WEST VIRGINIA LEGISLATURE
FIRST EXTRAORDINARY SESSION, 1994

ENROLLED

SENATE BILL NO. 1005

(By Senators Burdette, Mr. President and Bolen, By Request of the Executive)

PASSED March 14, 1994
In Effect from Passage
ENROLLED

Senate Bill No. 1005

(By Senators Burdette, Mr. President, and Boley,
By Request of the Executive)

[Passed March 16, 1994; in effect from passage.]

AN ACT to amend and reenact sections one, two, seven, eight, seventeen and eighteen, article three, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating generally to the promulgation of administrative rules and regulations by the various executive or administrative agencies and the procedures relating thereto; the legislative mandate or authorization for the promulgation of certain legislative rules by various executive and administrative agencies of the state; authorizing certain of 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 the air pollution control commission to promulgate legislative rules relating to emission standards for hazardous air pollutants; authorizing the air pollution control commission to
promulgate legislative rules relating to the air pollution control commission to prevent and control air pollution from the emission of sulfur oxides, as modified; authorizing the air pollution control commission to promulgate legislative rules relating to permits for construction, modification, relocation and operation of stationary sources of air pollutants, notification requirements, temporary permits, general permits and procedures for evaluation; authorizing the air pollution control commission to promulgate legislative rules relating to prevention and control of particulate air pollution from manufacturing process operations; authorizing the air pollution control commission to promulgate legislative rules relating to standards of performance for new stationary sources; authorizing the air pollution control commission to promulgate legislative rules relating to prevention and control of air pollution from hazardous waste treatment, storage or disposal facilities, as modified; authorizing the air pollution control commission to promulgate legislative rules relating to requirements for operating permits; authorizing the division of banking to promulgate legislative rules relating to acquisition of property by financial institutions and valuation of real estate owned by state-chartered banks, as modified; authorizing the division of banking to promulgate legislative rules relating to notice and treatment of joint accounts, as modified; authorizing the division of labor to promulgate legislative rules relating to the elevator safety act, as modified; authorizing the division of natural resources to promulgate legislative rules relating to prohibitions when hunting and trapping, as amended; authorizing the division of natural resources to promulgate legislative rules relating to special fishing, as modified and amended; authorizing the division of natural resources to promulgate legislative rules relating to commercial whitewater commission, as amended; authorizing the division of environmental protection to promulgate legislative rules relating to solid waste landfill closure assistance program, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to monitoring wells,
as modified and amended; authorizing the division of environmental protection to promulgate legislative rules relating to groundwater protection, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to groundwater protection and coal mining operations, as amended; authorizing the division of environmental protection to promulgate legislative rules relating to sewage sludge management, as modified and amended; authorizing the division of environmental protection to promulgate legislative rules relating to underground injection control fee schedule, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to underground storage tanks, as modified and amended; authorizing the division of environmental protection to promulgate legislative rules relating to commercial hazardous waste management facility siting fees, as modified and amended; authorizing the division of environmental protection to promulgate legislative rules relating to hazardous waste management; authorizing the division of environmental protection to promulgate legislative rules relating to dam safety, as modified and amended; authorizing the division of environmental protection to promulgate legislative rules relating to groundwater quality standard variances, as modified; authorizing the division of environmental protection to promulgate legislative rules relating to lead acid battery, as modified and amended; authorizing the division of environmental protection to promulgate legislative rules relating to yard waste composting, as modified and amended; authorizing the division of environmental protections to promulgate legislative rules relating to the assessment of civil administrative penalties, as modified; authorizing the director of the office of miners' health, safety and training to promulgate legislative rules relating to rules and regulations governing the standards for certification of blasters for surface coal mines and surface areas of underground coal mines, as modified; and autho-
rizing the director of the officer of miners' health, safety and training to promulgate legislative rules relating to first aid training of shaft and/or slope employees, as modified.

Be it enacted by the Legislature of West Virginia:

That sections one, two, seven, eight, seventeen and eighteen, article three, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one as amended, be amended and reenacted, all to read as follows:

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

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

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

2 (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.

3 (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.

4 (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.

5 (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."

And,

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
(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 amendments 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)."

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 eighteen 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 amendment set forth below:

On page fourteen, subsection §45.13.6.5 after the word "[W]ithin" 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 the amendment set forth below:

On page twenty-one, subsection §45.19.12.5 after the word "[W]ithin" 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”.

(aa) The legislative rules filed in the state register on the thirteenth day of August, one thousand nine hundred ninety-three, relating to the air pollution control commission (emission standards for hazardous air pollutants), are authorized.

(bb) The legislative rules filed in the state register on the thirteenth day of August, one thousand nine hundred ninety-three, 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-first day of January, one thousand nine hundred ninety-four, relating to the air pollution control commission (to prevent and control air pollution from the emission of sulfur oxides), are authorized.

(cc) The legislative rules filed in the state register on the thirteenth day of August, one thousand nine hundred ninety-three, relating to the air pollution control commission (permits for construction, modification, relocation and operation of stationary sources of air pollutants, notification requirements, temporary permits, general permits, and procedures for evaluation), are authorized.

(dd) The legislative rules filed in the state register on the seventh day of October, one thousand nine hundred ninety-three, relating to the air pollution control commission (to prevent and control particulate air pollution from manufacturing process operations), are authorized.

(ee) The legislative rules filed in the state register on the thirteenth day of August, one thousand nine hundred ninety-three, relating to the air pollution control commission (standards of performance for new station-
ary sources), are authorized.

(ff) The legislative rules filed in the state register on the thirteenth day of August, one thousand nine hundred ninety-three, modified by the air pollution control commission to meet the objections of the legislative rule-making committee and refiled in the state register on the sixth day of January, one thousand nine hundred ninety-four, relating to the air pollution control commission (to prevent and control air pollution from hazardous waste treatment, storage or disposal facilities), are authorized.

§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.

(m) The legislative rules filed in the state register on
the sixteenth day of August, one thousand nine hundred ninety-three, 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 twenty-first day of October, one thousand nine hundred ninety-three, relating to the division of banking (acquisition of property by financial institutions and valuation of real estate owned by state-chartered banks), are authorized.

(n) The legislative rules filed in the state register on the sixteenth day of August, one thousand nine hundred ninety-three, 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 November, one thousand nine hundred ninety-three, relating to the division of banking (notice and treatment of joint accounts), are authorized.

§64-3-7. Division of labor.

(a) The legislative rules filed in the state register on the tenth day of May, one thousand nine hundred eighty-two, relating to the commissioner of labor (steam boiler rules) as modified by the legislative rule-making review committee are authorized.

(b) The legislative rules filed in the state register on the seventh day of December, one thousand nine hundred eighty-three, relating to the department of labor (hazardous chemical substances), are authorized.

(c) The legislative rules filed in the state register on the second day of February, one thousand nine hundred eighty-four, relating to the department of labor (polygraph examinations), are authorized.

(d) The legislative rules filed in the state register on the twenty-second day of December, one thousand nine hundred eighty-seven, relating to the commissioner of labor (West Virginia occupational safety and health act), are authorized.

(e) The legislative rules filed in the state register on the
twenty-second day of December, one thousand nine hundred eighty-seven, modified by the commissioner of labor 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 eighty-eight, relating to the commissioner of labor (wage payment and collection act), are authorized.

(f) The legislative rules filed in the state register on the sixteenth day of November, one thousand nine hundred eighty-seven, relating to the commissioner of the department of labor (standards for weights and measures inspectors—adoption of NBS Handbook 130, 1987), are authorized.

(g) The legislative rules filed in the state register on the twelfth day of January, one thousand nine hundred eighty-eight, relating to the commissioner of labor (steam boiler inspection fee schedule), are authorized.

(h) The legislative rules filed in the state register on the thirteenth day of September, one thousand nine hundred eighty-eight, modified by the department of labor 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 department of labor (amusement rides and amusement attractions safety act), are authorized.

(i) The legislative rules filed in the state register on the sixteenth day of June, one thousand nine hundred eighty-nine, modified by the department of labor to meet the objections of the legislative rule-making review committee and refiled in the state register on the first day of August, one thousand nine hundred eighty-nine, relating to the department of labor (wage payment and collection act), are authorized.

(j) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred ninety-three, modified by the division of labor 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 ninety-three, relating to the division of labor (elevator safety 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:

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

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

And,

On 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:

On page 9, section 4.04, line five, add the following paragraph:

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

And,

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

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

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

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

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

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

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

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

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

(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
“whichever 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:

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 other-
wise, 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 groundwater quality protection standards, the existing use of such waters, the reason-able 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</th>
<th>Annual Permit Fee</th>
</tr>
</thead>
</table>
(gallons per day)

<table>
<thead>
<tr>
<th>Gallons Range</th>
<th>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</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 (restitution 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."
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 twenty-first day of November, one thousand nine hundred ninety-one, relating to the division of natural resources (boating regulations), are authorized.

The Legislature hereby authorizes and directs the division of natural resources to promulgate the legislative 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)."

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

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”;

And,

“TABLE G

SCHEDULE OF ANNUAL PERMIT FEES FOR
AQUACULTURE FACILITIES

# Feed/Month  Annual Fee  Application Fee
(Initial and
Reissuance)

5,000 to 9,999  $ 250  $ 250
10,000 to 14,999 $ 500  $ 250
15,000 to 19,999 $ 750  $ 250
20,000 to 24,999 $1,000  $ 250
25,000 to 29,999 $1,250  $ 250
greater than 30,000 $1,750  $ 250”

(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 (defining 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.

(ccc) 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.

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.”

(ddd) 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".

(eee) 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.

(fff) 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.

(ggg) 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.

(hhh) 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.

(iii) 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 turkey hunting), are authorized.

(jjj) 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.

(lil) The legislative rules filed in the state register on
the seventeenth day of August, one thousand nine
hundred ninety-three, relating to the division of natural
resources (prohibitions when hunting and trapping), are
authorized with the amendment set forth below:

On page two, by striking out sections 3.12 in its
entirety.

(mmm) The legislative rules filed in the state register
on the seventeenth day of August, one thousand nine
hundred ninety-three, 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 ninth day of November, one thousand
nine hundred ninety-three, relating to the division of
natural resources (special fishing), are authorized with
the amendment set forth below:

On page four, after 4.1.4 by adding two new subsections
to read as follows:

"4.1.5. Raleigh County Airport—A .5 acre pond at the
entrance to Raleigh County Airport.

4.1.6 Woodbine Area of Cranberry River—A 300 yard
long section of Cranberry River at the Woodbine
Recreation Area in Nicholas County."

(nnn) The legislative rules filed in the state register on
the twenty-fourth day of January, one thousand nine
hundred ninety-four, relating to the division of natural
resources (commercial whitewater commission) are
authorized, with the amendments set forth below:

On page six, subsections 6.1 and 6.2, by striking out the
word "unduly" and inserting in lieu thereof the word
"unreasonably";

And,
On page seven, subsection 7.2, by striking out the word "unduly" and inserting in lieu thereof the word "unreasonably".

§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 fide future use of oil and gas wells - qualification for inactive status), are authorized.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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 nineteenth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (groundwater protection act fee schedule), are authorized.

(h) The legislative rules filed in the state register on the twenty-third day of April, one thousand nine hundred ninety-three, 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 twenty-seventh day of October, one thousand nine hundred ninety-three, relating to the division of environmental protection (solid waste landfill closure assistance program), are authorized.

(i) The legislative rules filed in the state register on the twenty-eighth day of January, one thousand nine hundred ninety-three, relating to the division of environmental protection (solid waste management program), are authorized.
hundred ninety-three, 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 sixth day of October, one thousand nine hundred ninety-three, relating to the division of environmental protection (monitoring wells), are authorized with the amendment set forth below:

On page 2, by striking out subsection 4.1 in its entirety and inserting in lieu thereof a new subsection 4.1 as follows:

"4.1 There shall be a certified monitoring well driller on site in direct charge of actively drilling, constructing, altering, testing or abandoning any monitoring well."

(j) The legislative rules filed in the state register on the twenty-eighth day of January, one thousand nine hundred ninety-three, 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 twentieth day of January, one thousand nine hundred ninety-four, relating to the division of environmental protection (groundwater protection), are authorized.

(k) The legislative rules filed in the state register on the eighth day of February, one thousand nine hundred ninety-three, relating to the division of environmental protection (groundwater protection, coal mining operations), are authorized with the amendments set forth below:

On page 3, following section 2.11, by adding a new section to read as follows:

"2.12 Exempted coal mining operations means those operations subject to the exemption set forth in West Virginia Code, §20-5M-5(h), and which are of an earth disturbing nature resulting from and directly related to coal extraction. Exempted coal mining operations include: coal and slurry impoundments; refuse areas and on-site haulways.";
On page 3, section 3.1, by striking out the following:

"In cases where such statute or legislative rules are more restrictive or in conflict with the Act or these legislative rules, the statute or rule most protective of groundwater applies."

On page 3, by striking out all of section 3.2 and renumbering the remaining sections;

On page 3, Section 3.3, by striking out all of Section 3.3, and inserting in lieu thereof the following: “All coal mining operations which are not subject to the exemption set forth in subsection (h), Section 5 of the Act, shall conduct groundwater protection practices, and prepare and implement groundwater protection plans, as set forth in this regulation. All exempted coal mining operations must conduct groundwater protection practices consistent with West Virginia Code, §20-5A-1 et seq, and West Virginia Code, §22A-3-1 et seq. Exempted operations are not subject to the existing quality or to the related provisions of subsections (f) and (g), Section 5, of the Act. Further, exempted operations are not subject to water quality standards promulgated by the Water Resources Board pursuant to the Act. Such operations shall nonetheless be designed, constructed, operated, maintained, and closed in such manner as to reasonably protect groundwater from contamination.”;

On page 4, Section 3.4.1.a. by striking out all of Section 3.4.1.a. and inserting in lieu thereof the following: “An inventory of all operations and activities that are not exempted operations and may reasonably be expected to contaminate groundwater, and an indication of the current existence of and the potential for groundwater contamination. These include but are not limited to evaluation of materials handling areas, loading and unloading areas, equipment cleaning, maintenance activities, pipelines carrying contaminants, sumps and tanks containing contaminants.”;

On page 4, Section 3.4.2 after the word “all” by adding the words “existing non-exempt”;
On page 5, by striking out all of section 3.4.2.a.;
On page 5, by striking out all of section 3.5 and renumbering the remaining sections;
On page 6, by striking out all of section 3.5.1;
On page 6, by striking out all of section 3.5.2;
On page 6, Section 3.6, after the word “for” by inserting the words “non-coal”;
On pages 6 and 7, by striking out all of Section 3.7 and renumbering the remaining sections;
On page 11, Section 8.1, by inserting before the words “The Director may” the words “For all non-exempt coal mining operations”;
On page 11, by striking out all of Section 8.6;
On page 12, by striking out all of Section 9.2.;
And,
On page 12, following Section 9.2, by inserting a new section as follows:

“10. Appropriateness Study.

The Environmental Protection Advisory Council shall conduct a study and report back to the Joint Committee on Government and Finance on or before November 1, 1995. The study shall be an evaluation of the appropriateness and effectiveness of the rules and shall include any recommendations, modifications or alternatives thereto.”

(m) The legislative rules filed in the state register on the eighth day of July, one thousand nine hundred ninety-three, 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 twenty-first day of January, one thousand nine hundred ninety-four, relating to the division of environmental protection (sewage sludge management), are
authorized with the amendments set forth below:

On pages 7 and 8, by striking out sections 3.2.2 and 3.2.2a in their entirety and inserting in lieu thereof new sections 3.2.2 and 3.2.2a as follows:

"3.2.2. No person or entity shall be allowed to apply sewage sludge to land in a manner that will result in exceeding the maximum soil concentration for arsenic, cadmium, chromium, copper, lead, mercury, molybdenum, nickel, selenium and zinc, as listed in Table 3 of this rule and the soil testing requirements of this rule.

3.2.2a. The director shall assign an individual and lifetime loading rate for each land application site by considering background soil concentrations and maximum allowable pollutant concentrations as per Table 1 and per Table 3 of this rule, except as provided for in 3.2.2.b.

3.2.2.b. If circumstances at sewage sludge processing facilities result in short term excursions of Table 1 criteria, the director may develop temporary loading rates, for a period not to exceed six months, based on the provisional limitations of Table 2 of this rule."

On page 10, section 4.1.2 after the words "all permitted facilities", by striking out the words "whose methods of operations are not in compliance with this rule";

On page 19, section 6.4.1 by striking out "$10.00" and inserting in lieu thereof "$5.00";

On page 19, by striking out Section 6.4.2. in its entirety and by renumbering the remaining sections;

On page 19, in renumbered section 6.4.3., following the words "Fees generated pursuant to", by striking out the words "paragraphs 6.4.1 and 6.4.2" and insert in lieu thereof the words "paragraph 6.4.1";

On page 19, in the renumbered section 6.4.3, by striking out "$500,000" and inserting in lieu thereof "$200,000";
On page 21, Table 1, by striking out the title “POLUTANT CONCENTRATION OF METALS IN SEWAGE SLUDGE” and inserting in lieu thereof the title “MAXIMUM CONCENTRATION OF METALS IN SEWAGE SLUDGE FOR LAND APPLICATION”;

And,

On page 21, Table 2, by striking out the title “MAXIMUM CONCENTRATION OF METALS IN SEWAGE SLUDGE FOR LAND APPLICATION” and inserting in lieu thereof the title “PROVISIONAL MAXIMUM CONCENTRATION OF METALS IN SEWAGE SLUDGE FOR PRODUCERS NOT MEETING TABLE 1 CRITERIA”.

(n) The legislative rules filed in the state register on the twelfth day of August, one thousand nine hundred ninety-three, 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 January, one thousand nine hundred ninety-four, relating to the division of environmental protection (groundwater protection act fee schedule), are authorized.

(o) The legislative rules filed in the state register on the twelfth day of August, one thousand nine hundred ninety-three, 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 January, one thousand nine hundred ninety-four, relating to the division of environmental protection (underground injection control fee schedule), are authorized.

(p) The legislative rules filed in the state register on the twelfth day of August, one thousand nine hundred ninety-three, 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 fourteenth day of January, one thousand nine hundred ninety-four.
hundred ninety-four, relating to the division of environmental protection (underground storage tanks), are authorized with the amendments set forth below:

On page 3, section 3.4.5.a, following the word “closure” by inserting a period and the following: “The director can make available to applicants alternative testing procedures”;

And,

On page 4, subsection 3.4.6, by striking out “$100” and inserting in lieu thereof “$75”, and by striking out “$50” and inserting in lieu thereof “$35”.

(q) The legislative rules filed in the state register on the sixteenth day of August, one thousand nine hundred ninety-three, 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 twenty-first day of January, one thousand nine hundred ninety-four, relating to the division of environmental protection (commercial hazardous waste management facility siting fees), are authorized with the amendment set forth below:

On page 2, section 3.1 by striking out the words “sixty thousand dollars ($60,000)” and inserting in lieu thereof the words “one hundred thousand dollars ($100,000)”.

(r) The legislative rules filed in the state register on the sixteenth day of August, one thousand nine hundred ninety-three, relating to the division of environmental protection (hazardous waste management), are authorized.

(s) The legislative rules filed in the state register on the sixteenth day of August, one thousand nine hundred ninety-three, 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 twentieth day of January, one thousand nine hundred ninety-four, relating to the division of environ-
mental protection (dam safety), are authorized with the amendment set forth below:

On page 19, by striking out the entirety of sections 7.1.1.b.A. and 7.1.1.b.B. and inserting in lieu thereof new sections 7.1.1.b.A and 7.1.1.b.B as follows:

"7.1.1.b.A. Class A Dams - Class A dams shall be designed for a minimum P100 storm of six hours in duration.

7.1.1.b.B. Class B Dams - Class B dams shall be designed for a minimum P100 storm to one-half probable maximum precipitation storm of six hours duration. The magnitude of storm must closely relate to the degree of anticipated damage downstream based upon information supplied to the Director."

(t) The legislative rules filed in the state register on the sixteenth day of August, one thousand nine hundred ninety-three, 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 January, one thousand nine hundred ninety-four, relating to the division of environmental protection (groundwater quality standard variances), are authorized.

(u) The legislative rules filed in the state register on the sixteenth day of August, one thousand nine hundred ninety-three, 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 twenty-first day of January, one thousand nine hundred ninety-four, relating to the division of environmental protection (lead acid battery), are authorized with the amendment set forth below:

On page 3, section 3.4, by striking out the word "five (5)" and inserting in lieu thereof the word "three (3)".

(v) The legislative rules filed in the state register on the sixteenth day of August, one thousand nine hundred
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323 ninety-three, modified by the division of environmental
324 protection to meet the objections of the legislative rule-
325 making review committee and refiled in the state register
326 on the twenty-first day of January, one thousand nine
327 hundred ninety-four, relating to the division of environ-
328 mental protection (yard waste composting), are
329 authorized with the following amendment:

330 On page 2, by striking out all of section 2.3 and
331 inserting in lieu thereof a new section 2.3 as follows:

332 “2.3. “Non-residential composting activities” means a
333 composting activity by persons such as landscape
334 contractors, nurseries or greenhouses, lawn and garden
335 companies, solid waste authorities and municipalities
336 which are authorized to compost up to twelve thousand
337 (12,000) tons per year of yard waste materials consisting
338 of grass clippings, weeds, leaves, brush/shrub or tree
339 prunings and other acceptable compostable materials
340 which have been approved in writing by the chief to
341 produce a safe product for use as a soil amendment/soil
342 conditioner.”

343 (w) The legislative rules filed in the state register on
344 the twenty-eighth day of January, one thousand nine
345 hundred ninety-three, modified by the division of
346 environmental protection to meet the objections of the
347 legislative rule-making review committee and refiled in
348 the state register on the sixth day of October, one
349 thousand nine hundred ninety-three, relating to the
350 division of environmental protection (assessment of civil
351 administrative penalties), are authorized.

§64-3-18. Office of miners’ health, safety and training.

1 (a) The legislative rules filed in the state register on the
2 thirteenth day of November, one thousand nine hundred
3 ninety-two, modified by the director of the office of
4 miners’ health, safety and training to meet the objections
5 of the legislative rule-making review committee and
6 refiled in the state register on the eighteenth day of
7 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.

(b) The legislative rules filed in the state register on the twenty-seventh day of July, one thousand nine hundred ninety-three, modified by 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 second day of November, one thousand nine hundred ninety-three, relating to the office of miners' health, safety and training (first-aid training of shaft and/or slope employees), are authorized.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 6th day of April, 1994.

Governor