

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: State Tax Division TITLE NUMBER: 110

CITE AUTHORITY W. Va. Code § 11-1C-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1J

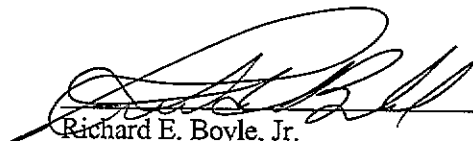
TITLE OF RULE BEING AMENDED: Valuation Of Producing And Reserve Oil And Natural Gas

For Ad Valorem Property Tax Purposes

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Richard E. Boyle, Jr.
State Tax Commissioner



CECIL H. UNDERWOOD
GOVERNOR

STATE OF WEST VIRGINIA
DEPARTMENT OF TAX AND REVENUE

TAX DIVISION
P. O. Box 2389
Charleston, West Virginia 25328-2389

ROBIN C. CAPEHART
SECRETARY

SUMMARY OF RULE

110 C.S.R. 1J

VALUATION OF PRODUCING AND RESERVE OIL AND NATURAL GAS
FOR AD VALOREM PROPERTY TAX PURPOSES

This rule explains and clarifies the methodology used to value oil and natural gas property for ad valorem tax purposes.



CECIL H. UNDERWOOD
GOVERNOR

**STATE OF WEST VIRGINIA
DEPARTMENT OF TAX AND REVENUE**

**TAX DIVISION
P. O. Box 2389
Charleston, West Virginia 25328-2389**

ROBIN C. CAPEHART
SECRETARY

STATEMENT OF CIRCUMSTANCES

110 C.S.R. 1J

**VALUATION OF PRODUCING AND RESERVE OIL AND NATURAL GAS
FOR AD VALOREM PROPERTY TAX PURPOSES**

The capitalization rate used for oil and natural gas property is highly dependent upon the capitalization rate used for coal. As the methodology used to value active and reserve coal property is being changed, necessary changes are required for the oil and natural gas properties.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Valuation of Producing and Reserve Oil and Natural Gas for Ad Valorem Property Tax Purposes.

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: State Tax Division
 Address: P.O. Box 1005
Charleston, WV 25324-1005

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

The amendments to this rule should not cause any change in agency costs.

3. Objectives of these rules:

The object of this rule is to explain and clarify the methodology used for valuing producing and reserve oil and natural gas properties.

Rule Title: Valuation of Producing and Reserve Oil and Natural Gas for Ad Valorem Property Tax Purposes.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

The amendments to the rule should have little economic impact on state government.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

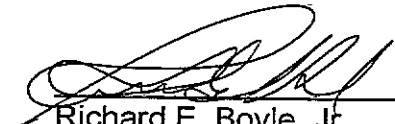
The property taxes may increase on some oil and natural gas properties and decrease on others.

C. Economic Impact on Citizens/Public at Large.

None.

Date: July 31, 1997

Signature of Agency Head or Authorized Representative



Richard E. Boyle, Jr.
State Tax Commissioner

DATE: July 31, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: State Tax Division

LEGISLATIVE RULE TITLE: Valuation Of Producing And Reserve Oil And Natural Gas
For Ad Valorem Property Tax Purposes

1. Authorizing statute(s) citation: West Virginia Code § 11-1C-1 et seq.

2. a. Date filed in State Register with Notice of Comment Period:

June 25, 1997

b. What other notice, including advertising, did you give of the comment period?

Available through the Internet

c. Date of public comment period: June 25, 1997 - July 25, 1997

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 31, 1997

f. Name and phone number(s) of agency person(s) to contact for additional information:

Jerry Knight - 558-3940

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefore?

d. Attach findings and determinations and reasons:

Attached _____

**CNG Producing
Company**

A **CNG** COMPANY

CNG Tower
1450 Poydras Street
New Orleans, LA 70112-6000
(504) 593-7516

CHRISTOPHER J. ARSENAULT
Director, Taxes

July 24, 1997

Mr. Robert Hoffman, Esq.
State Tax Division
Legal Division
P. O. Box 1005
Charleston, West Virginia 25324-1005

STATE TAX DEPT.
LEGAL DIVISION

'97 JUL 28 AM 10 25

Dear Mr. Hoffman:

Attached are comments made on behalf of CNG Producing Company with regard to draft rule "Valuation of Producing and Reserve Oil and Natural Gas for Ad Valorem Property Tax Purposes". CNG Producing is a New Orleans based producer with substantial investments in West Virginia oil and gas properties.

Should you desire any further clarification or wish to discuss this matter in more detail, please call me direct at (504) 593-7516.

Thank you for your consideration of these comments.

Sincerely,



attachment

as a "safe rate" appears incongruous with an investment in an oil and/or natural gas well, which normally is of significantly longer duration. While this disparity may be addressed in the "risk rate" subcomponent of subsection 4.5.1.b, it is suggested that the "safe rate" be pegged to investments of significantly longer duration (e.g., a five year Treasury note). This would make the "risk rate" a more accurate reflection of the risk element (which, as presently computed, includes the interest rate premium for conversion of a short term minimal risk investment to a longer term minimal risk investment.)

Subsection 4.5.1.e Inflation rate (negative).

CNGP objects to the negative inflation rate subcomponent on general grounds. A thirteen week Treasury bill will have little, if any, component for inflation. Therefore, a negative inflation subcomponent provides a deduction for an element which is not present. A second consideration is that oil and natural gas wells as natural resources will increase in value during periods of moderate or higher inflation. This will be reflected in both the price received for the resource and in the risk factor, as investors will perceive less risk in these assets during inflationary periods. It is our belief that a negative inflation factor is unnecessary and unwarranted.

If an inflation factor is a part of the final rule, use of the consumer price index is flawed. Some economists believe that the consumer price index (CPI) overstates the rate of general consumer inflation. The use of the CPI as a negative subcomponent of the discount rate will unfairly diminish the discount factor. Use of a less controversial measure, such as the producer price index, is recommended.

As a final point, it is stated that net annual income from oil and natural gas properties is to be estimated assuming level future royalties. Should this be amended to refer to level future income (including royalties)?

Subsection 4.6.1 Working interest model. How is flush production from either newly drilled wells or restimulated wells to be considered in the WI model? This is unclear.

Subsection 4.6.3 Home-use/industrial use on property consumption. It is unclear who will be assessed the property tax attributable to this component of value. Is this value to be taxable to the consumer of the natural gas (i.e., the lessor, if that is the case?)



WEST VIRGINIA AD HOC AD VALOREM TAX
COMMITTEE

July 25, 1997

Mr. Robert Hoffman, Esq.
WV Department of Tax and Revenue
Legal Division
P. O. Box 1005
Charleston, WV 25324-1005

'97 JUL 28 AM 10 29
STATE TAX DEPT.
LEGAL DIVISION

Dear Mr. Hoffman:

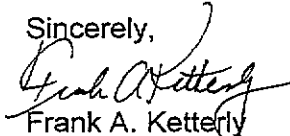
On behalf of the WV Ad Hoc Ad Valorem Tax committee I would like to express the following concerns raised by the members of the committee on the proposed rules for Valuation of Producing and Reserve Oil and Natural Gas for Ad Valorem Property Tax Purposes. The center piece of your changes focus on the calculation of the discount rate. This year the department is introducing a negative inflation rate adjustment. This adjustment provides a deduction for an element which has no apparent offset. This method attempts to use a 13 month Treasury bill to offset the negative inflation adjustment, however a 13 month bill is too short a period of time in comparing a long term assets such as an oil and gas well. A well in West Virginia can last as long as 30 years.

Also a concern of the membership is the income required to be reported on Form STC 12:35 is the previous calendar year income, prior to the assessment year. Ultimately, the current yield capitalization model includes income, up to the assessment date, that does not represent future earnings but money already earned and potentially spent by the current owner. A prospective buyer of the well would not consider this income in his offer to buy the well, and a prospective seller would be extremely fortunate to find a buyer that would be willing to include the historic income stream in the discounted cash flows used to price the well.

It is the opinion of the Committee that the current language in Section 4.8 contemplates precisely this point. Section 4.8 says in pertinent part, "**gross receipt will be proportionately reduced by application of the appropriate production decline rate...**to yield a declining terminal income series typical of the production area." Currently, the first year gross receipts as reported (historic income) are not reduced by application of the appropriate production decline rate. First year income is simply capitalized, not declined. If the first year income were declined, as stated in Section 4.8, the wording 'adjusted to the assessment date' would not be necessary. To include income within the model that a prospective buyer is not privileged to receive does not yield an accurate estimate of market value.

I would like to request a meeting with the department to discuss these with the department in order to provide all parties have the proper perspective on the changes.

Sincerely,



Frank A. Ketterly
Acting Chairman

cc: Jerry Knight
Betty Evans



ASHLAND INC. • P.O. BOX 14000 • LEXINGTON, KENTUCKY 40512 • PHONE (606) 357-7777

July 24, 1997

Mr. Robert Hoffman, Esq.
Director, Legal Division
1900 Kanawha Blvd E.
Capitol Bldg, Room W401
Charleston, WV 24305

Please find enclosed comments made on behalf of Ashland Inc. with regard to the proposed changes to the 'Valuation of Producing and Reserve Oil and Natural Gas For Ad Valorem Property Tax Purposes'. While many of the suggested changes are on point, a few cause the industry some concern.

Should you have questions regarding the enclosed, or require additional information, please feel free to call my office at 606-357-7486 at your convenience.

A handwritten signature in cursive script, reading "Mark Scott Burgess".

Mark Scott Burgess
Tax Representative

Enclosure

STATE TAX DEPT.
LEGAL DIVISION

'97 JUL 25 AM 4 08

DRAFT MODIFICATIONS TO 110 C.S.R. 1J

Suggested revision...

110-1J-2. ...West Virginia property tax law requires such ownership to be listed, valued and taxed based on its true and actual value.

Reason for revision...

Inclusion of the wording ***based on its true and actual value*** solidifies by regulation the requirement that market value be the standard as codified by WV Code §11-1A-3 and §11-3-1.

~~~~~

### *Suggested revision...*

3.6 "Flush Production" means... ***Flush production should also include wells that have been permitted and successfully reworked to the point of completion resulting in the reoccurrence of flush production.***

### *Reason for revision...*

When wells are successfully refractured a buildup of natural gas and/or oil is released, creating a resurgence of production. However, as when a well is initially drilled, this resurgence is temporary and the marked increase in income is short lived. Within two years the well falls back into a settled production scenario. By not recognizing the temporary nature of the increase in income, an unrealistic income stream is projected into the future, resulting in a market value estimate that is excessive.

~~~~~

Suggested revision...

4.6 YIELD CAPITALIZATION MODEL. – A yield capitalization model will be developed for each producing property. The model will use as a beginning point AND INCLUDE FOR EACH PRODUCING WELL, THE gross receipts (BOTH WORKING AND ROYALTY INTEREST) AND PRODUCTION AMOUNT FROM THE MOST RECENT CALENDAR YEAR PRECEDING THE JULY 1 ASSESSMENT DATE. Gross receipts AND PRODUCTION AMOUNTS will be ***initially reduced by the historic income reported then*** proportionately reduced by application of the appropriate production decline rate, referenced in Section 4.4 of THIS RULE, to yield a declining terminal income ***stream estimate*** series typical of the producing area AND STRATA. The ***future*** income ***stream estimate*** series will be apportioned to the working interest and to the royalty interest based upon percentage interests referenced in Section 4.2 of this rule.

Reason for revision...

For producing oil and gas properties, the regulations very specifically attempt to estimate the future income stream. When discounted, this future income stream represents the present worth of the well, thus the required market value estimate. However, the model currently includes in the future income estimates the historical income as reported by the company. This income, already pocketed and possibly spent, should not be included in the future income estimates. The model should begin with the historic income and production as reported, but the discounting should only occur to that income that might be procured upon purchase of the well or lease.

~~~~~

***Suggested revision...***

4.5 Capitalization Rate. -- ...The capitalization rate used to value oil and natural gas will be developed through consideration of: (1) a discount rate determined by the summation technique, and (2) a ***component that reflects the expenses related to property, income and severance taxes.***

***Reason for revision...***

Property taxes are only part of the tax expense related to the operation and management of producing oil and gas wells.

~~~~~

Suggested revision...

4.5.1.e Inflation Rate (Negative). -- Entire section should be deleted.

Reason for revision...

Incongruous with 4.5, 'based on the assumption of a declining-terminal, non-inflating income series'.

~~~~~

***Suggested addition...***

4.12 Valuation of leased, non-producing acreage to the lessee. -- Oil and/or natural gas acreage that is leased though non-producing shall carry a value to the lessee at the rate of one dollar (\$1) per leased acre to the lessee as an intangible value.

***Reason for addition...***

Should the real estate go delinquent for non-payment of taxes, proof of payment on the lessee's part keeps the lease intact with the new owner.

## PUBLIC COMMENTS AND RESPONSES

### 110 C.S.R. 1J

#### VALUATION OF PRODUCING AND RESERVE OIL AND NATURAL GAS FOR AD VALOREM PROPERTY TAX PURPOSES

Following are the public comments received to the above rule which were received during the Public Comment Period June 25, 1997 through July 25, 1997. The comment is stated in general with the response immediately provided thereafter.

**COMMENT:** Section 110-1J-2 should state "West Virginia property tax law requires such ownership to be listed, valued and taxed based on its true and actual value." Inclusion of the wording based on its true and actual value solidifies by regulation the requirement that market value be the standard as codified by WV Code §11-1A-3 and §11-3-1.

**RESPONSE:** We agree. Article X, Section 1, of the West Virginia Constitution, requires that: "...property, both real and personal, shall be taxed in proportion to its value to be ascertained as directed by law." This language will be incorporated into the Rule.

**COMMENT:** Section 110-1J-2, Introduction, is currently drafted to exclude reference to "true and actual value". Suggest second sentence of paragraph be modified to include reference to same and to read as follows: "If oil and/or natural gas is owned as a separate estate, either absolute, as a leasehold, or in conjunction with other estates, West Virginia property tax law requires such ownership to be listed, valued, and *taxed based on its true and actual value.*"  
(Changes in italics.)

This change is desirable to emphasize the ultimate goal of the valuation process - to arrive at the true and actual value.

**RESPONSE:** See previous response.

**COMMENT:** Section 110-1J-3, Definitions, should be amended as follows.

Subsection 3.6 does not address flush production caused by recompletions and restimulations. A similar provision needs to be added to account for initial variances in production due to this type of well maintenance.

**RESPONSE:** See previous response.

**COMMENT:** The definition of "Flush Production" in Section 110-1J-3.6 should be revised to say that **"Flush production should also include wells that have been permitted and successfully reworked to the point of completion resulting in the reoccurrence of flush production."** When wells are successfully refractured a buildup of natural gas and/or oil is released, creating a resurgence of production. However, as when a well is initially drilled, this resurgence is temporary and the marked increase in income is short lived. Within two years the well falls back into a settled production scenario. By not recognizing the temporary nature of the increase in income, an unrealistic income stream is projected into the future, resulting in a market value estimate that is excessive.

**RESPONSE:** A well that has been re-completed, that is having new producing zone(s) perforated and fractured, would be eligible for consideration as having flush production as long as complete documentation of the original or previous completion as well as the re-completion was supplied. The Department would not, however, recommend that accelerated decline rates that equal flush production declines should be assumed for perforated or fractured wells, without supporting documentation.

**COMMENT:** Section 110-1J-4.6 should be amended to read **"YIELD CAPITALIZATION MODEL. - A yield capitalization model will be developed for each producing property. The model will use as a beginning point AND INCLUDE FOR EACH PRODUCING WELL, THE gross receipts (BOTH WORKING AND ROYALTY INTEREST) AND PRODUCTION AMOUNT FROM THE MOST**



RECENT CALENDAR YEAR PRECEDING THE JULY 1 ASSESSMENT DATE. Gross receipts AND PRODUCTION AMOUNTS will be initially reduced by the historic income reported then proportionately reduced by application of the appropriate production decline rate, referenced in Section 4.4 of THIS RULE, to yield a declining terminal income stream estimate series set typical of the producing area AND STRATA. The future income stream estimate series will be apportioned to the working interest and to the royalty interest based upon percentage interests referenced in Section 4.2 of this rule."

For producing oil and gas properties, the regulations very specifically attempt to estimate the future income stream. When discounted, this future income stream represents the present worth of the well, thus the required market value estimate. However, the model currently includes, in the future income estimates, the historical income as reported by the company. This income, already pocketed and possibly spent, should not be included in the future income estimates. The model should begin with the historic income and production as reported, but the discounting should only occur to that income that might be procured upon purchase of the well or lease.

**RESPONSE:**

The issue of the appropriate starting point for development of an income series has been discussed in past years. Upon further discussion, the Department agrees that the initial years' gross receipts should not be used in the yield capitalization model. The Rule will be modified to delete the initial production year from the income series used in the yield capitalization model.

**COMMENT:**

Section 110-1J-4.5 should be amended to read "Capitalization Rate. - ...The capitalization rate used to value oil and natural gas will be developed through consideration of: (1) a discount rate determined by the summation technique, and (2) a **component that reflects**

the expenses related to property, income and severance taxes."

Property taxes are only part of the tax expense related to the operation and management of producing oil and gas wells.

**RESPONSE:** The discount component is adjusted to assume a pre-tax income series, (before income and severance taxes), therefore, expanding the tax component to include these items is not necessary.

**COMMENT:** Section 110-1J-4.5.1.e, Inflation Rate (Negative), should be deleted.

That subsection is incongruous with 4.5, 'based on the assumption of a declining-terminal, **non-inflating** income series'.

**RESPONSE:** The inflation rate adjustment is intended to recognize that typically, investors anticipate and adjust for inflation (the opportunity cost of capital). The fact that the market anticipates inflation and the income stream is non-inflating is the very reason that an adjustment is necessary.

**COMMENT:** A new subsection should be added to Section 4: Valuation of leased, non-producing acreage to the lessee. - Oil and/or natural gas acreage that is leased though non-producing shall carry a value to the lessee at the rate of one dollar (\$1) per leased acre to the lessee as an intangible value.

Should the real estate go delinquent for non-payment of taxes, proof of payment on the lessee's part keeps the lease intact with the new owner.

**RESPONSE:** The responsibility for paying real property taxes is that of the property owner and the Rule is written to accommodate this requirement.

**COMMENT:** Subsection 3.9 is confusing. Since the "Market comparison discount" is not a subcomponent of the capitalization rate set forth in section 4.5, is this definition necessary?

**RESPONSE:** The "Market Comparison Discount" component will be deleted from the Rule.

**COMMENT:** Subsection 3.15 - Does the definition of operating expenses include all of the expenses related to field line operation to the (metered) field point of sale?

**RESPONSE:** The Definition includes any ordinary maintenance or inspection of field lines to the point of sale (see 3.17), but not extraordinary expenses such as re-routing and/or replacement of field lines.

**COMMENT:** Section 110-1J-4, Methods of Valuation, should be clarified as follows.

Subsection 4.1 General. This subsection refers to "expenses" ("gross receipts less royalties paid less expenses"). It is suggested that a reference is made to the definition of "operating expenses" contained in subsection 3.15, if this is the intention of the drafter. If not the intention, what other expenses are to be considered for purposes of valuation?

**RESPONSE:** The intention of "less expenses" does refer to 3.15 "operating expenses". The Rule will be modified to reference expenses as "operating expenses" in Section 4.1.

**COMMENT:** Subsection 4.5.1.a, Safe Rate. The use of a 13 week Treasury rate as a "safe rate" appears incongruous with an investment in an oil and/or natural gas well, which normally is of significantly longer duration. While this disparity may be addressed in the "risk rate" subcomponent of subsection 4.5.1.b, it is suggested that the "safe rates be pegged to investments of significantly longer duration (e.g., a five year Treasury note). This would make the

"risk rate" a more accurate reflection of the risk element (which, as presently computed, includes the interest rate premium for conversion of a short term minimal risk investment to a longer term minimal risk investment.)

**RESPONSE:**

The safe rate by definition should be limited to a short-term investment. Review of Treasury bills for a time period of longer than 13 weeks reveals an interest premium (risk) for more lengthy investments. The Department will, therefore, continue to recommend that a safe rate should be equated to 13 week Treasury bills.

**COMMENT:**

Subsection 4.5.1.e, Inflation rate (negative). CNGP objects to the negative inflation rate subcomponent on general grounds. A thirteen week Treasury bill will have little, if any, component for inflation. Therefore, a negative inflation subcomponent provides a deduction for an element which is not present. A second consideration is that oil and natural gas wells as natural resources will increase in value during periods of moderate or higher inflation. This will be reflected in both the price received for the resource and in the risk factor, as investors will perceive less risk in these assets during inflationary periods. It is our belief that a negative inflation factor is unnecessary and unwarranted.

If an inflation factor is a part of the final rule, use of the consumer price index is flawed. Some economists believe that the consumer price index (CPI) overstates the rate of general consumer inflation. The use of the CPI as a negative subcomponent of the discount rate will unfairly diminish the discount factor. Use of a less controversial measure, such as the producer price index, is recommended.

As a final point, it is stated that net annual income from oil and natural gas properties is to be estimated assuming level future royalties. Should this be amended to refer to level future income (including royalties)?

**RESPONSE:** Investors typically establish required return on investments assuming a component for inflation (opportunity cost of capital). However, the income series is a non-inflating series and, thus, an adjustment is required for inflation in the capitalization rate. The comment concerning level future royalties is unclear and is not identified by rule reference. Clarification is needed to enable review and response.

**COMMENT:** Subsection 4.6.1, Working interest model. How is flush production from either newly drilled wells or restimulated wells to be considered in the WI model? This is unclear.

**RESPONSE:** The proposed rule would treat flush production as does the current rule. The procession uses accelerated declines for the first two years of production and then applies a settled decline rate to the point on the income series where working interest receipts are equal to or less than operating expenses.

**COMMENT:** Subsection 4.6.3, Home-use/industrial use on property consumption. It is unclear who will be assessed the property tax attributable to this component of value. Is this value to be taxable to the consumer of the natural gas (i.e., the lessor, if that is the case?)

**RESPONSE:** The property owner will be assessed for the value of on-property consumed gas.

**COMMENT:** The center piece of your changes focus on the calculation of the discount rate. This year the Department is introducing a negative inflation rate adjustment. This adjustment provides a deduction for an element which has no apparent offset. This method attempts to use a 13 month Treasury bill to offset the negative inflation adjustment, however, a 13 month bill is too short a period of time in comparing a long-term assets such as an oil and gas well. A well in West Virginia can last as long as 30 years.

**RESPONSE:**

The inflation adjustment contemplated in the Rule will be estimated through analysis of the most recent calendar year's urban consumer price index as determined by the U.S. Department of Labor, Bureau of Labor Statistics (see 4.5.1.e). The measure does not use 13 month Treasury bills to offset the negative inflation adjustment. Rather, the adjustment is necessary because typically investors anticipate an adjustment for inflation, the opportunity cost of capital, in required return rates. However, the income series used to estimate the value of producing oil and gas properties is non-inflating. Therefore, an adjustment to the capitalization rate to remove the component for anticipated inflation is necessary.

**COMMENT:**

Also a concern of the membership is the income required to be reported on Form STC 12:35 is the previous calendar year income, prior to the assessment year. Ultimately, the current yield capitalization model includes income, up to the assessment date, that does not represent future earnings but money already earned and potentially spent by the current owner. A prospective buyer of the well would not consider this income in his offer to buy the well, and a prospective seller would be extremely fortunate to find a buyer that would be willing to include the historic income stream in the discounted cash flows used to price the well.

It is the opinion of the Committee that the current language in Section 4.8 contemplates precisely this point. Section 4.8 says in pertinent part, "**gross receipt will be proportionately reduced by application of the appropriate production decline rate...** to yield a declining terminal income series typical of the production area." Currently, the first year gross receipts as reported (historic income) are not reduced by application of the appropriate production decline rate. First year income is simply capitalized, not declined. If the first year income were declined, as stated in Section 4.8, the wording 'adjusted to the assessment date'

would not be necessary. To include income within the model that a prospective buyer is not privileged to receive does not yield an accurate estimate of market value.

**RESPONSE:** The issue of the appropriate starting point for development of an income series has been discussed in past years. Upon further discussion, the Department agrees that the initial years' gross receipts should not be used in the yield capitalization model. The Rule will be modified to delete the initial production year from the income series used in the yield capitalization model.

TITLE 110  
LEGISLATIVE RULE  
DEPARTMENT OF TAX AND REVENUE

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**APPRAISAL VALUATION OF PRODUCING AND RESERVE OIL AND  
NATURAL GAS FOR PROPERTY PERIODIC STATEWIDE REAPPRAISALS  
FOR AD VALOREM PROPERTY TAX PURPOSES**

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**§ 110-1J-1. General.**

1.1 **Scope.** -- ~~These regulations clarify~~ This rule ~~and implement State law as it relates to the appraisal at market value~~ provides the methodology the State Tax Commissioner will use to determine the appraised value of producing and reserve oil and natural gas properties.

1.2 **Authority.** -- W. Va. Code §§ 11-1C-5(a) and (c), 11-1C-5a, and 11-1C-10(d).

1.3 **Filing date.** --

1.4 **Effective date.** -- This rule applies to tax years beginning on or after January 1, 1999.

**§ 110-1J-2. Introduction.**

Oil and/or natural gas is one of the several estates in real property which may be owned either as ~~a separately interest in real property~~ or in conjunction with other interests, usually as fee ownership, oil and/or natural gas ownership or as minerals ownership estates. If oil and/or natural gas is owned as a separate estate, either absolute, as a leasehold, or in conjunction with other estates. West Virginia property tax law requires such ownership to be listed, valued and taxed in proportion to its value to be ascertained as directed by law, based on its true and actual value. If the interest in oil and/or natural gas is ~~part of a larger interest in a tract of property owned in conjunction with other estates~~, the value of the oil and/or natural gas shall be included in the value of the larger interest other estate. Oil and/or natural gas may be owned without being produced. Oil and/or natural gas title may exist where no oil and/or natural gas is actually known to be present, or where the oil and/or natural gas is unproducible or depleted.

2.1 **Categories for valuing oil and/or natural gas properties.** -- ~~Parcels of property thought to bearing or having the potential to bear oil and/or natural gas or having the oil and/or natural gas mineral interest separated from the fee of the property will be classified as producing property; non-producing property; plugged and abandoned property.~~



2.1.1 producing property (to include home use/industrial on-property consumption); or

2.1.2 non-producing property; or

2.1.3 barren property; or

2.1.4 plugged and/or abandoned property.

### **§ 110-1J-3. Definitions.**

As used in ~~these regulations~~ this rule and unless the context clearly requires a different meaning, the following terms shall have the meaning ascribed herein, and shall apply in the singular or in the plural.

3.1 **"Bands of investment discount component"** means a discount rate derived by assigning rates to various debt and equity investment financing tiers and summing these rates, weighted by their respective percentages of total financing.

3.2 **"Barren oil and natural gas property"** means those fee/mineral parcels in West Virginia where data suggests the presence of oil and natural gas is very unlikely.

3.3 **"Capitalization rate"** means a rate used to convert an estimate of income to an estimate of market value. For further explanation, see Section 4.5 of this rule.

3.4 **"Commissioner" or "Tax Commissioner"** means the Tax Commissioner of the State of West Virginia, or his or her delegate.

3.2 5 **"Discount component"** means a rate reflecting a provision for returning to an investor a sum of money equal to the aggregate of the anticipated return-on-investment over the economic life of an investment.

3.3 6 **"Flush production"** means the production of oil and/or natural gas from any well on an ~~producing~~ oil and/or natural gas ~~producing~~ property with an initial production date that is two (2) calendar years or less prior to the July 1st assessment date of valuation. Production beginning after December 31st and prior to the July 1st assessment date must be reported.

3.7 **"Gross receipts"** means total income received from production on any well, at the field line point of sale, during a calendar year before subtraction of any royalties and/or expenses.

3.4 ~~8~~ **"Management rate"** means a rate reflecting a return to an investor for the management of similar investment portfolios.

~~3.5 ~~9~~ "Market comparison discount" means a discount rate derived by dividing income net of the recapture component and property taxes by the arms-length selling price of the property.~~

3.6 ~~9~~ **"Natural gas producing property"** means the property from which natural gas has been produced or extracted at any time during the most recent assessment year. Natural gas producing property includes the interest or interests underlying an area of up to one hundred twenty-five (125) acres of surface per well for property with active wells on the parcel. ~~Also to be included on All acreage of a natural gas producing property is the parcel acreage in excess of one hundred twenty-five (125) acres per well, to will be valued at the non-producing rate per acre referenced in Section 4.9 of these regulations; such rate however not to exceed the average producing rate per acre of the property this rule.~~

3.7 ~~10~~ **"Nonliquidity rate"** means a rate reflecting a return to an investor representing the loss of interest on an investment arising from the time required to sell the investment.

3.8 ~~11~~ **"Oil and/or natural gas, non-producing property"** means properties property(s) that were was not engaged in production during the previous assessment year period of July 1<sup>st</sup> through June 30<sup>th</sup>. This category shall include any acreage that has been shut-in for the entire year. ~~This category shall also include any acreage owned by a company or individual whose primary business involves the production or leasing of any oil or gas properties.~~

3.9 ~~12~~ **"Oil and/or natural gas plugged and abandoned property"** means ~~up to one hundred twenty five (125) acres of surface per well of natural gas or up to forty (40) acres of surface per well of oil producing properties if the well has been~~ property having a plugged and abandoned oil and/or natural gas well(s) as required by W. Va. Code § 22B-4-1 et seq.

~~3.10~~ ~~13~~ **"Oil producing property"** means property from which oil has been produced or extracted at any time during the most recent assessment year. Oil producing property includes the interest or interests underlying an area of up to forty (40) acres of surface per well with one (1) or more active well(s) on the parcel. ~~Also to be included on All acreage of an oil producing property is the parcel acreage in excess of forty (40) acres per well, to will be valued at the non-producing rate per acre referenced in Section 4.9 of these regulations; such rate however not to exceed the producing rate per acre of the property this rule.~~

3.14 **"Operating expenses"** means only those ordinary expenses which are directly related to the maintenance and production of natural gas and/or oil. These expenses do not include extraordinary expenses, depreciation, ad-valorem taxes, capital expenditures or expenditures relating to vehicles or other tangible personal property not permanently used in the production of natural gas and/or oil.

3.41~~15~~ **"Overriding royalty"** means the fractional interest ~~reserved or purchased by a seller of a lease to another party, thereby participating in the gross proceeds of production from the lease while at the same time not incurring operating expenses in the gross production payable to a person who is neither the producer nor the owner of the oil and natural gas estate and who is not required to bear a share of the development or operating costs of the well.~~

3.42 ~~16~~ **"Personal property"** used in oil and/or natural gas production means machinery and equipment in and about the well and all other tangible personal property used in producing oil and/or natural gas production from the well to the fieldline point of sale. It shall not include vehicles or other tangible personal property not permanently used in production.

3.43 ~~17~~ **"Producer/operator"** means any person or persons, corporation, partnership, joint venture or other enterprise which proposes to or does locate, drill, produce, manage, or abandon any well.

3.44 ~~18~~ **"Property tax component"** means a rate reflecting a provision for returning to an investor a sum of money equal to property taxes paid over the economic life of an investment.

3.45~~19~~ **"Recapture component"** means a rate reflecting a provision for returning to an investor a sum of money equal to his investment.

3.46 ~~20~~ **"Risk rate"** means a rate reflecting a return to an investor necessary to attract capital to an investment containing a possible loss of principal and/or interest.

3.47 ~~21~~ **"Royalty interest"** means the fractional interest in oil and/or natural gas production that is not subject to development costs or operating expenses and extends undiminished over the life of the property. Typically, it is retained by the oil and/or natural gas rights owner or lessor.

3.48 ~~22~~ **"Safe rate"** means a rate reflecting a return to an investor on an investment which has little, if any, likelihood of loss of principal or of loss in anticipated return on investment.

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3.19 ~~23~~ **"Settled production"** means the production of oil and/or natural gas from all wells on a producing property with an initial production date that is more than two (2) calendar years prior to the July 1st assessment ~~date of valuation~~.

3.20 ~~24~~ **"Storage wells"** means drilled and completed wells on any property used as a reservoir for the artificial injection, storage and withdrawal of natural gas into gas from a natural reservoir strata. ~~These properties shall be valued as non-producing natural gas property, such value not inclusive of inventories stored therein. Natural gas inventory stored therein shall be valued separately.~~

3.24 ~~25~~ **"Summation discount component"** means a discount rate expressed as the aggregate of a safe rate, risk rate, nonliquidity rate, and management rate, adjusted for inflation.

3.26 **"Well"** means any shaft or hole sunk, drilled, bored or dug into the earth or into underground strata for the extraction of oil or gas.

3.22 ~~27~~ **"Working interest"** means the fractional interest in oil and/or natural gas production subject to development and operating expenses and owned by the leaseholder and/ or operator.

#### § 110-1J-4. Methods of Valuation.

4.1 **General.** -- Oil and/or natural gas producing property value shall be determined through the process of applying a yield capitalization model to the net receipts (gross receipts less royalties paid less operating expenses) for the working interest and a yield capitalization model applied to the gross royalty receipts payments for the royalty interest. Where ownership is split through a lease or royalty arrangement, different values will be determined for the working interest and the royalty interest. Each term in this valuation is discussed below.

4.2 **Percentage interest in oil and/or natural gas.** -- Where the ownership of oil and/or natural gas in place is divided through a lease or other arrangement, the compensation to the owner of the property is derived by designating a percentage (generally one-eighth) of the production income to be the royalty payment to the owner. The remainder (generally seven-eighths) is the working interest. The Tax Commissioner will annually determine a typical working and royalty percentage interests on a per well or lease basis, through a review of oil and natural gas leases from throughout the State producer/operator annual property tax returns. These percentages will be determined annually by dividing the total royalty paid by the reported gross income.

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~~4.3. Average production rate. Gas The Tax Commissioner will annually determine and report the production rate of natural gas well through review of information filed with other State agencies and data provided by companies and individuals. Oil The average daily rate, measured in terms of oil field standard forty-two (42) gallon barrels, for the year preceding the annual assessment date, divided by the number of full or partial days of well production. Partial days shall include time allowed for oil to collect between pumpings. Full or partial days shall not include time when well non-production results from workover, redrilling, or well maintenance.~~

~~4.4 Average industry market price. Oil The Tax Commissioner will annually derive the average industry market price by reviewing the price per barrel paid by the major West Virginia crude oil producers. The Tax Commissioner's annual report on the average industry market price shall reflect a reduction for average Federal Windfall Profits Tax and West Virginia Severance Taxes deemed to be paid by the working and royalty interests in the production. The average industry market price will be used in the method described in the regulations for determination of the formulas to be used to appraise oil production properties.~~

~~Gas The Tax Commissioner will annually derive and report the average industry market price by reviewing the price paid per MCF by the major West Virginia natural gas purchasers, a survey of oil and gas associations, and other statistical data. The Tax Commissioner's annual report on the average industry market price shall reflect a reduction for average Federal Windfall Profits Tax and West Virginia Severance Taxes deemed to be paid by the working or royalty interests on the production.~~

**4.5 3 Average industry operating expenses.** -- The Tax Commissioner will annually biennially determine the average industry operating expenses per well. The average industry operating expenses will be deducted from working interest gross receipts in to developing an income stream for application of a yield capitalization procedure.

**4.6 4 Average industry production decline rates.** -- The Tax Commissioner will annually every five (5) years derive and report the average industry production decline rates by a reviewing of well production records of various State agencies and along with data provided by companies and individuals.

**4.7 5 Capitalization rate.** -- A capitalization rate will be developed considering the three (3) components set out in Section 4.7.1 of these regulations. This rate will be used to select the factor(s) from a standard mid-year life present worth of one table using a compound interest premise.

~~The~~ A single statewide capitalization rate for oil and natural gas will be determined annually by the Tax Commissioner through the use of generally accepted methods for estimating such rates. The rate so developed will be applied to based on the assumption of a declining-terminal, non-inflating income series which is indicative of oil and/or natural gas producing properties. The capitalization rate used to value oil and/or natural gas properties will be developed through considering consideration of: (1) a discount rate determined by the summation technique, (2) a recapture component, and (32) a property tax component.

#### 4.7.4 5.1 Discount component.

~~4.7.1.1.a. Summation technique.~~ — ~~The summation technique will be given primary consideration in the valuation of oil and/or natural gas producing property. The summation technique will determine a discount component which will be used to calculate the present value of the future income of the oil and/or natural gas producing property utilizing the following four (4) major subcomponents:~~

~~4.7.1.1.a.1. Safe rate~~

~~4.7.1.1.a.2. Risk rate~~

~~4.7.1.1.a.3. Nonliquidity rate~~

~~4.7.1.1.a.4. Management rate~~

The summation technique will be used in developing a discount component of the capitalization rate. The five subcomponents of the discount rate are:

4.5.1.a Safe rate. — The "safe rate" will reflect a rate of return that an investor could expect on an investment of minimal risk. It will be developed through review of interest rates offered on thirteen (13) week United States Treasury Bills for a period of one (1) calendar year immediately prior to the appraisal July 1st assessment date.

4.5.1.b Risk rate — The relative degree of risk of an investment in oil and natural gas property is difficult to determine from published interest rates. The risk rate will be developed through review of data resulting from an annual survey of lending institutions, such A survey reflecting of interest rates required on loans for acquisition and/or development of natural resource producing oil and natural gas properties will be conducted annually and. This survey will be conducted for will cover a one (1) calendar year period immediately prior to the appraisal July 1 assessment date. Results of the survey will be compared to quarterly interest rates offered on thirteen (13) week United States Treasury Bills for the same one (1) calendar year

period. ~~An interest differential will then be selected representing the "risk rate" assignable to various financing tiers. The difference between the two, combined with bands-of-investment analysis, will be used as a basis to estimate the risk rate.~~

**4.5.1.c Nonliquidity rate.** -- The "nonliquidity rate" will be developed through an annual survey to determine a reasonable estimate of time that oil and natural gas properties, when exposed to the market for sale, remain on the market before being sold. The market time thus determined will be used to identify United States Treasury Bills with similar time differentials in excess of thirteen (13) week Treasury Bills. The interest differential between these securities will be deemed used to be representative of the "nonliquidity rate." For example, if it is determined that oil and natural gas property remains on the market for an average of nine months (39 weeks) before being sold, the nonliquidity rate will be derived by taking the rate on one (1) year Treasury Bills minus the rate on 13-week Treasury Bills.

**4.5.1.d Management rate.** - The "management rate" represents the cost of managing the investment, not the cost of managing the oil and natural gas property. The management rate will be developed through a survey of investment firms to identify annual charges for the management of investment portfolios.

**4.7.1.1.b. Bands of investment/market comparison.** -- ~~Data permitting, the bands of investment and market comparison techniques will be used to verify the summation discount component.~~

**4.5.1.e Inflation rate (negative).** -- Nominal interest rates, including the "safe rate" mentioned in the foregoing subdivision 4.5.1.a, are higher than real rates by an amount representing expectation of future inflation; however, net annual income from oil and natural gas property is to be estimated assuming level future royalties (no inflation). The capitalization rate must be a real rate, net of expectation of inflation. The inflation rate will be estimated through analysis of the most recent calendar year's urban consumer price index as determined by the U.S. Department of Labor, Bureau of Labor Statistics.

**4.5.2** In determining the discount component of the capitalization rate, the Tax Commissioner will take the sum of the safe rate, the risk rate, the nonliquidity rate and the management rate, and will deduct from this the inflation rate.

**4.7 5.3 Property tax component.** -- This component will be derived estimated by multiplying the assessment rate by the prior tax year's statewide average of tax rates on for Class III property. At the present time, research indicates that royalty rates on oil and natural gas include a component for property tax, with no additional compensation from the producer. As a result, the property tax component will be used in the capitalization rate; however, if this described general practice changes and

property taxes are paid as additional compensation, the use of this component will be deleted.

4.5.4 Results of Capitalization Rate Survey -- The survey for development of components referenced in Subdivision 4.5.1 of this rule will be conducted annually and results filed by the Tax Commissioner in the State Register on or before July 1st of each year. Public comment on such surveys will be accepted until August 1st of each year with final results filed in the State Register on or before September 1st of each year.

4.8 6 Yield capitalization model. -- A yield capitalization model will be developed for each producing property. The model will use as a beginning point and include for each producing well, the gross receipts (both working interest and royalty interest) and production amounts from each producing well the most recent calendar year preceding the July 1 assessment date adjusted for production decline to the July 1st assessment date. Gross receipts and production amounts will be proportionately reduced by application of the appropriate production decline rate, referenced in Section 4.6 4 of these regulations this rule, to yield a declining terminal income series typical of the producing area and strata. The income series will be apportioned to the working interest and to the royalty interest based upon percentage interests referenced in Section 4.2 of this rule.

4.6.1 Working interest model. -- The working interest gross receipts income series referenced in Section 4.8 6 of these regulations this rule will be reduced by the annual operating expenses referenced in Section 4.5 3 of these regulations this rule to yield a net working interest income series. The net working interest income series will be discounted by applying, on an annual basis, a mid-year life Inwood ~~coefficient~~ factor reflecting the capitalization rate referenced in Section 4.7 5 of these regulations this rule. The summation of the annual discounted income streams will be the market value estimate for the working interest of the producing oil and/or natural gas well for an area of up to one hundred twenty-five (125) acres for producing natural gas wells and up to forty (40) acres for producing oil wells including personal property as defined by Section 3 of this rule.

4.8 6.2 Royalty interest model. -- The royalty interest gross receipts income series referenced in Section 4.8 6 of these regulations this rule will be discounted by applying, on an annual basis, a mid-year life Inwood ~~coefficient~~ factor reflecting the capitalization rate referenced in Section 4.7 5 of these regulations this rule. The summation of the annual discounted income streams will be the market value estimate for the royalty interest of the producing oil and/or natural gas well for an area of up to one hundred twenty-five (125) acres ~~for~~ per producing natural gas wells and up to forty (40) acres ~~for~~ per producing oil wells.



**4.6.3 Home-use/industrial use on property consumption.** -- The home-use/industrial use on property consumption will be appraised using the average annual Appalachian spot price determined by NYMEX. For home use purposes the value will be based on an assumed 200 MCF per year times the determined spot price. For industrial purposes, the value will be based on actual annual MCF usage times the spot price as determined herein.

**4.9 7 Valuation of non-producing acreage.** -- The value per acre of non-producing acreage, which includes shut-in wells, shall equal the discounted annual lease payment per acre. A valuation schedule for non-producing properties will be determined annually by the Tax Commissioner on a county basis for each district within a county, where data is available. The Tax Commissioner will annually conduct a review of oil and/or natural gas agreements transacted at arms length in all fifty-five (55) counties to determine the average annual delay rental lease payment per acre, as well as the and lease term, that oil and gas properties in the county typically command. The per-acre value for non-producing property will be the sum of the projected annual income stream from delay rental during the lease term discounted in each year by a capitalization rate. A valuation of \$1.00 per acre will be used where property is located in those areas of the State where drilling activity/production have not been established and the property is presumed to be barren.

**4.10 8 Valuation of plugged and abandoned acreage.** -- Plugged and abandoned acreage will be valued to the oil or gas owner at the nominal rate of one dollar (\$1.00) per acre. This category includes any plugged and abandoned acreage of up to one hundred twenty-five (125) acres per natural gas well and up to forty (40) acres per oil well.

**4.9 Valuation of barren oil and natural gas areas.** -- Such oil and natural gas areas (fee accounts) will be valued at \$1.00 per deed acre.

**4.11 10 Valuation of wells that produce both oil and natural gas.** -- The valuation of these producing wells that produce both oil and natural gas shall be determined by use of the methods described herein for oil and natural gas. These values shall then be summed to result in the overall value of the oil and/or natural gas producing acreage.

**4.11 Valuation of storage well areas.** -- Storage well areas shall be valued as non-producing natural gas property. Such value will not include inventories stored within. Natural gas storage inventories shall be assessed to the inventory owner.

**4.12 Annual reports.** -- The Tax Commissioner will publish an annual report survey for the variables to be considered in arriving at the value of the specific oil and/or natural gas related property. This report's Survey results will be filed with the

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~~office of the Secretary of State in the State Register on or before May 31st July 1st of each year, followed by a fifteen (15) day period for written public comment. The Tax Commissioner will review the comments and present final variables and multipliers to be used on or before July 1. Public comments will be accepted until August 1st of each year with the final results filed in the State Register on or before September 1st of each year.~~

**4.13 Active-f Farm properties.** – The oil and gas rights, that are part of a "fee" estate where the use of the surface has qualified as an active farm for farm use appraisal, will be valued in the following manner: (For definition of an active farm see § 110-1R-1 et seq.) as described in 110 C.S.R. 1A, Valuation of Farmland and Structures Situated Thereon For Ad Valorem Property Tax Purposes.

~~4.13.1. Where income or royalty is not derived from the oil and gas rights the oil and gas interest shall not be valued.~~

~~4.13.2. Where income or royalty is derived from the oil and gas rights the oil and gas interest shall be valued as follows:~~

~~4.13.2.1. Fee estates, where the annual wholesale value of farm commodities or products is fifty percent (50%) or more of the usual annual gross income from all uses of the property, shall be subject to farm use valuation. Thus oil and gas interests shall not be valued under this situation.~~

~~4.13.2.1. Fee estates, where the annual wholesale value of farm commodities or products is less than fifty percent (50%) of the usual annual gross income from all uses of the property, shall be valued by adding the applicable oil and gas values referenced in this rule to the surface farm use value.~~

**4.14 Property reports.** – Prior to September 1st of each year the producer and oil and gas owner will be required to file a report the West Virginia Oil and Gas Producer/Operator Return with the Department of Tax and Revenue State Tax Division with acknowledgement to the county assessor(s) for each in the county(s) where the oil and natural gas property is to be assessed located. These reports This Return form will be designed by the State Tax Commissioner so that information pertinent to the valuation of such producing property, non-producing property, and plugged and abandoned property will be reported properly by the oil and gas producer, lessee, and owner.

**4.15 Confidentiality** -- All information provided by or on behalf of a natural resources property owner or by or on behalf of an owner of an interest in natural resources property to any state or county representative for use in the valuation or assessment of natural resources property or for use in the development or maintenance

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of a legislatively funded mineral mapping or geologic information system shall be confidential. Such information shall be exempt from disclosure under provisions of West Virginia Code section four [§ 29B-1-4], article one of chapter twenty-nine-b, and shall be kept, held, and maintained confidential except to the extent such information is needed by the state tax commissioner to defend an appraisal challenged by the owner or lessee of the natural resources property subject to the appraisal: Provided, That this section may not be construed to prohibit publication or release of information generated as part of the minerals mapping or geologic information system, whether in the form of aggregated statistics, maps, articles, reports, professional talks, or otherwise presented in accordance with generally accepted practices and in a manner so as to preclude the identification or determination of information about particular property owners.



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DEPARTMENT OF TAX AND REVENUE

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OFFICE OF WEST VIRGINIA  
ROBIN C. CAPEHART  
SECRETARY OF STATE  
SECRETARY

August 1, 1997

The Honorable Mike Ross  
Co-Chair  
Legislative Rule-Making Review Committee  
Building 1, Room 152  
1900 Kanawha Boulevard East  
Charleston, West Virginia 25305-0470

The Honorable Mark Hunt  
Co-Chair  
Legislative Rule-Making Review Committee  
Building 1, Room 152  
1900 Kanawha Boulevard East  
Charleston, West Virginia 25305

Dear Senator Ross and Delegate Hunt:

Enclosed please find a copy of the final agency approved proposed legislative rule of the Tax Division identified as follows:

Title of Rule: Valuation of Active and Reserve Coal Property for Ad  
Valorem Property Tax Purposes  
Title No.: 110  
Series No.: Series 11

Along with this document are the documents and other information required by W. Va. Code § 29A-3-11.

Please let me know when this rule will be considered by your committee. If you or committee staff have any questions about this proposed rule or need any additional information, please contact me. You may also contact Sharon Bias, Commissioner of Banking, at 558-2294, or Dale Steager at 558-3356.

Very truly yours,

Robin C. Capehart  
Secretary of Tax and Revenue