit system shall be located within 10 feet of a building, foundation or property line.

4.3 No part of a disposal pit system shall be located within 50 feet of a public water supply line or within 10 feet of a private water supply system."
4.4 A disposal pit shall be located at least 50 feet from a private well or groundwater supply.

4.5 There shall be a minimum of three feet between the bottom of a disposal pit and seasonal groundwater or rock, shale or any other impermeable layer.

4.6 The evaluation of the site for installation of a disposal pit shall be based upon percolation test results. Percolation tests shall be performed in the following manner:

4.6.1 Location - At least two holes shall be placed over the selected site. The results of these two test holes will be averaged.

4.6.2 Holes shall be dug or bored from six to eight inches in diameter at the site where the disposal pit will be installed. The holes should be at least 24 inches in depth.

4.6.3 The bottom and sides of the holes shall be scratched with a sharp pointed instrument or wire brush to remove any smeared soil surfaces which interfere with the absorption of water into the soil.

4.6.4 Loose dirt shall be removed from the bottom of the test holes and two inches of coarse sand or fine gravel shall be placed into the holes to prevent sealing.

4.6.5 An eight or ten penny nail shall be placed in the wall of each hole exactly six inches above the level of sand or gravel.

4.6.6 The test hole shall be completely filled with water to ground level. Water in the hole shall be kept to a depth of at least 12 inches for a minimum period of four hours before beginning the percolation rate measurement.

4.7 Percolation rate measurement - Upon completion of the above, the water depth in the holes shall be adjusted to the level of the nail. The number of minutes it takes for this six inches of water (all the water) to be absorbed into the soil shall be accurately determined. This time in minutes, divided by six, gives the rate of fall per inch. The average rate of fall must be between five minutes...
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and 60 minutes.”

(jj) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (licensing of livestock dealers), are authorized.

(kk) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of November, one thousand nine hundred ninety-two, relating to the commissioner of agriculture (commercial feed), are authorized.

(ll) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the commissioner of agriculture (general groundwater protection rules for fertilizers and manures), are authorized.

(mm) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the commissioner of agriculture (primary and secondary containment of fertilizers), are authorized with the amendments set forth below:

“On page five, by striking out all of subsection 5.5 and inserting in lieu thereof a new subsection 5.5 to read as
follows: 'The operator or his licensed representative shall sign and date each application under oath.'; and

   On page eighteen, by striking out all of subsection 14.1 and inserting in lieu thereof a new subsection 14.1 to read as follows:

   ‘All moneys for the purpose of the enforcement and administration of this rule shall come from general revenue funds appropriated by the legislature for that purpose. The net proceeds of civil penalties collected pursuant to W.Va. Code §20-5M-10a or any civil administrative penalties collected pursuant to W.Va. Code §20-5M-10c will be deposited in the groundwater remediation fund established in W.Va. Code §20-5M-1. et. seq.’.

   (nn) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the commissioner of agriculture (general groundwater protection rules for pesticides), are authorized.

   (oo) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the commissioner of agriculture (bulk pesticide operational rules), are authorized.

   (pp) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the commissioner of agriculture (non-bulk pesticide rules for
§64-9-12. West Virginia state board of registration for professional engineers.

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

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

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

(d) The legislative rules filed in the state register on the twelfth day of November, one thousand nine hundred ninety-two, modified by the board of registration for registered professional engineers to meet the objections of the legislative rule-making review commit-
 ...and refilled in the state register on the twenty-third day of February, one thousand nine hundred ninety-three, relating to the board of registration for professional engineers (West Virginia board of registration for professional engineers), are authorized with the amendment set forth below:

“On page thirty-five, by striking out all of subsection 19.6 and inserting in lieu thereof a new subsection 19.6 to read as follows:

“19.6 The fees for various services provided by the Board are:

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<th>Professional Engineer</th>
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<td>Examination Fees:</td>
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three Professional Engineers $30.00
Comity Application Fee: $120.00
Temporary Permit: $200.00
Roster Fee: $10.00
Replacement Certificates: $20.00
Return Check Fee: $15.00

§64-9-16. Board of medicine.

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

§24.12.

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

§24.16.

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

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

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

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

(e) The legislative rules filed in the state register on the sixteenth day of September, one thousand nine hundred eighty-eight, modified by the board of medicine to meet the objections of the legislative rule-making review committee and refilled in the state register on the twenty-fourth day of February, one thousand nine hundred eighty-nine, relating to the board of medicine (dispensing of legend drugs by physicians and podiatrists), are authorized with the following amendments:

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

And,

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

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

b. Professional samples distributed free of charge by a physician or podiatrist or certified physician assistant under his or her supervision to the patient when an appropriate record is made in the patient’s chart; or
c. Legend drugs which are not controlled substances provided by free clinics or under West Virginia state authorized programs, including the Medicaid, family planning, maternal and child health, and early and periodic screening and diagnosis and treatment programs: Provided, That all labeling provisions of section 8 shall be applicable except the requirements of section 8.3 (a)."

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

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

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

(i) The legislative rules filed in the state register on the tenth day of July, one thousand nine hundred ninety-one, modified by the board of medicine to meet the objections of the legislative rule-making review committee and refiled in the state register on the third day of September, one thousand nine hundred ninety-one,
relating to the board of medicine (continuing education for physicians and podiatrists), are authorized.

(j) The legislative rules filed in the state register on the twenty-fifth day of March, one thousand nine hundred ninety-two, modified by the board of medicine to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of May, one thousand nine hundred ninety-two, relating to the board of medicine (licensing, disciplinary and complaint procedures: physicians, podiatrists), are authorized.

(k) The legislative rules filed in the state register on the seventeenth day of September, one thousand nine hundred ninety-two, modified by the board of medicine to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of November, one thousand nine hundred ninety-two, relating to the board of medicine (certification, disciplinary and complaint procedures, continuing education, physician assistants), are authorized, with the following amendment:

On page six, section 11-1B-2, subsection 2.8 (c), after the words “in writing” and the comma, by striking out the words “prior to” and inserting in lieu thereof the words “within ten days of”.

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

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

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

(c) The legislative rules filed in the state register on the tenth day of September, one thousand nine hundred ninety-two, modified by the board of examiners for registered professional nurses to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of January, one thousand nine hundred ninety-three, relating to the board of examiners for registered professional nurses (limited prescriptive authority for nurses in advanced practice), are authorized.

§64-9-20. Board of pharmacy.

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

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

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

(e) The legislative rules filed in the state register on the twenty-eighth day of August, one thousand nine hundred ninety-one, modified by the board of pharmacy to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of January, one thousand nine hundred ninety-two, relating to the board of pharmacy (licensure of wholesale drug distributors), are authorized.

(f) The legislative rules filed in the state register on the twenty-eighth day of August, one thousand nine hundred ninety-one, modified by the board of pharmacy to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of January, one thousand nine hundred ninety-two, relating to the board of pharmacy (mail order house), are authorized.

(g) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the board of pharmacy to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of January, one thousand nine hundred ninety-three, relating to the board of pharmacy (board of pharmacy), are authorized with the amendments set forth below:

On page forty-nine, subsection (f), after the words 'who presents a' by inserting the word 'new';

And,

On page fifty, subdivision (1), after the words 'who presents a' by inserting the word 'new'.

(a) The legislative rules filed in the state register on the twentieth day of December, one thousand nine hundred eighty-four, relating to the board of examiners of psychologists (examination fee), are authorized.

(b) The legislative rules filed in the state register on the sixteenth day of September, one thousand nine hundred eighty-eight, modified by the board of examiners of psychologists to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of November, one thousand nine hundred eighty-eight, relating to the board of examiners of psychologists (penalties and fees), are authorized.

(c) The legislative rules filed in the state register on the first day of October, one thousand nine hundred ninety-one, modified by the board of examiners of psychologists to meet the objections of the legislative rule-making review committee and refiled in the state register on the eleventh day of December, one thousand nine hundred ninety-two, relating to the board of examiners of psychologists (penalties and fees), are authorized.

(d) The legislative rules filed in the state register on the first day of October, one thousand nine hundred ninety-one, modified by the board of examiners of psychologists to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixth day of August, one thousand nine hundred ninety-two, relating to the board of examiners of psychologists (qualifications for licensure as a psychologist), are authorized.

§64-9-23. Real estate commission.

(a) The legislative rules filed in the state register on the fourth day of December, one thousand nine hundred eighty-nine, modified by the real estate commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of January, one thousand nine hundred ninety, relating to the real estate commission (renewal of license - continuing education), are authorized.
(b) The legislative rules filed in the state register on the twenty-fifth day of July, one thousand nine hundred ninety-one, modified by the real estate commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of November, one thousand nine hundred ninety-one, relating to the real estate commission (requirements in licensing real estate brokers and salesmen and the conduct of brokerage businesses), are authorized.

(c) The legislative rules filed in the state register on the fourth day of September, one thousand nine hundred ninety-two, modified by the real estate commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of November, one thousand nine hundred ninety-two, relating to the real estate commission (requirements in licensing real estate brokers and salesmen and the conduct of brokerage business), are authorized.


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

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

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

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

(e) The legislative rules filed in the state register on the fourteenth day of November, one thousand nine hundred ninety, relating to the secretary of state (absentee voting by military voters who are members of reserve units called to active duty), are authorized.

(f) The legislative rules filed in the state register on the seventh day of October, one thousand nine hundred ninety-one, modified by the secretary of state to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of May, one thousand nine hundred ninety-two, relating to the secretary of state (filing fee for credit service organizations), are authorized.

(g) The legislative rules filed in the state register on the seventh day of October, one thousand nine hundred ninety-one, modified by the secretary of state to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of May, one thousand nine hundred ninety-two, relating to the secretary of state (combined voter registration and driver licensing programs), are authorized.


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

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

(c) The legislative rules filed in the state register on the fourth day of December, one thousand nine hundred ninety-two, modified by the West Virginia cable television advisory board to meet the objections of the legislative rule-making review committee and refiled in the state register on the tenth day of February, one thousand nine hundred ninety-three, relating to the West Virginia cable television advisory board (implementing regulations), are authorized.

§64-9-31. Real estate appraiser licensing and certification board.

(a) The legislative rules filed in the state register on the eighteenth day of July, one thousand nine hundred ninety-one, modified by the real estate appraiser licensing and certification board to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of November, one thousand nine hundred ninety-one, relating to the real estate appraiser licensing and certification board (rules and regulations of the real estate appraiser licensing and certification board), are authorized.

(b) The legislative rules filed in the state register on the eighteenth day of July, one thousand nine hundred ninety-one, modified by the real estate appraiser
licensing and certification board to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of November, one thousand nine hundred ninety-one, relating to the real estate appraiser licensing and certification board (requirements of licensure and certification), are authorized.

(c) The legislative rules filed in the state register on the eighteenth day of July, one thousand nine hundred ninety-one, modified by the real estate appraiser licensing and certification board to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of November, one thousand nine hundred ninety-one, relating to the real estate appraiser licensing and certification board (renewal of licensure or certification), are authorized.

(d) The legislative rules filed in the state register on the seventh day of July, one thousand nine hundred ninety-two, modified by the real estate appraiser licensing and certification board to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourteenth day of August, one thousand nine hundred ninety-two, relating to the real estate appraiser licensing and certification board (requirements of licensure and certification), are authorized.

§64-9-34. Board of occupational therapy.

The legislative rules filed in the state register on the eleventh day of September, one thousand nine hundred ninety-two, modified by the board of occupational therapy to meet the objections of the legislative rule-making review committee and refiled in the state register on the first day of February, one thousand nine hundred ninety-three, relating to the board of occupational therapy (administrative rules of the board of occupational therapy), are authorized.

§64-9-35. Board of social work examiners.

The legislative rules filed in the state register on the
thirtieth day of October, one thousand nine hundred ninety-two, modified by the board of social work examiners to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of February, one thousand nine hundred ninety-three, relating to the board of social work examiners (qualifications for licensure as a social worker), are authorized.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Donald L. Hopf
Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the day of , 1993.

Governor