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This week's publication includes documents submitted by the following agencies:

Broadcast Music Inc. (BMI)

Forestry

Health Care Authority

Insurance Commission

Lottery Commission

Medicine, WV Bd. Of

Registered Professional Nurses, WV Bd. of Exam. For

Tax Department

CHRONOLOGICAL INDEX, VOLUME XXXIV ISSUE 5			
NO NEW PROPOSED RULES WERE FILED FOR PUBLIC COMMENT THIS WEEK			
AGENCY	RULE/TYPE	AUTHORITY	HEARING/COMMENT PERIOD/LOCATION

NO NEW EMERGENCY RULES WERE FILED THIS WEEK				
AGENCY	RULE/TYPE	AUTHORITY	EFFECTIVE DATE	DATE NOTICE FOR HEARING

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GUIDE FOR USING THE RULE MONITOR IN THE STATE REGISTER

Column	1.	Agency Name, (Title and Series Number)
Column	2.	Rule Title, Price and Type
Column	3.	Date Notice of Public Hearing or Comment Period Filed
Column	4.	Date of Public Hearing or Last Date Comments Will Be Received
Column	5.	Date Emergency Rule Filed, Emergency Amendments Filed, Emergency Rule Decision (ERD) Number & Date ERD Filed (Effective Date of Emergency Rule)
Column	6.	Date Agency Approved Legislative Rules Filed.
Column	7.	Date Review by the Legislative Rule-Making Review Committee & Action Taken **Please Note** The Board of Education, Board of Trustees & Board of Directors File Their Rules With the Educational Over-Sight Committee
Column	8.	Legislative Action
Column	9.	Date Agency Final Files Legislative, Procedural or Interpretive Rules. This is the Final Step for Procedural & Interpretive Rules
Column	10.	Date Rule is Effective

- Emergency rules will not have a "Notice" date until the agency files one, but the rule will appear in Columns 1, 2 & 5. An Agency must file for either a public hearing or public comment period either before filing as an emergency or no more than 30 days after filing the rule as an emergency
- If more than one date appears in a column, it means the agency has repeated that step (ex. - holding an additional public hearing)

CROSS REFERENCE OF RULE MONITOR TITLE NUMBERS AND AGENCIES

TITLE NUMBER		NAME OF AGENCY
TITLE	3	BARBERS AND COSMETOLOGISTS
TITLE	7	PROFESSIONAL ENGINEERS
TITLE	10	LICENSED PRACTICAL NURSES
TITLE	11	MEDICINE
TITLE	13	OCCUPATIONAL THERAPY
TITLE	14	OPTOMETRY
TITLE	15	PHARMACY
TITLE	16	PHYSICAL THERAPY
TITLE	17	PSYCHOLOGISTS
TITLE	20	SANITARIANS
TITLE	24	OSTEOPATHY
TITLE	25	SOCIAL WORK EXAMINERS
TITLE	26	VETERINARY MEDICINE
TITLE	27	COUNSELING
TITLE	29	SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY
TITLE	33	OFFICE OF WASTE MANAGEMENT (FORMERLY PART OF TITLE 47)
TITLE	35	OFFICE OF OIL AND GAS
TITLE	36	COAL MINE HEALTH & SAFETY
TITLE	38	MINING & RECLAMATION
TITLE	42	LABOR
TITLE	45	OFFICE OF AIR QUALITY
TITLE	47	OFFICE OF WATER RESOURCES
TITLE	48	MINES TRAINING EDUCATION & CERTIFICATION
TITLE	56	MINERS' HEALTH, SAFETY AND TRAINING
TITLE	58	NATURAL RESOURCES
TITLE	60	ENVIRONMENTAL PROTECTION, SECRETARY'S OFFICE
TITLE	61	AGRICULTURE
TITLE	63	CONSERVATION AGENCY
TITLE	64	HEALTH
TITLE	65	HEALTH CARE AUTHORITY
TITLE	69	HEALTH & HUMAN RESOURCES
TITLE	76	SENIOR SERVICES
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TITLE	81	STATE POLICE
TITLE	82	CULTURE AND HISTORY
TITLE	85	WORKERSCOMPENSATION BY THE INSURANCE COMMISSION
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TITLE	87	FIRE COMMISSION
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TITLE	91	MOTOR VEHICLES
TITLE	94	REGIONAL JAIL & CORRECTIONAL FACILITY AUTHORITY
TITLE	96	WORKFORCE WEST VIRGINIA
TITLE	110	TAX DEPARTMENT
TITLE	112	TREASURER
TITLE	113	HEALTH INSURANCE PLAN
TITLE	114	INSURANCE
TITLE	126	EDUCATION
TITLE	127	SECONDARY SCHOOLS ACTIVITIES COMM.
TITLE	133	HIGHER EDUCATION POLICY COMMISSION
TITLE	135	COMMUNITY & TECHNICAL COLLEGE EDUCATION
TITLE	143	PERSONNEL
TITLE	144	TOURISM
TITLE	146	STATE ELECTION COMMISSION
TITLE	148	ADMINISTRATION
TITLE	149	CRIME, DELINQUENCY AND CORRECTION
TITLE	150	PUBLIC SERVICE COMMISSION
TITLE	153	SECRETARY OF STATE
TITLE	157	DIVISION OF HIGWAYS
TITLE	158	ETHICS COMMISSION
TITLE	162	CONSOLIDATED PUBLIC RETIREMENT BOARD
TITLE	172	STATE RAIL AUTHORITY
TITLE	175	ALCOHOL BEVERAGE CONTROL COMMISSION
TITLE	176	ALCOHOL BEVERAGE CONTROL COMMISSION – BEER
TITLE	177	ATHLETIC COMMISSION
TITLE	178	RACING COMMISSION
TITLE	179	LOTTERY
TITLE	184	PARKWAYS ECONOMIC DEV. & TOURISM AUTHORITY
TITLE	190	REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD
TITLE	191	FAMILY PROTECTION SERVICES BOARD
TITLE	199	EXPLOSIVES & BLASTING
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TITLE	205	OUTDOOR HERITAGE CONSERVATION FUND
TITLE	207	COALFIELD COMMUNITY DEVELOPMENT
TITLE	210	GOHELP

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Agriculture (61-1)	Animal Disease Control Legislative	7/18/2016	8/17/2016		8/23/2016	Modified & Approved 9/21/2016 Filed 9/23/2016			
Agriculture (61-30)	Dangerous Wild Animal (repeal) Legislative	7/19/2016	8/19/2016		8/23/2016	Approved 9/21/2016			
Agriculture (61-31)	Livestock Care Standards-Repeal Legislative	7/19/2016	8/19/2016		8/23/2016	Approved 9/21/2016			
Agriculture (61-34)	Captive Cervid Legislative	7/27/2016	8/26/2016		8/26/2016	Modified & Approved 9/21/2016 Filed 9/23/2016			
Air Quality (45-1)	Alternative Emission Limitations During Startup, Shutdown and Maintenance Operations Legislative	6/29/2016	8/1/2016		8/26/2016	Approved 12/6/2016			
Air Quality (45-8)	Ambient Air Quality Standards Legislative	6/29/2016	8/1/2016		8/26/2016	Approved 12/6/2016			
Air Quality (45-13)	Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements..... Legislative	6/29/2016	8/1/2016		8/26/2016	Approved 12/6/2016			
Air Quality (45-14)	Permits for Construction and Major Modifications of Major Stationary Sources for the Prevention of Significant Deterioration of Air Quality Legislative	6/29/2016	8/1/2016		8/26/2016	Approved 12/6/2016			
Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	6/29/2016	8/1/2016		8/26/2016	Approved 12/6/2016			
Air Quality (45-25)	Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities Legislative	6/29/2016	8/1/2016		8/26/2016	Approved 12/6/2016			
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	7/1/2016	8/1/2016		8/26/2016	Approved 12/6/2016			

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Architects (2-1)	Registration of Architect Legislative	7/7/2016	8/8/2016		8/26/2016	Modified & Approved 9/21/2016 Filed 10/5/2016			
Athletic Commission (177-1)	Administrative Rules of the WV State Athletic Commission Legislative	7/13/2016	8/12/2016		8/24/2016	Modified & Approved 12/6/2016 Filed 12/20/2016			
Athletic Commission (177-2)	Regulation of Mixed Martial Arts Legislative	7/13/2016	8/12/2016		8/24/2016	Modified & Approved 12/6/2016 Filed 12/20/2016			
Auditor (155-1)	Standards for Requisitions for Payment Issued by State Officers on the Auditor Legislative	7/27/2016	8/26/2016		8/26/2016	Modifed w/certain amendments & Approved 9/21/2016 Filed 9/21/2016			
Auditor (155-8)	Procedure for Local Levying Bodies to Apply for Permission to Extend Time to Meet as Levying Body Legislative	7/26/2016	8/26/2016		8/26/2016	Modified & Approved 9/21/2016 Filed 9/21/2016			
Barbers and Cosmetologists (3-2)	Qualifications, Training, Examination and Certification of Instructors in Barbering & Cosmetology Legislative	6/23/2016	7/25/2016		8/24/2016	Modified & Approved 1/10/2017 Filed 1/25/2017			
Barbers and Cosmetologists (3-3)	Licensing Schools fo Barbering, Cosmetology, Nail Technology and Aesthetics Legislative	6/29/2016	8/1/2016		8/19/2016	Approved 1/10/2017			
Barbers and Cosmetologists (3-4)	Operational Standards for Schools of Barbering, Cosmetology, Hair Stying, Nail Technology and Aesthetics Legislative	6/29/2016	8/1/2016		8/24/2016	Modified & Approved 1/10/2017 Filed 1/26/2017			
Barbers and Cosmetologists (3-5)	Operation of Barber, Beauty, Nail and Aesthetic Shops/Salons, and Schools of Barbering and Beauty Culture Legislative	7/13/2016	8/12/2016		8/24/2016	Modified & Approved 1/10/2017 Filed 1/19/2017			

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Barbers and Cosmetologists (3-6)	Schedule of Fees Legislative	7/6/2016	8/8/2016		8/24/2016	Modified & Approved 1/10/2017 Filed 1/19/2017			
Barbers and Cosmetologists (3-11)	Continuing Education Legislative	7/5/2016	8/8/2016		8/24/2016	Modified w/Certain Amendments & Approved 1/10/2017 Filed 1/19/2017			
Barbers and Cosmetologists (3-13)	Barber Apprenticeship Legislative	7/5/2016	8/8/2016		8/24/2016	Modified & Approved 1/10/2017 Filed 1/19/2017			
Barbers and Cosmetologists (3-14)	Waxing Specialist Legislative	7/6/2016	8/8/2016		8/24/2016	Recommends Rejection 1/10/2017			
Comm. & Tech. College Education (135-35)	Correspondence, Business, Occupational and Trade Schools Legislative	12/12/2016	1/13/2017						
Comm. & Tech. College Education (135-52)	Annual Reauthorization of Degree-Granting Institutions Legislative	12/12/2016	1/13/2017						
Counseling (27-2)	Licensed Professional Counselor Fees Legislative	7/26/2016	8/25/2016		8/26/2016	Modified & Approved 1/10/2017 Filed 1/25/2017			
Counseling (27-3)	Licensed Professional Counselor License Renewal and Continuing Professional Education Requirements Legislative	7/26/2016	8/25/2016		8/26/2016	Modified & Approved 1/10/2017 Filed 1/25/2017			
Counseling (27-9)	Marriage and Family Therapist Fees Legislative	7/26/2016	8/25/2016		8/26/2016	Modified & Approved 1/10/2017 Filed 1/25/2017			
Counseling (27-10)	Marriage and Family Therapist License Renewal and Continuing Professional Education Legislative	7/26/2016	8/25/2016		8/26/2016	Modified & Approved 1/10/2017 Filed 1/25/2017			

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Crime, Delinquency and Correction (149-2)	Law Enforcement Training and Certification Standards Legislative	7/22/2016	8/24/2016		8/26/2016	Modified & Approved 12/7/2016 Filed 12/20/2016			
Crime, Delinquency and Correction (149-9)	William R. Laird IV – Second Chance Driver's License Program Legislative	7/22/2016	8/24/2016	7/22/2016 Approved 8/12/2016	8/26/2016	Modified & Approved 12/7/2016 Filed 12/20/2016			
Dangerous Wild Animal Board (74-1)	Dangerous Wild Animals Legislative	1/11/2016	2/10/2016		2/11/2016				
Dentistry (5-1)	Rule for the WV Bd of Dentistry Legislative	6/16/2016	7/18/2016		7/26/2016	Modified & Approved 8/22/2016 Filed 9/2/2016			
Education (126-14)	WV Measures of Academic Progress (2340) Legislative Exempt	1/11/2017	2/10/2017						
Education (126-44N)	21st Century Learning Skills & Tech. Tools Content Standards & Objectives for WV Schools (2520.14) Legislative Exempt	1/11/2017	2/10/2017						
Education (126-44U)	WV College and Career Readiness Dispositions and Standards for Student Success for Grades K-12 (2520.19) Legislative Exempt	1/11/2017	2/10/2017						
Education (126-81)	Attendance (4110) Legislative Exempt	1/11/2017	2/10/2017						
Education (126-126)	Procedures for Designated Hiring and Transfer of School Personnel (5000) Legislative Exempt	1/11/2017	2/10/2017						
Education (126-161)	Alternative Certification Programs for the Education of Teachers (5901) Legislative Exempt	1/11/2017	2/10/2017						
Environmental Protection-Secretary's Office (60-3)	Voluntary Remediation and Redevelopment Rule Legislative	6/27/2016	7/28/2016		8/25/2016	Approved 12/6/2016			

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Ethics Commission (158-6)	Private Gain Legislative	5/17/2016	6/16/2016		8/23/2016	Modified & Approved 12/7/2016 Filed 12/19/2016			
Fire Marshal (103-4)	Regulation of Fireworks and Related Explosive Materials Legislative	5/12/2016	6/13/2016	5/12/2016 Expired 8/10/2016	8/26/2016	Modified & Approved 12/7/2016 Filed 12/21/2016			
Forestry (22-5)	Procedure for the WV Forest Legacy Program Procedural	7/29/2016	8/31/2016					2/1/2017	3/1/2017
Health (64-57)	Clinical Laboratory Technician & Technologists Licensure and Certification Legislative	7/8/2016	8/7/2016		8/26/2016	Modified & Approved 9/21/2016 Filed 10/6/2016			
Health (64-92)	Clandestine Drug Laboratory Remediation Legislative	7/8/2016	8/7/2016		8/26/2016	Modified & Approved 9/21/2016 Filed 10/11/2016			
Health (64-103)	Expedited Partner Therapy Legislative	7/8/2016	8/7/2016		8/26/2016	Modified & Approved 9/21/2016 Filed 10/6/2016			
Health and Human Resources (69-11)	Medication-Assisted Treatment-Opioid Treatment Programs Legislative	7/8/2016	8/7/2016	8/31/2016 Approved 9/14/2016	8/26/2016	Modified & Approved 1/10/2017 Filed 1/25/2017			
Health and Human Resources (69-12)	Medication-Assisted Treatment-Office-Based Medication Assisted Treatment Legislative	7/8/2016	8/7/2016	8/31/2016 Approved 9/14/2016 Amendment 1/26/2017 ERD by 3/9/2017	8/26/2016	Modified & Approved 1/10/2017 Filed 1/25/2017			

RULE MONITOR									
AGENCY/SERIES NO	**RULE**	**NOTICE**	**HEARING**	**EMER RULE**	**SEC/STATE**	**LRMRC-ACTION**	**LEGIS**	**FINAL FILE**	**EFFECTIVE**
Health Care Authority (65-29)	Exemption From Certificate of Need Legislative	6/8/2016	7/11/2016	6/8/2016 Approved 6/10/2016 Amendment 8/22/2016 Approved 9/14/2016 Amendment 12/19/2016 Approved 12/29/2016 Amendment 1/6/2017 Approved 1/6/2017	8/22/2016	Modified & Approved 12/6/2016 Filed 1/6/2017			
Health Care Authority (65-30)	Rural Health Systems Grant Program Legislative	6/9/2016	7/11/2016	6/7/2016 Approved 6/17/2016 Amendment 8/24/2016 Approved 9/14/2016 Amendment 12/16/2016 Approved 12/29/2016	8/24/2016	Modified & Approved 12/6/2016 Filed 12/16/2016			
Health Care Authority (65-31)	Hospital Assistance Grant Program Legislative	6/7/2016	7/11/2016	6/7/2016 Approved 6/10/2016 Amendment 8/24/2016 Approved 9/14/2016 Amendment 12/16/2016 Approved 12/29/2016	8/24/2016	Modified & Approved 12/6/2016 Filed 12/16/2016			
Health Care Authority (65-32)	Certificate of Need Rule Legislative	6/8/2016	7/11/2016	6/8/2016 Approved 6/10/2016 Amendment 8/23/2016 Approved 9/29/2016 Amendment 12/19/2016 Approved 12/29/2016	8/23/2016	Modified & Approved 12/6/2016 Filed 12/19/2016			

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Higher Ed. Policy Commission (133-7)	WV Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) Scholarship Program Legislative	11/18/2016	12/18/2016		12/20/2016				
Higher Ed. Policy Commission (133-42)	WV Higher Education Grant Program Legislative	11/18/2016	12/18/2016		12/20/2016				
Higher Ed. Policy Commission (133-48)	Research Trust Fund Legislative	11/18/2016	12/18/2016						
Higher Ed. Policy Commission (133-52)	Annual Reauthorization of Degree-Granting Institutions Legislative	11/18/2016	12/18/2016		12/21/2016				
Insurance Commission (114-98)	Adoption of Valuation Manual Legislative	7/13/2016	8/15/2016	8/22/2016 Approved 8/24/2016	8/22/2016	Approved 9/21/2016			
Lottery (179-5)	Limited Video Lottery Legislativej	7/18/2016	8/17/2016		8/22/2016	Modified & Approved 12/6/2016 Filed 12/7/2016			
Medicine (11-1A)	Licensing and Disciplinary Procedures: Physicians, Podiatrists Legislative	6/1/2016	6/30/2016		7/12/2016	Modified & Approved 8/22/2016 Filed 9/1/2016			
Medicine (11-1B)	Licensure, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants Legislative	5/31/2016	6/30/2016		7/12/2016	Modified & Approved 8/22/2016 Filed 9/1/2016			
Medicine (11-5)	Dispensing of Legend Drugs by Practitioners Legislative	7/12/2016	8/11/2016		8/24/2016	Modified & Approved 9/21/2016 Filed 9/26/2016			
Miners' Health Safety and Training (56-22)	Certification, Recertification and Training of EMT-Miners and the Certification of EMT-M Instructors Legislative	4/29/2016	6/3/2016	4/29/2016 Amendment 6/7/2016 Approved 6/9/2016	7/6/2016	Modified & Approved 8/25/2016 Filed 9/6/2016			

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Natural Resources (58-15)	Permits to Kill Deer or Other Wildlife Causing Damage to Cultivated Crops, Fruit Trees or Commercial Nurseries Procedural	11/3/2016	12/9/2016					1/3/2017	2/2/2017
Natural Resources (58-18)	Bear Damage Procedural	11/3/2016	12/9/2016					1/3/2017	2/2/2017
Natural Resources (58-23)	Revocation of Hunting and Fishing Licenses Legislative	7/26/2016	8/26/2016		8/29/2016	Modified & Approved 12/6/2016 Filed 1/3/2017			
Natural Resources (58-24)	Point System for the Revocation of Hunting – Repeal Legislative	7/26/2016	8/26/2016		8/29/2016	Approved 12/6/2016			
Natural Resources (58-58)	Special Waterfowl Hunting Legislative	7/25/2016	8/26/2016		8/26/2016	Modified & Approved 12/6/2016 Filed 1/3/2017			
Natural Resources (58-63)	Commercial Sale of Wildlife Legislative	7/25/2016	8/26/2016		8/26/2016	Modified & Approved 12/6/2016 Filed 1/3/2017			
Natural Resources (58-64)	Miscellaneous Permits and Licenses Legislative	7/25/2016	8/26/2016		8/26/2016	Modified & Approved 12/6/2016 Filed 1/3/2017			
Optometry (14-10)	Continuing Education Legislative	7/19/2016	8/22/2016		8/26/2016	Modified & Approved 9/21/2016 Filed 10/3/2016			
Osteopathic Medicine (24-1)	Licensing Procedures for Osteopathic Physicians Legislative	7/22/2016	8/22/2016		8/26/2016	Modified & Approved 9/21/2016			
Osteopathic Medicine (24-2)	Osteopathic Physician Assistants Legislative	7/25/2016	8/25/2016		8/29/2016	Modified & Approved 9/21/2016			

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Pharmacy (15-1)	Licensure and Practice of Pharmacy Legislative	7/1/2016	8/4/2016		8/18/2016	Modified & Approved 12/7/2016 Filed 12/19/2016			
Pharmacy (15-6)	Mail-Order and Non-Resident Pharmacies Legislative	7/1/2016	8/4/2016		8/18/2016	Modified & Approved 12/7/2016 Filed 12/19/2016			
Pharmacy (15-7)	Registration of Pharmacy Technicians Legislative	1/18/2016	2/20/2017	1/19/2017 Approved 1/23/2017					
Pharmacy (15-8)	Controlled Substances Monitoring Program Legislative	7/1/2016	8/4/2016		8/18/2016	Modified & Approved 12/7/2016 Filed 12/19/2016			
Physical Therapy (16-4)	Fees for Physical Therapist and Physical Therapist Assistant Legislative	3/16/2016	4/18/2016		4/22/2016	Approved 9/1/2016			
Public Service Commission (150-37)	Telephone Conduit Occupancy Legislative	6/7/2016	7/15/2016		8/26/2016	Modified & Approved 12/7/2016 Filed 12/13/2016			
Racing Commission (178-1)	Thoroughbred Racing Legislative	7/13/2016	8/12/2016		8/18/2016	Modified & Approved 9/21/2016 Filed 9/19/2016			
Racing Commission (178-5)	Pari-Mutuel Wagering Legislative	7/13/2016	8/12/2016		8/18/2016	Modified & Approved 9/21/2016 Filed 9/19/2016			
Registered Professional Nurses (19-3)	Requirements for Registration and Licensure and Conduct Constituting Professional Misconduct Legislative	6/24/2016	7/23/2016		7/29/2016	Modified & Approved 8/22/2016			
Registered Professional Nurses (19-8)	Limited Prescriptive Authority for Nurses in Advanced Practice Legislative	6/15/2016	7/22/2016	8/12/2016 Effective 9/23/2016	8/2/2016	Modified & Approved 8/22/2016			

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Risk and Insurance Management (115-1)	Mine Subsidence Insurance Legislative	6/13/2016	7/14/2016	6/13/2016 ERD by 7/25/2016 Withdrawn 7/1/2016 9/15/2016 Approved 9/29/2016	8/22/2016	Modified & Approved 12/6/2016 Filed 12/12/2016			
Risk and Insurance Management (115-7)	Patient Injury Compensation Fund Legislative	6/7/2016	7/7/2016	6/6/2016 Approved 7/1/2016	8/22/2016	Modified & Approved 12/6/2016			
Sanitarians (20-4)	Practice of Public Health Sanitation Legislative	7/1/2016	8/1/2016		8/11/2016	Modified & Approved 9/21/2016 Filed 10/3/2016			
School Building Authority of WV (164-1)	School Building Authority Policy and Procedures Handbook Procedural	12/22/2016	1/23.2017						
Secretary of State (153-3)	Voter Registration at the Div. of Motor Vehicles Legislative	7/22/2016	8/22/2016		8/24/2016	Modified & Approved 1/10/2017 Filed 1/17/2016			
Secretary of State (153-5)	Voter Registration List Maintenance by the Secretary of State Legislative	7/22/2016	8/22/2016		8/24/2016	Modified & Approved 1/10/2017 Filed 1/17/2017			
Senior Services (76-3)	WV State Plan for Aging Programs Interpretive	7/7/2016	8/8/2016						
Social Work Examiners (25-5)	Continuing Education for Social Workers and Providers Legislative	7/26/2016	8/25/2016		8/26/2016	Modified & Approved 9/21/2016			
Speech-Language Pathology & Audiology (29-1)	Licensure of Speech-Pathology and Audiology Legislative	7/15/2016	8/18/2016		8/22/2016	Modified & Approved 1/10/2017 Filed 1/23/2017			
Tax Department (110-14C)	Motor Fuel Excise Tax Interpretive	11/5/2015	12/4/2015						

THE ABOVE RULE EXPIRED 6/4/2016

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Treasurer (112-4)	Procedures for Deposit of Monies with the State Treasurer's Office by State Agencies Legislative	7/27/2016	8/26/2016		8/26/2016	Modified & Approved 9/21/2016 Filed 10/21/2016			
Treasurer (112-6)	Selection of State Depositories for Disbursement Accounts through Competitive Bidding Legislative	7/27/2016	8/26/2016		8/26/2016	Modified & Approved 9/21/2016 Filed 10/21/2016			
Treasurer (112-7)	Selection of State Depositories for Receipt Accounts Legislative	7/27/2016	8/26/2016		8/26/2016	Modified & Approved 9/21/2016 Filed 10/21/2016			
Treasurer (112-8)	Procedures for Processing Payments from the State Treasury Legislative	7/27/2016	8/26/2016		8/26/2016	Modified & Approved 9/21/2016 Filed 10/21/2016			
Treasurer (112-12)	Procedure for Fees in Collections by Charge, Credit or Debit Card or by Electronic Payment Legislative	7/27/2016	8/26/2016		8/26/2016	Modified & Approved 9/21/2016 Filed 10/21/2016			
Treasurer (112-13)	Procedrues for Providing Services to Political Subdivisions Legislative	7/27/2016	8/26/2016		8/26/2016	Modified & Approved 9/21/2016 Filed 10/21/2016			
Veterinary Medicine (26-4)	Standards of Practice Legislative	3/10/2016	4/11/2016		6/15/2016	Modified & Approved 9/21/2016 Filed 9/28/2016			
Waste Mgmt., Div. of Water & Waste Mgmt (33-41)	Awarding of Matching Grants for Local Ltter Control Program Legislative	6/29/2016	8/11/2016		8/25/2016	Approved 12/6/2016			

P.O. BOX 2067
CHARLESTON, WV 25327

PHONE: 304-558-0500
1-800-WVA-CASH

Jim Justice
Governor

Alan H. Larrick
Director

LEGISLATIVE

January 30, 2017

Honorable Mac Warner
West Virginia Secretary of State
Attn: Administrative Law Division
1900 Kanawha Boulevard, East
Charleston, WV 25305-0771

Dear Secretary Warner:

Pursuant to W. Va. Code §29-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Racetrack Video Lottery which are specifically authorized by W. Va. Code §§29-22A-1 et seq.

Enclosed are game rules for "Big Red Lantern," "Cash Me If You Can," "Catch a K'Million," "Fu Dao Le," "Quick Hits Riches Black Gold Wild" and "Quick Hit Riches Triple Blazing 777 Wild" manufactured by Bally Technologies for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

Alan H. Larrick,
Director

AHL/pb

Enclosures:
Big Red Lantern
Cash Me If You Can
Catch a K'Million
Fu Dao Le
Quick Hits Riches Black Gold Wild
Quick Hit Riches Triple Blazing 777 Wild

P.O. BOX 2067
CHARLESTON, WV 25327

PHONE: 304-558-0500
1-800-WVA-CASH

Jim Justice
Governor

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January 30, 2017

Honorable Mac Warner
West Virginia Secretary of State
Attn: Administrative Law Division
1900 Kanawha Boulevard, East
Charleston, WV 25305-0771

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Pursuant to W. Va. Code §29-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Racetrack Video Lottery which are specifically authorized by W. Va. Code §§29-22A-1 et seq.

Enclosed are game rules for "Double Jackpot Gems" manufactured by Everi Games, Inc., (formerly known as Multimedia Games, Inc.) for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

Alan H. Larrick
Director

AHL/pb

Enclosures: Double Jackpot Gems

www.wvlottery.com

P.O. BOX 2067
CHARLESTON, WV 25327

PHONE: 304-558-0500
1-800-WVA-CASH

Jim Justice
Governor

Alan H. Larrick
Director

LEGISLATIVE

January 30, 2017

Honorable Mac Warner
West Virginia Secretary of State
Attn: Administrative Law Division
1900 Kanawha Boulevard, East
Charleston, WV 25305-0771

Dear Secretary Warner:

Pursuant to W. Va. Code §29-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Racetrack Video Lottery which are specifically authorized by W. Va. Code §§29-22A-1 et seq.

Enclosed are game rules for "Wonder 4 Tower" (Program Number 1.02-63245) and "Wonder 4 Tower" (Program Number 1.03.63245) manufactured by Aristocrat, Inc. for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

Alan H. Larrick
Director

AHL/pb

Enclosures: Wonder 4 Tower (Program Number 1.02-63245)
Wonder 4 Tower (Program Number 1.03-63245)

P.O. BOX 2067
CHARLESTON, WV 25327

PHONE: 304-558-0500
1-800-WVA-CASH

Jim Justice
Governor

Alan H. Larrick
Director

January 30, 2017

Honorable Mac Warner
West Virginia Secretary of State
Attn: Administrative Law Division
1900 Kanawha Boulevard, East
Charleston, WV 25305-0771

Dear Secretary Warner:

Pursuant to W. Va. Code §29-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Racetrack Video Lottery which are specifically authorized by W. Va. Code §§29-22A-1 et seq.

Enclosed are game rules for "3x2x Super 7 Free Games," "Big 7s Classic Edition," "Double 3x4x5x Pay," "Gold Bar 7s," "Hell on Reels," "Secrets of the Forest," "Sizzling 7s," "Spitfire Triple Double Diamond" and "Triple Gold" manufactured by IGT for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

Alan H. Larrick
Director

AHL/pb

Enclosures:
3x2x Super 7 Free Games
Big 7s Classic Edition
Double 3x4x5x Pay
Gold Bar 7s
Hell on Reels
Secrets of the Forest
Sizzling 7s
Spitfire Triple Double Diamond
Triple Gold

www.wvlottery.com

P.O. BOX 2067
CHARLESTON, WV 25327

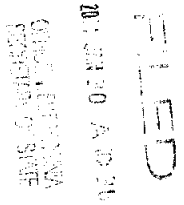
PHONE: 304-558-0500
1-800-WVA-CASH

Jim Justice
Governor

Alan H. Larrick
Director

LEGISLATIVE

January 30, 2017



Honorable Mac Warner
West Virginia Secretary of State
Attn: Administrative Law Division
1900 Kanawha Boulevard, East
Charleston, WV 25305-0771

Dear Secretary Warner:

Pursuant to W. Va. Code §29-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Racetrack Video Lottery which are specifically authorized by W. Va. Code §§29-22A-1 et seq.

Enclosed are game rules for "China Shores Boosted Wins & Spins," "Northern Treasure," "Rising Fire Dragon," "Wealth of Dynasty," "White Cats" and "Winning Animals" by Konami Gaming, Inc., for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

Alan H. Larrick
Director

AHL/pb

Enclosures: China Shores Boosted Wins & Spins
Northern Treasure
Rising Fire Dragon
Wealth of Dynasty
White Cats
Winning Animals

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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2/1/2017 3:17:21 PM

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

PROCEDURAL

FORM 5 – NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY **Forestry**
RULE TYPE **Procedural** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **22-05**
RULE NAME **Procedure for the WV Forest Legacy Program**

CITE AUTHORITY **19-1A-4(b)(3)**

RULE IS LEGISLATIVE EXEMPT
Yes
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

19-1A-4(b)(3)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE, THE EFFECTIVE DATE OF THIS RULE IS
Wednesday, March 01, 2017

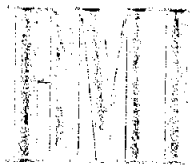
BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
June H Mandel -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Title-Series: 22-05 Rule Id: 10152 Document: 41247

Orders Report

Docket Number	Agency	Respondent	Date Rendered
[redacted]	Health Care Authority	Prime Healthcare Foundation - East Liverpool LLC	1/25/2017
[redacted]	Health Care Authority	St. Joseph Recovery Center LLC	1/27/2017
[redacted]	Insurance Commission	Preferred Care, Inc.	1/20/2017
[redacted]	Medicine, West Virginia Board Of	Thair Ali Barghouthi, MD	12/29/2016
[redacted]	Medicine, West Virginia Board Of	Devender Kumar Batra, MD	1/12/2017
[redacted]	Medicine, West Virginia Board Of	Charles Lee Rosen, MD	1/9/2017
[redacted]	Medicine, West Virginia Board Of	Ranga Chelva Krishna, MD	1/9/2017
[redacted]	Medicine, West Virginia Board Of	James Patrick Morgan, MD	1/9/2017
[redacted]	Medicine, West Virginia Board Of	Jason Charles Brinkman Reutter, MD	1/9/2017
[redacted]	Medicine, West Virginia Board Of	James Ethan Lowe, P.A.C.	12/22/2016
[redacted]	Medicine, West Virginia Board Of	Deleno H. Webb, III, MD	1/12/2017
[redacted]	Registered Professional Nurses, West Virginia Board Of Examiners For	Emily Arthur	1/23/2017



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2017 JAN 30 P 2:21

OFFICE OF SECRETARY OF STATE

Revi-ruth Enriquez-Cohen
Senior Attorney
Legal

OTHER

January 26, 2017

BY OVERNIGHT MAIL

Ms. Judy Cooper
Office of the Secretary of State
Building 1, Suite 157-K
1900 Kanawha Boulevard East
Charleston, West Virginia 25305

Re: West Virginia Statutes, Section 47-2A-1 through 47-2A-4

Dear Ms. Cooper:

Pursuant to the provisions of the above statute, enclosed are booklets containing BMI's form music licensing agreements and related documents which constitutes our current filing of such materials under Section 47-2A-3(a)-(b). This complete set of agreements should be substituted for the agreements filed last year. I understand that there is no fee for filing these materials.

If you have any questions or comments about the enclosures, please feel free to contact me. In addition, I would appreciate your acknowledging receipt of this letter by signing and returning a copy in the enclosed envelope.

Sincerely,

Revi-ruth Enriquez-Cohen

RECEIVED: _____

7 World Trade Center, 250 Greenwich Street, New York, NY 10007-0030 (212) 220-3150 Fax: (212) 220-4499
E-Mail: renriquez-cohen@bmi.com

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WEST VIRGINIA HEALTH CARE AUTHORITY
CERTIFICATE OF NEED
100 Dee Drive
Charleston, West Virginia 25311-1600

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2017 JAN 30 P 12:05

OFFICE OF SECRETARY OF STATE

January 30, 2017

LEGAL NOTICE

Sonia D. Chambers and Marilyn G. White, Board Members, West Virginia Health Care Authority, announce the following Certificate of Need activities for the week ending **January 27, 2017**.

LETTER OF INTENT FOR EXPEDITED REVIEW RECEIVED

January 27, 2017 – Alecto Healthcare Services Wheeling LLC and Alecto Healthcare Services Ohio Valley LLC, Irvine, California, CON File #17-10-11007-A, for the acquisition of Ohio Valley Medical Center; capital expenditure: $36,000,000.

EXPEDITED APPLICATIONS RECEIVED

January 23, 2017 – Advantage Home Care LLC, Clay, Clay County, CON File #17-3-10993-PC, for the provision of in home personal care services in Clay County; capital expenditure: $1,500.

January 23, 2017 – Southern Home Care Services, Inc., Louisville, Kentucky, CON File #17-2-10994-PC, for the provision of personal care services in Cabell County; capital expenditure: $10,000.

January 23, 2017 – Southern Home Care Services, Inc., Louisville, Kentucky, CON File #17-3-10995-PC, for the provision of personal care services in Kanawha County; capital expenditure: $10,000.

HEARING NOTICES

The Administrative Hearing and Prehearing Conference have been CONTINUED GENERALLY in the following matter:

January 23, 2017 – Bio-Medical Applications of West Virginia, Inc. d/b/a Fresenius Medical Care Monongalia County, Eastover, North Carolina, CON File #15-6-10438-R, for the establishment of a new 10 station dialysis facility in Morgantown, Monongalia County.

The Administrative Hearing and Prehearing Conference have been SCHEDULED in the following matter:

January 25, 2017 – Prime Healthcare Foundation – East Liverpool, LLC, Ontario, California, CON File #16-11-10962-A, for the acquisition of Ohio Valley Home Health

Services, Inc.

Prehearing Conference: **Tuesday, April 18, 2017, at 1:30 p.m.**
Administrative Hearing: **Monday, April 24, 2017, at 9:00 a.m.**

HEARING ORDER

January 25, 2017 – Prime Healthcare Foundation – East Liverpool, LLC, Ontario, California, CON File #16-11-10962-A, for the acquisition of Ohio Valley Home Health Services, Inc.

PROJECT EXEMPT FROM REVIEW

January 27, 2017 – St. Joseph Recovery Center, LLC, Parkersburg, Wood County, CON File #16-5-10974-X, for the development of a behavioral health and in-patient substance abuse center to be located at 1824 Murdoch Avenue, Bldg. C, Parkersburg, Wood County.

Further information may be obtained on any of the above-referenced projects by contacting Timothy E. Adkins, Director, Certificate of Need Division.

OTHER

STATE OF WEST VIRGINIA
Department of Revenue
State Tax Department

Jim Justice
Governor

Dale W. Steager
State Tax Commissioner

ADMINISTRATIVE NOTICE 2017-01

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR THE DETERMINATION OF ROYALTY RATES FOR PRODUCING COAL AND OTHER NATURAL RESOURCES FOR AD VALOREM PROPERTY TAX PURPOSES FOR TAX YEAR 2017, PURSUANT TO §§110 CSR 1I-4.1.6 AND 1K-4.1.6

On September 1, 2016, the State Tax Department filed valuation variables to be used in conjunction with legislative regulations for the appraisal of natural resource properties. (See: §§ 110 CSR 1-H, 1-I, 1-J and 1-K) This notice will address one of the variables, royalty rate(s), setting forth the procedures used in developing the rate(s) for producing coal and other natural resources exclusive of oil and natural gas for Tax Year 2017.

DISCUSSION

In West Virginia, natural resources royalty rates are generally negotiated at a stated price per ton or as a percent of the selling price per ton of the resource produced. As most leases are negotiated as a percentage of selling price, it is necessary to obtain lease and sales information and to analyze this information in order to develop leasing and sales price patterns typical of the industry.

The Department's review of coal industry leasing patterns during the previous eight (8) years reveals that leases for surface mining operations (6.61%) are typically higher than for deep mining operations (5.69%). Review of sales prices reported in *Coal Week*, the Tax Year 2016 returns and other sources, further reveal a difference in typical selling prices of steam coal ($58.15 per ton) and metallurgical coal ($74.60 per ton).

Thus, royalty rates typically negotiated by the coal industry have been as follows:

Steam Coal/Deep Mine	$ 58.15 per ton	X	5.69%	=	$3.31 per ton
Metallurgical Coal/Deep Mine	$ 74.60 per ton	X	5.69%	=	$4.24 per ton
Steam Coal/Surface Mine	$ 58.15 per ton	X	6.61%	=	$3.84 per ton
Metallurgical Coal/ Surface Mine	$ 74.60 per ton	X	6.61%	=	$4.93 per ton

Property Tax Division
P. O. Box 2389
Charleston, WV 25328 - 2389
Phone 304-558-3940 FAX 304-558-1843

Similar research of royalty rates for other natural resources revealed the following:

Limestone/Deep	22¢ per ton
Limestone/Surface	22¢ per ton
Sandstone	30¢ per ton
Clay/Shale	11¢ per ton
Sand/Gravel	40¢ per ton
Salt	10¢ per ton

For more information concerning natural resource properties' royalty rate(s), contact the State Tax Department at (304) 558-3940.

Notice of this determination will be filed in the West Virginia Register.

Issued: January 26, 2017

Dale W. Steager
State Tax Commissioner

State Tax Department
Property Tax Division
P. O. Box 2389
Charleston, WV 25328-2389

Operator on Duty 8:30 am - 5:00 pm
Monday through Friday
Phone: (304) 558-3940
FAX: (304) 558-1843

OTHER

STATE OF WEST VIRGINIA
Department of Revenue
State Tax Department

Jim Justice
Governor

Dale W. Steager
State Tax Commissioner

ADMINISTRATIVE NOTICE 2017-02

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
CONCERNING PRIMARY RELIANCE ON THE INCOME
APPROACH TO VALUE FOR APPRAISALS OF PRODUCING AND
RESERVE COAL, PRODUCING OIL AND GAS, AND PRODUCING
OTHER MINED MINERALS PURSUANT TO §§ 110 CSR 1I-4, 1J-4 AND 1K-4

The Legislative Rule §§ 110 CSR 1J-1, *et seq.* concerning the appraisal of producing and reserve oil and gas properties became effective June 1, 2005, §§ 110 CSR 1I-1, *et seq.* for the appraisal of producing and reserve coal properties became effective May 1, 2006 and §§ 110 CSR 1K-1, *et seq.* for the appraisal of producing other mined mineral properties became effective May 1999. This notice will address these rules' primary reliance on the income approach to value when appraising active and reserve coal, producing oil and gas, and other mined mineral properties for property tax purposes.

DISCUSSION

There are three (3) generally accepted approaches to value that must be considered when estimating market value of property for ad valorem tax purposes. These are the cost, market, and income approaches. These approaches to value must be considered and should be developed, if appropriate, to properly estimate market value in compliance with generally accepted appraisal principles. The following is a brief discussion of these three (3) approaches to value and their potential use when estimating the market value of producing natural resource properties for ad valorem tax purposes.

COST APPROACH

The cost approach to value is based upon the assumption that the cost of a property, less depreciation (loss in value), yields a reasonable estimate of market value. There are three (3) generally accepted types of cost approach appraisal methods; these are: original cost less depreciation, reproduction cost less depreciation, and replacement cost less depreciation. Depreciation is a loss in value due to physical deterioration through use, functional obsolescence through design or utility and economic obsolescence due to outside market forces.

Original cost less depreciation is the cost of acquisition of a property less a loss in value due to physical deterioration, functional obsolescence and economic obsolescence. This approach is widely employed in the appraisal of "cost-based" regulated utilities, however it has a limited application when appraising producing natural resource properties, as many of these types of properties were acquired years ago at substantially less than current market value.

Reproduction cost less depreciation is the cost of reproducing an exact replica of a property less physical deterioration, functional obsolescence, and economic obsolescence. This approach is employed in appraising one-of-a-kind properties such as works of art or special purpose properties, an example of which is the State's Capitol Building. Coal, oil and gas, and other mined minerals are a nonrenewable natural resource and therefore cannot be reproduced. Because of their nonrenewable nature, producing natural resource properties do not lend themselves to development of a reproduction cost less depreciation appraisal.

Replacement cost less depreciation is the cost of replacing a property with one of like utility less physical deterioration and economic obsolescence. This approach is the most widely used of the three (3) cost approaches to value and is widely employed in the appraising of commercial and industrial personal property. Replacement cost has limited application, however, in the appraisal of nonrenewable natural resource properties, as the resource cannot, by its nature, be replaced.

MARKET APPROACH

The market approach to value is based upon the assumption that the recent selling price of comparable properties if properly analyzed and adjusted, if appropriate, will yield a reasonable estimate of current market value. This valuation approach is widely employed in the valuation of residential real estate where a considerable number of properties transfer on a reasonably frequent basis. Natural resource properties sell infrequently and when they do sell they are quite often only a portion of the property acquisition thus diluting the purity of the market transaction. Therefore, the market approach to value has limited application because of the lack of a sufficient number of sales of natural resource properties to statistically support development of the approach for natural resource properties.

INCOME APPROACH

The income approach to value is based upon the assumption that a property is worth the future income, discounted to present worth, that it will generate for a perspective buyer. The income approach is widely used in the appraisal of various types of income producing properties and is appropriately used in several taxing jurisdictions to value producing natural resource properties, i.e. natural resource properties that produce an income stream. In addition, the income approach can be developed for non-producing properties through use of estimating the unit income value and apportioning the value to non-producing properties based upon their probable time of mining.

OTHER

APPLICATION

From the above discussion it becomes readily apparent that development of a cost or a market approach valuation for producing and reserve coal and producing oil and gas and other minerals properties is inappropriate. The Tax Department therefore developed and relied upon an income approach appraisal; as the income approach is the only one (1) of the three (3) generally accepted approaches to value that can properly be developed to yield reasonable estimates of current market value when used in a mass appraisal environment.

For further information concerning the use of the income approach to value natural resource properties see §§ 110 CSR 1I-1, 1J-1 and 1K-1 et seq. or contact the State Tax Department at (304) 558-3940.

Notice of this determination will be filed in the West Virginia Register.

Issued: January 26, 2017

Dale W. Steager
State Tax Commissioner

State Tax Department
Property Tax Division
P. O. Box 2389
Charleston, WV 25328-2389

Operator on Duty 8:30 am - 5:00 pm
Monday through Friday
Phone: (304) 558-3940
FAX: (304) 558-1843

STATE OF WEST VIRGINIA
Department of Revenue
State Tax Department

Jim Justice
Governor

Dale W. Steager
State Tax Commissioner

OTHER

ADMINISTRATIVE NOTICE 2017-03

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR THE DETERMINATION OF THE IN-PLACE TONNAGE PER ACRE-FOOT OF COAL AND OTHER NATURAL RESOURCES

The Legislative Rules filed by the State Tax Department became effective on May 1, 1999 (see §§ 1K-1, *et seq.*) and May 1, 2006, (see §§ 110 CSR 1I-1, *et seq.*) for the appraisal of coal properties and other natural resource properties. This notice will address these Rules' use of the in-place tonnage per acre-foot for coal properties, referenced in § 110 CSR 1I-3.59 and for other natural resource properties, referenced in § 110 CSR 1K-3.27.

DISCUSSION

The specific gravity[1] of bituminous coal ranges between 1.15 and 1.5 depending on rank, moisture content, and ash content, and averages 1.32. The Legislative Rule's equation for the determination of tons per acre-foot is as follows:

$$\frac{62.4 \text{ lbs. per ft3 water} \times 43{,}560 \text{ ft3 per acre-ft.} \times \text{natural resource specific gravity}}{2000 \text{ lbs./ton}} = \text{tons per acre-ft.}$$

Substituting the specific gravity of coal into the formula we find that there are approximately 1800 tons of coal in place per acre-foot as follows:

$$\frac{62.4 \times 43{,}560 \times 1.32}{2000} = 1{,}793.97 \text{ or } 1800 \text{ tons per acre-ft.}$$

[1]specific gravity - The ratio of the weight of an object in air to the weight of an equal volume of water

Property Tax Division
P. O. Box 2389
Charleston, WV 25328 - 2389
Phone 304-558-3940 FAX 304-558-1843

It should be noted here that the 1800 tons per acre-foot establishes a benchmark for determination of a recovery rate. If the specific gravity of coal being mined is less than or greater than 1.32 then the recovery rate per acre mined should be adjusted accordingly, thus eliminating the potential of inaccurate calculations of acres mined.

Similar calculations for other mined minerals yield the following results:

Limestone	=	3,600 acre-ft.
Sandstone	=	3,400 acre-ft.
Clay/Shale	=	3,250 acre-ft.
Sand/Gravel	=	2,400 acre-ft.
Salt	=	2,950 acre-ft.

For more information concerning the development of the in-place tonnage of natural resource properties see §§ 110 CSR 1I-1 and 1K-1 et seq. or contact the State Tax Department at (304) 558-3940.

Notice of this determination will be filed in the West Virginia Register.

Issued: January 26, 2017

Dale W. Steager
State Tax Commissioner

State Tax Department
Property Tax Division
P. O. Box 2389
Charleston, WV 25328-2389

Operator on Duty 8:30 am - 5:00 pm
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Phone: (304) 558-3940
FAX: (304) 558-1843

STATE OF WEST VIRGINIA
Department of Revenue
State Tax Department

Jim Justice
Governor

Dale W. Steager
State Tax Commissioner

OTHER

2017 JUN 30 A 11:03

ADMINISTRATIVE NOTICE 2017-04

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
CONCERNING PRIMARY RELIANCE ON THE MARKET
COMPARABLE APPROACH FOR APPRAISING RESERVE
OTHER NATURAL RESOURCES PURSUANT TO § 110 CSR 1K-4.2

On May 1, 1999, the Legislative Rule filed by the State Tax Department for the appraisal of natural resources other than coal, oil and natural gas (see §§ 110 CSR 1K-1, *et seq.*) became effective. This notice will address this Rule's primary reliance on the market comparable approach to value when appraising reserve other natural resource properties for ad valorem property tax purposes.

DISCUSSION

There are three (3) generally accepted approaches to value that must be considered when estimating market value of properties for ad valorem tax purposes. These are the cost, market, and income approaches to value. These approaches to value must be considered and should be developed, if appropriate, to properly estimate market value in compliance with generally accepted appraisal principles. The following is a brief discussion of these three (3) approaches to value and their potential use when estimating the market value of reserve natural resource properties other than coal and oil and gas for ad valorem tax purposes.

COST APPROACH

The cost approach to value is based upon the assumption that the cost of a property, less depreciation (loss in value), yields a reasonable estimate of market value. There are three (3) generally accepted types of cost approach appraisal methods; these are: original cost less depreciation, reproduction cost less depreciation, and replacement cost less depreciation. Depreciation is a loss in value due to physical deterioration through use, functional obsolescence through design or utility and economic obsolescence due to outside market forces.

Property Tax Division
P. O. Box 2389
Charleston, WV 25328 - 2389
Phone 304-558-3940 FAX 304-558-1843

Original cost less depreciation is the cost of acquisition of a property less a loss in value due to physical deterioration, functional obsolescence and economic obsolescence. This approach is widely employed in the appraisal of "cost-based" regulated utilities, however it has a limited application when appraising reserve natural resource properties, as many of these types of properties were acquired years ago at substantially less than current market value.

Reproduction cost less depreciation is the cost of reproducing an exact replica of a property less physical deterioration, functional obsolescence, and economic obsolescence. This approach is employed in appraising one-of-a-kind properties such as works of art or special purpose properties, an example of which is the State's Capitol Building. Other mineral properties are a nonrenewable natural resource and therefore cannot be reproduced. Because of their nonrenewable nature, reserve natural resource properties do not lend themselves to development of a reproduction cost less depreciation appraisal.

Replacement cost less depreciation is the cost of replacing a property with one of like utility less physical deterioration and economic obsolescence. This approach is the most widely used of the three (3) cost approaches to value and is widely employed in the appraisal of commercial and industrial personal property. Replacement cost has limited application, however, in the appraisal of nonrenewable natural resource properties, as the resource cannot, by its nature, be replaced. Because of their nonrenewable nature, reserve natural resource properties do not lend themselves to the development of replacement cost new less depreciation appraisals.

INCOME APPROACH

The income approach to value is based upon the assumption that a property is worth the future income, discounted to present worth, that it will generate for a prospective buyer. The income approach is widely used in the valuation of various types of income producing properties; however, the approach has limited application in valuing properties that do not produce an income stream. Reserve other natural resource properties do not readily produce an income stream and do not therefore readily lend themselves to application of an income approach valuation.

MARKET APPROACH

The market approach to value is based upon the assumption that the recent selling price of comparable properties, if properly analyzed and adjusted, will yield a reasonable estimate of current market value. Consistent with the above referenced Legislative Rule, the State Tax Department developed a market comparable approach for reserve other mineral properties. The Department has reviewed sales during at least the five (5) calendar years prior to the July 1st appraisal date of 2016 in various fashions and has constructed measures of central tendency concerning sales transacted during the aforementioned period of time. These sales have been analyzed according to methods established in § 110 CSR 1K-4.2 for reserve other natural resource properties. The Department published and filed final variables on September 1, 2016.

OTHER

Reserve rates for the various other mined minerals are as follows:

Limestone	$3,000/acre
Sandstone	$2,300/acre
Clay/Shale	$ 850/acre
Sand/Gravel	$4,000/acre
Salt	$1,140/acre

For more information concerning the appraisal of reserve other mineral properties consult § 110 CSR 1K-1 or contact the State Tax Department at telephone number (304) 558-3940.

Notice of this determination will be filed in the West Virginia Register.

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STATE OF WEST VIRGINIA
Department of Revenue
State Tax Department

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State Tax Commissioner

ADMINISTRATIVE NOTICE 2017-05

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR VALUE ANALYSIS OF RESERVE COAL PROPERTIES
PURSUANT TO § 110 CSR 1I-4.2

On May 1, 2006, the Legislative Rule filed by the State Tax Department relating to the appraisal of producing and reserve coal properties (see §§ 110 CSR 1I-1, *et seq.*) became effective. This notice will address valuation of reserve coal properties conducted by the State Tax Department pursuant to § 110 CSR 1I-4.2.

DISCUSSION

Legislative Rule § 110 CSR 1I-4.2 requires reserve coal properties to be appraised based upon coal bed mapping information from which a reserve coal valuation model (RCVM) is derived.

RESERVE COAL VALUATION MODEL (RCVM)

Legislative Rule § 110 CSR 1I-4.2.3 requires the establishment of a reserve coal valuation model (RCVM) by the systematic analysis of Geographic Information System (GIS) data sets relating to the following: coal bed maps, mine maps, pricing and market analysis (including royalties), property transactions, environmental factors, property location, use conflicts and coal bed characteristics, including quality considerations. This analysis is designed to produce a valuation of individual coal beds per individual coal reserve properties.

Data sets for this analysis will be derived from a variety of sources, including but not limited to, the following: taxpayer annual returns, questionnaires, West Virginia Geological and Economic Survey, West Virginia Department of Environmental Protection, West Virginia Division of Natural Resources, United States Department of Interior (United States Geological Survey)*, and any other reliable source(s) which may come to the attention of the Commissioner.

* See USGS Circular 891.

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For more information concerning the calculations for developing the RCVM consult §§ 110 CSR 1I-1, *et seq.* or contact the State Tax Department at telephone number (304) 558-3940.

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ADMINISTRATIVE NOTICE 2017-06

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR THE DETERMINATION OF THE CAPITALIZATION RATES FOR PRODUCING AND RESERVE COAL, OIL AND GAS AND OTHER MINED MINERALS FOR PROPERTY TAX PURPOSES FOR TAX YEAR 2017
PURSUANT TO §§ 110 CSR 1I-4.1.7, 1J-4.5 AND 1K-4.1.7

On September 1, 2016, the State Tax Department filed valuation variables to be used in conjunction with legislative rules for the appraisal of producing natural resource properties. (See: §§ 110 CSR 1-I, 1-J and 1-K) This notice will address one of the variables, the capitalization rate, setting forth the generally accepted appraisal procedures used in developing the respective rates and in applying the rates to income streams generated by natural resource properties. To this end, this notice will discuss development of industry capitalization rates for properties containing coal, and/or oil and gas, and/or other mined minerals.

DISCUSSION

The International Association of Assessing Officers text *Property Appraisal and Assessment Administration*, 1990, defines a capitalization rate as: "Any rate used to convert an estimate of income to an estimate of market value; the ratio of net operating income to market value." In other words a rate used to convert an estimate of future income into an estimate of present value.

Generally, there are three (3) components that must be considered and if appropriate developed and included in an overall capitalization rate. These components are: the discount component, the recapture component, and the property tax component. The development of each of these three (3) components will be discussed in the remainder of this Notice.

DISCOUNT COMPONENT

Of the three (3) generally accepted methods of estimating a discount component, the bands-of-investment method and the summation method have received primary consideration. Consideration was given to use of the comparison method; however, the Tax Department is of the opinion that the bands-of-investment and summation methods are the more appropriate methods to employ for properties containing coal, and/or oil and gas, and/or other mined minerals as there are a limited number of sales of these types of properties and these methods lend themselves more readily to the conversion of the equity rate portion of the discount component to a pre-tax rate.

The first step in the process is to construct a capital structure. The capital structure of an industry depicts typically the sources of capital financing (i.e.: what portion of the total capital financing is raised through debt and through equity financing). The Tax Department developed an average industry capital structure based on mining and oil and gas industries as grouped in the Value Line Investment Survey. The capital structure was segregated into percentages of capital financing generated through debt and through equity financing in order to develop a profile for typical leveraging characteristics by type industry. (Equity financing represents capital acquired through sale of stock and earnings retention and debt financing represents capital acquired through issuance of instruments of debt.)

Once the capital structure had been established a return on investment is developed for each financing band. The Tax Department analyzed the financial information of companies grouped by industry in the Value Line Investment Survey in order to develop a return by type industry for common stocks. This "after-tax" return was then adjusted to a "pre-tax" return where applicable and used in developing the equity portion of the discount component.

The debt return for the debt finance band was established, by adding two percent (2%) to the Prime Rate Charged by Banks as published in the Economic Indicators Prepared by the Council of Economic Advisors for the Joint Economic Committee. Once a safe rate and a risk rate are developed from the previously mentioned analysis, a management rate (for management of investment portfolios), a non-liquidity rate (time required to sell the investment), and an inflation rate (rate used to adjust the discount component to a real rate net of inflationary expectations) are estimated.

RECAPTURE COMPONENT

The discount component previously discussed provides an investor with a rate of return-on-investment (interest). The second capitalization rate component, recapture, provides the investor with a return-of-investment principal (i.e.: provides an estimate of return necessary for the investor to recover the principal invested). Once a capitalization rate has been developed for coal, oil and gas, and other mined mineral properties, the income series is discounted to present worth through selection of a multiplier(s) extracted from a standard mid-year life Inwood table. The Inwood table has a factor for recapture built into the table coefficients thus removing the need to separately accommodate for recapture in the capitalization rate.

OTHER

PROPERTY TAX COMPONENT

The third component, property taxes, was derived by multiplying the assessment rate by the statewide average of tax rates on Class III property. Tax Department research indicates that in addition to royalty rates negotiated in producing coal property leases, property taxes are customarily paid by the coal producer. Thus the capitalization rate for producing coal properties does not contain a property tax component as the income stream does not contain income to be used to pay property taxes.

APPLICATION

The summation of the previously discussed components (i.e.: discount, recapture, and property tax components) yields a reasonable estimate for the overall capitalization rate. The overall capitalization rate is used to select the factor(s) from a standard mid-year life Inwood table (i.e.: present worth of one (1) per period) that converts the income stream(s) into an estimate of present worth.

For more information concerning the development of capitalization rates for producing natural resource properties see §§ 110 CSR 1-I, 1-J and 1-K, or contact the State Tax Department at (304) 558-3940.

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ADMINISTRATIVE NOTICE 2017-07

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR THE DETERMINATION OF PRODUCTION DECLINE RATES FOR
PRODUCING OIL AND GAS PROPERTIES FOR PROPERTY TAX PURPOSES
FOR TAX YEAR 2017, PURSUANT TO § 110 CSR 1J-4.4

On September 1, 2016, the State Tax Department filed valuation variables to be used in conjunction with the legislative rule for the appraisal of oil and gas properties. (See: §§ 110 CSR 1J-1, *et seq.*) This notice will address one of the variables, the production decline rate(s), setting forth the procedures used in developing the rate(s) for Tax Year 2017.

DISCUSSION

The income stream generated from a producing oil or gas well is directly dependent upon the quantity of the natural resource produced from the well. Once drilled an oil or gas well will experience a sharper production decline, typically for the first two (2) years of production. This is known as flush production. Thereafter production decline levels off into what is known as settled production. The rate of production decline is dependent upon the physical location of the well and the stratigraphic formation(s) from which the well is producing.

The West Virginia Geological and Economic Survey ("Survey") has in past years created a database that contains well-by-well production data by producing formation(s). The Tax Department contracted with the Survey to develop an analytical model to plot production declines by location/formation throughout the State using data available at the time of the contract.

The Survey has divided the State into ten (10) regions that contain similar oil and gas geological characteristics. A map of the State depicting each of the ten (10) regions and a complete list of the oil and gas decline rates can be found in the above referenced variables filed on September 1, 2016.

For Tax Year 2014, in addition to the data from the Survey, the Tax Department also did a survey for Marcellus wells. The results from this data were used in the above-referenced variables as well.

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For Tax Year 2016, further data was also utilized to update the Marcellus decline for the North West Region.

The appropriate production decline rate(s) are applied to individual well gross receipts to develop a probable future income series for the respective wells. The income streams from these wells are then discounted to present value.

For more information concerning the development of oil and gas well production decline rates contact the State Tax Department at (304) 558-3940.

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ADMINISTRATIVE NOTICE 2017-08

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR THE DETERMINATION OF OIL AND GAS OPERATING
EXPENSES FOR PROPERTY TAX PURPOSES FOR TAX YEAR 2017,
PURSUANT TO § 110 CSR 1J-4.3

The Legislative Rule for the appraisal of oil and gas properties (See §§ 110 CSR 1J-1, *et seq.*) became effective June 1, 2005. This notice will address one of the valuation variables referenced in the Rule, oil and gas operating expenses, setting forth procedures used in developing these expenses and their application against receipts for the working interest of oil and gas producing properties.

DISCUSSION

In 2014, the Tax Department received responses from over 16,000 producing wells. This information involved the average annual operating expenses for a "typical" West Virginia well under present economic conditions. The data was reviewed again for Tax Year 2017 due to the declining gas prices and adjustments were made as necessary. The Tax Department has developed the following criteria for the direct ordinary operating expenses as a result of this research activity. Direct ordinary operating expenses will be estimated to be 45% of the gross receipts derived from gas production, not to exceed $5,000, 35% of gross receipts derived from oil production, not to exceed $5,750, and 35% of the gross receipts derived from enhanced recovery oil wells, not to exceed $9,000. In 2014, the Tax Department also received responses from a survey specifically for Marcellus and horizontal wells other than Marcellus. Utilizing that information, the Tax Department developed the following criteria for Marcellus wells and horizontal other than Marcellus wells. For Marcellus vertical wells, the maximum operating expenses allowed is 30% of the gross receipts derived from gas production, not to exceed $30,000. For Marcellus horizontal wells the maximum operating expense allowed is 20% of the gross receipts derived from gas production, not to exceed $175,000. For horizontal, other than Marcellus, the maximum operating expenses allowed is 30% not to exceed $20,000. As required in the amended Rule, the Tax Department will review such rates every five years.

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In instances where the well is producing both oil and gas, the allotted maximum ordinary operating expense will vary between $5,000 and $5,750 depending on the percentage of gas versus oil receipts involved. For Marcellus vertical wells the allotted maximum operating expense will vary between $5,750 and $30,000 depending upon the percentage of gas versus oil receipts involved. For Marcellus horizontal wells the allotted maximum operating expense will vary between $5,750 and $175,000 depending upon the percentage of gas versus oil receipts involved. For horizontal, other than Marcellus, the allotted maximum operating expense will vary between $5,750 and $20,000 depending upon the percentage of gas versus oil receipts involved.

For additional information concerning oil and gas annual operating expenses see § 110 CSR 1J-1 et seq. or call the State Tax Department at (304) 558-3940.

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ADMINISTRATIVE NOTICE 2017-09

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR THE DETERMINATION OF THE SOIL PRODUCTIVITY
MAPS FOR MANAGED TIMBERLAND, PURSUANT TO § 110 CSR 1H-3.16

On May 1, 1999, the Legislative Rule for the valuation of timberland and managed timberland (See §§ 110 CSR 1H-1, *et seq.*) became effective. This rule addresses, in section three (3.16), managed timberland soil productivity maps. This notice will discuss development of these maps and reference source materials used in their compilation.

DISCUSSION

The Legislative Rule requires the use of the United States Department of Agriculture Natural Resource Conservation Service (NRCS) Soil Survey Geographic Database (SSURGO) data or the best information available if these data are not available. For the 2017 Tax Year, the Department has used the below referenced soil survey data.

The Department entered into contracts with the West Virginia University College of Agriculture and Forestry and with Dr. David E. White, Professor of Forest Economics and Policy, to develop soil productivity maps reflecting productivity grades. Soil productivity maps were developed and delivered to the Department in 1985. These maps were used (with the exception of Webster County) as a basis for grading and pricing approved managed timberland applications. A composite of surrounding county soil productivity types was used for the portions of Webster County where no soil data was available. The Department also contracted with Charles Yuill of West Virginia University to determine soil productivity through a GIS mapping technique.

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For more information concerning the soil productivity maps see §§ 110 CSR 1H-1, *et seq.* or contact the State Tax Department at (304) 558-3940.

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ADMINISTRATIVE NOTICE 2017-11

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR THE DETERMINATION OF THE CAPITALIZATION
RATES FOR MANAGED TIMBERLAND FOR PROPERTY
TAX PURPOSES FOR TAX YEAR 2017, PURSUANT TO § 110 CSR 1H-12

On May 1, 1999, the Legislative Rule for the appraisal of managed timberland properties (See § 110 CSR 1H) became effective. This notice will address one of the valuation variables, the capitalization rate, setting forth the generally accepted appraisal procedures used in developing the respective rates and in applying the rates to income streams generated by managed timberland properties. To this end, this notice will discuss development of capitalization rates for managed timberland.

DISCUSSION

The International Association of Assessing Officers text *Property Appraisal and Assessment Administration*, 1990, defines a capitalization rate as: "Any rate used to convert an estimate of income to an estimate of market value; the ratio of net operating income to market value." In other words a rate used to convert an estimate of future income into an estimate of present value.

The average statewide capitalization rate (based on a 5-year weighted moving average of various components) for managed timberland is determined annually by the Tax Commissioner through the use of generally accepted methods of determining such rates. The rate is based on the assumption of a discounted cash flow model based upon harvest intervals reflected in Appendix 4 of § 110 CSR 1H.

Generally, there are three (3) components that must be considered and, if appropriate, developed and included in an overall capitalization rate. These components are: the discount component, the recapture component, and the property tax component. The development of the components is discussed in the Rule under Section § 110 CSR 1H-12.1. These are as follows:

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DISCOUNT COMPONENT

The summation technique is used to develop a discount component of the capitalization rate. The five sub-components of the discount component are:

Safe Rate. -- The safe rate reflects a rate of return that an investor could expect on an investment of minimal risk. This rate is developed through weighted averages of interest rates offered on five-year United States Treasury Bills for the five years immediately preceding the appraisal date.

Nonliquidity. – The nonliquidity rate is developed through an annual review to determine a reasonable estimate of time that timberland, when exposed for sale, remains on the market before being sold. The time thus determined is used to identify United States Treasury Bills with similar time differentials in excess of thirteen-week Treasury Bills. The interest differential between these securities is used to represent the nonliquidity rate. For example, if it is determined that a tract of timberland remains on the market for an average of nine months (39 weeks) before being sold, the nonliquidity rate is derived by subtracting the rate on 13-week Treasury Bills from the rate on one-year Treasury Bills. This review considers the weighted average of these differences for a five-year period immediately preceding the appraisal date.

Risk Rate. -- The relative degree of risk of an investment in timberland is developed through an annual review of thirty-year United States Treasury Bills less five-year United States Treasury Bills. The review considers the weighted averages of debt and equity components of these differences for a five-year period immediately preceding the appraisal date.

Management Rate. -- The management rate represents the cost of managing the investment, not the cost of managing the timberland. Historically, the management rate has been one-half of one percent (0.5%); therefore, this rate is considered the industry standard for current applications.

Inflation Rate (negative). -- Nominal interest rates, including the "safe rate" mentioned above, are higher than real rates by an amount representing expectation of future inflation. Therefore, the capitalization rate must be a real rate, net of expectation of inflation. The inflation rate is established through a weighted average analysis of the most recent five calendar year's urban consumer price index as determined by the United States Department of Labor, Bureau of Labor Statistics.

In determining the discount component of the capitalization rate, the Tax Commissioner determines the sum of the safe rate, the nonliquidity rate, the risk rate, and the management rate, and deducts from this sum the inflation rate.

OTHER

RECAPTURE COMPONENT

The discount component previously discussed provides an investor with a rate of return-on-investment (interest). The second capitalization rate component, recapture, provides the investor with a return-of-investment principal (i.e.: provides an estimate of return necessary for the investor to recover the principal invested). Once a capitalization rate has been developed, the income series is discounted to present worth through selection of a multiplier(s). The multiplier has a built in factor for recapture thus removing the need to separately accommodate for recapture in the capitalization rate.

PROPERTY TAX COMPONENT

The final component, property taxes, is derived for Class II, Class III, and Class IV properties by multiplying the assessment rate by the statewide average of tax rates on such classes of property.

APPLICATION

The rates as developed above (and shown on attachments) are applied against the difference between future values of the harvest (at determined harvest intervals) less the future value of the management costs less a property tax adjustment for each class of property.

For more information concerning the development of capitalization rates for managed timberland properties see § 110 CSR 1H or contact the State Tax Department at (304) 558-3940.

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ADMINISTRATIVE NOTICE 2017-12

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT CONCERNING PRIMARY RELIANCE ON THE COST APPROACH TO VALUE FOR APPRAISALS OF INDUSTRIAL PERSONAL PROPERTY (I.E. MACHINERY, EQUIPMENT, FURNITURE, FIXTURES, AND LEASEHOLD IMPROVEMENTS) PURSUANT TO § 110 CSR 1P-2.5.3.1

On May 21, 2013, the State Tax Department filed Legislative Rule §§ 110 CSR 1P, *et seq.* relating to the appraisal of industrial machinery, equipment, furniture, fixtures, and leasehold improvements. This notice will address the Tax Commissioner's primary reliance on the cost approach to value when appraising industrial machinery, equipment, furniture, fixtures, and leasehold improvements, for property tax purposes.

DISCUSSION

There are three (3) generally accepted approaches to value that must be considered when estimating market value of property for ad valorem tax purposes. These are the cost, market, and income approaches. These approaches to value must be considered and should be developed, if appropriate, to properly estimate market value in compliance with generally accepted appraisal principles. The following is a brief discussion of these three (3) approaches to value and their potential use when estimating the market value of industrial machinery, equipment, furniture, fixtures, and leasehold improvements for ad valorem tax purposes.

MARKET APPROACH

The market approach to value is based upon the assumption that the recent selling price of comparable properties if properly analyzed and adjusted, if appropriate, will yield a reasonable estimate of current market value. This valuation approach is widely employed in the appraisal of residential real estate where a considerable number of properties transfer on a reasonably frequent basis. Industrial machinery, equipment, furniture, fixtures, and leasehold improvements sell infrequently and are often liquidation sales, which typically are not at market value. The market approach to value is of little, if any, use in appraising industrial personal property due principally to the lack of a sufficient number of meaningful sales to statistically support development of the approach.

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INCOME APPROACH

The income approach to value is based upon the assumption that a property is worth the future income, discounted to present worth that it will generate for a prospective buyer. The income approach is widely used in the appraisal of various types of income producing properties; however, the approach has limited use in the appraisal of industrial machinery, equipment, furniture, fixtures, and leasehold improvements because of the difficulty in estimating future net benefits; except in the case of certain kinds of leased equipment. When reliable data on equipment leases is available, the income approach can provide reliable estimates of fair market value.

COST APPROACH

The cost approach to value is based upon the assumption that the cost of a property, less depreciation (loss in value), yields a reasonable estimate of market value. Depreciation is a loss in value due to physical deterioration through use, functional obsolescence through design or utility and economic obsolescence due to outside market forces.

Costs used in the cost approach can be original, acquisition, replacement, or reproduction costs, although often only original or acquisition costs are readily available. Original cost is the cost of acquisition of a property. Reproduction cost is the cost of reproducing an exact replica of a property. Replacement cost is the cost of replacing a property with one of like utility. The cost approach may be most consistently applied to machinery, equipment, furniture, fixtures, and leasehold improvements because of the availability of reliable data such as the original or acquisition cost.

The State Tax Department trends the original or acquisition cost to today's replacement cost and depreciates the replacement cost, based on age and condition, to estimate a property's current market value. This process is recommended by the International Association of Assessing Officers' Standards on the Valuation of Personal Property.

This process is as follows:

Original or Acquisition Cost	X	Trend Factor	=	Today's Replacement or Reproduction Cost	X	Depreciation Factor	=	Current Market Value

OTHER

The Tax Commissioner uses the *Marshall Valuation Service*, an appraisal guide, as the source of information for the trend and depreciation tables and provides this information to all fifty-five counties as a guide for the appraisal of personal property. The *Marshall Valuation Service* is compiled, published and updated quarterly by Marshall and Swift of Los Angeles, California. The *Marshall Valuation Service* has a circulation of users in all 50 states, plus the District of Columbia, Puerto Rico, Guam and Canada. Users include independent appraisers, insurance companies, savings and loan associations, banks, architects, developers, accountants, assessors and engineers.

For further discussion concerning the use of a cost approach appraisal, or use of the *Marshall Valuation Service*, please direct your inquiries to the Property Tax Division of the State Tax Department at telephone number (304) 558-3940.

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ADMINISTRATIVE NOTICE 2017-13

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
CONCERNING PRIMARY RELIANCE ON THE *GREEN GUIDE*
FOR THE APPRAISAL OF USED HEAVY EQUIPMENT

On May 21, 2013, the State Tax Department filed Legislative Regulations §§ 110 CSR 1P, *et seq.* concerning the appraisal of industrial real and personal property. This notice will address the Department's primary reliance on the *Green Guide* for the appraisal for property tax purposes of used heavy equipment.

DISCUSSION

The *Green Guide for Administrative Valuation and Assessment of Used Construction Equipment* provides a comprehensive, reliable, and up-to-date source for estimates of current market value of construction equipment manufactured during the past ten years.

The values in this guide are derived from an extensive data reporting system supplied by equipment dealers and distributors, manufacturers, auctioneers, and contractors. This information is analyzed by the professional staff of the *Green Guide* using the most up-to-date computerized methods. The values presented in the *Green Guide* are compiled from analysis of used heavy equipment sales. Standard economic analysis (including such factors as inflation and depreciation rates, current replacement costs, average life of equipment, supply and demand, and current construction industry activity) is used in conjunction with actual sales reports and are relied upon when sufficient sales data on any particular piece of equipment is not available.

The values presented in the *Green Guide* represent a nationwide average for equipment in typical working condition. Any dollar amounts shown in this guide are adjusted to fit the mechanical condition of a specific unit. Market conditions also have a bearing on the value of equipment and can vary in different areas. Each section in the *Green Guide* has a value modification map, and where sufficient data exists a percentage change (plus or minus) from average values is indicated by region.

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The *Green Guide* has been in publication for over thirty (30) years and there are numerous guides in circulation today that are used by the following industries or categories of industries.

Agriculture Equip. Mfg.	Hwy/Heavy Const. Contractors
Gen. Bldg. Contractors	Const. Material Mfg.
Logging Companies	Mining Companies
State Government	County/Local Government
Construction Dealers	Lift Truck Dealers
Consulting Engineers	Unions/Trade Associations
Appraisers	Auctioneers
Leasing Companies	Banks
Utility/Power	Heavy Equip. Mfg.
Lift Truck Mfg.	Federal Government
Architects	Insurance Companies
Import/Export Companies	Construction Mfg.

The *Green Guide*'s average resale value for heavy equipment that is used by the State Tax Department reflects the national average of prices, adjusted to this region, reflecting equipment sold by dealers and contractors under fair market conditions. It is considered to be the price that an end user and willing buyer will pay for a machine for which he has an immediate use. The *Green Guides* are used and accepted by a wide range of industries and have long been the standard used by the State Tax Department for referencing used heavy equipment values.

For more information concerning the appraisal of used heavy equipment, please contact the Property Tax Division of the State Tax Department at telephone number (304) 558-3940.

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P. O. Box 2389
Charleston, WV 25328-2389

Operator on Duty 8:30 am - 5:00 pm
Monday through Friday
Phone: (304) 558-3940
FAX: (304) 558-1843

STATE OF WEST VIRGINIA
Department of Revenue
State Tax Department

Jim Justice
Governor

Dale W. Steager
State Tax Commissioner

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2017 SEP 30 A 9:03

ADMINISTRATIVE NOTICE 2017-14

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR THE ALLOCATION OR SEPARATION OF VALUES OF A
POLLUTION CONTROL FACILITY PURSUANT TO §110 CSR 6-5

This notice will discuss the methods contained in Legislative Rules for the valuation of pollution control facilities (see §§ 110 CSR 6-1, *et seq.*) employed by the State Tax Department to allocate or separate salvage value treatment where the pollution control facility produces a profitable by-product or where a part of such facility is required for the operation of the business without regard to the requirements of state or federal air or water quality standards.

DISCUSSION

The State Tax Department has developed two (2) methods by which a pollution control facility will be allocated or separated to establish that portion of value attributable to pollution control activity where the pollution control facility produces a profitable by-product or where a part of such facility is required for the operation of the business without regard to the requirements of State or federal air or water quality standards. These methods are as follows:

COMPONENT METHOD

The component method will receive primary consideration as a method of allocation or separation of values of a pollution control facility. The component method of allocation or separation of values requires the identification of the specific item or component of machinery and/or equipment which is used for the purpose of pollution abatement control but which is also an integral part of the production process and the identification of the acquisition cost of the specific item or component. The component thus identified will be appraised at five percent (5%) of acquisition cost. (For example, a conveyor belt system is used to transport fuel to a boiler to produce energy. The conveyor belt line, while not a pollution abatement control device, contains water sprays and is totally enclosed to retard dust during the transportation process. While the belt line is not a pollution abatement control device but an integral part of the production process, the dust conveyors and the water sprays are eligible pollution abatement facilities. The acquisition costs of these items eligible for salvage value treatment are readily discernible and will receive salvage value treatment.)

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If an item or the cost associated with an item were not discernible, the alternative substitution method would be used.

SUBSTITUTION METHOD

When acquisition costs for eligible pollution abatement control items or components are not discernible or the items or components' use or purposes are such an integral part of the production process that the specific use or task is not clearly ascertainable, the substitution method will be applied.

The substitution method of allocation or separation of valuation is based on the assumption that the value attributable to pollution control equipment is the difference between the value of a similar facility that has the same utility without the pollution abatement attributes and the value of the subject property being appraised which has pollution abatement attributes. (For example, a double-walled pipe used for the transportation of a product from the manufacturing area of the plant to the loading area. A single-walled pipe or other means of transportation is required for the operation of the business whereas the double-walled pipe is specially designed and installed to prevent leaks should the single-wall fail. The cost of double-walled pipe is twenty-five percent higher than single wall. The additional cost of the twenty-five percent would represent the value attributable to pollution abatement control for the purposes of ad valorem taxation.)

For more information concerning the allocation or separation of values of a pollution control facility, please direct your inquiries to the Property Tax Division of the State Tax Department at telephone number (304) 558-3940.

Notice of this determination will be filed in the West Virginia Register.

Issued: January 26, 2017

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State Tax Commissioner

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ADMINISTRATIVE NOTICE 2017-15

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
CONCERNING METHODS BY WHICH
RESIDENTIAL REAL ESTATE IS APPRAISED STATEWIDE

This notice will discuss the method by which local county assessors appraise residential real estate statewide through the use of an Integrated Assessment System (IAS).

DISCUSSION

Several years ago the State Tax Department purchased real estate mass appraisal software called IAS. This software is installed on the network server in Charleston and is accessed through computers in each County Assessor's Office.

Generally, IAS will separately value raw land and structures. This software provides for the entry of data by the local Assessor concerning "comparable sales" of land in particular "neighborhoods" in the county and then prices the value of this land on a "price per front foot or square foot" or by acreage. All such data is entered by tax map and parcel number. In addition, this software contains "replacement cost" pricing features for structures that will allow the local Assessor to enter data such as the size and dimensions of a structure and its rooms, construction materials utilized, quality of construction, date of construction, present condition, style, mechanical systems such as air conditioning and/or furnace, bathrooms, porches, decks, garages, basements, chimneys, exterior and outbuildings. Data collected by the field data collectors/appraisers is entered upon a field card called a "property record card" or "review document" which corresponds to an IAS data entry screen. A data entry clerk then will enter the information taken from the field card into a computer. The IAS software then prices the improvements utilizing construction cost data particularized for that area of the State. A county modifier is utilized to modify the price of the improvements based upon current construction costs.

The local Assessor divides his or her county into "neighborhoods" giving consideration to similarities such as parcel size, roads, topography, costs, type and quality of improvements for land pricing. A neighborhood is "a geographical area exhibiting a high degree of homogeneity in residential amenities, land use, economic and social trends and housing characteristics". Sometimes a large subdivision, town or city will contain several "neighborhoods". Other times a subdivision or agricultural area will be unique and will stand alone as a single neighborhood.

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The County Clerk prepares a "Certificate of Transfer" which will state change of ownership, legal description and whether the transfer is deed stamp exempt or not and whether consideration was paid. The County Clerk provides these "Certificates of Transfer" to the Assessor.

The Assessor will receive a copy of the "Certificate of Transfer" for each such conveyance. The Assessor, by tax map and parcel number, will enter into the computer these "transfers" indicating the "consideration" paid for a particular parcel but also indicating by "validity code" whether the sale is a "valid sale", "involved additional parcels", "not open market", "changed after sale", "related person", "forced sale", "land contract", "construction costs" or "included personal property".

Based upon the "transfer" values, that are identified by the Assessor as being valid arms-length sales as defined by State law, the Assessor will generate a "price per front foot or square foot" for smaller parcels or a monetary per acre value for larger parcels in each neighborhood. Again all data is entered by tax map and parcel number. In those "neighborhoods" where there have been insufficient numbers of "transfers" of unimproved land to generate a "price per front foot or square foot" or a monetary per acre value, the Assessor will take a valid "transfer" price for an improved parcel, value the improvements and subtract the price of the improvements to arrive at a value for the land. This method, commonly referred to as a "land residual method", will then generate a "price per front foot" or a per acre value for the raw land in that neighborhood. Each parcel is physically reviewed and adjustments applied to reflect individual variations with each neighborhood.

Mapping is crucial to any mass appraisal. The county tax maps have been generated over the years utilizing recorded plats, recorded descriptions and aerial photography. Tax map and parcel numbers are assigned to each parcel in the county. Based upon lot measurement or acreage derived by mapping, lot dimensions or acreage is entered into the IAS system by tax map and parcel number for each lot or parcel. The "price per front foot" or acreage value for the neighborhood is then applied to each lot or parcel in the neighborhood, as the case may be, to arrive at an appraised value for the land. This appraised value will reflect market value for the subject land.

Field data collection is the key to "pricing" an improvement. The field data collector or appraiser will visit the structure. He will note on the "property record card" the type of structure, the exterior walls, the style of the structure, the age of the structure, the living accommodations to include total number of rooms, bedrooms, family rooms, plumbing, basement, heating, attic, physical condition, other features such as recreation room area, finished basement living area, basement garage, unfinished area, grade factor, cost and design factor and CDU (condition, desirability and utility factor). The field data collector or appraiser will measure the structure and other structures on the lot or parcel and note on the "property record card" the dimensions of each structure and will draw a ground floor sketch of the dwelling or main structure and additions. Finally, the field data collector or appraiser will visit the "other buildings and yard improvements" and note on the "property record card" the "type code", "quantity", "year", "size", "grade", and "condition" of the other improvements. The data entered on the "property record card" or "review document" is then entered into the IAS system by the data entry clerk and the IAS system then generates the depreciated replacement cost value, which is market value of the improvements.

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The appraised values for improved real property thus determined are compared to the arms-length selling prices of properties that have recently sold to develop an appraisal/sales ratio for each neighborhood. Results from the appraisal/sales ratio are analyzed and neighborhood-pricing factors adjusted to bring the ratio in each neighborhood to within 10% plus or minus of average selling price.

For additional information concerning the appraisal of residential property using the IAS system, please contact the Property Tax Division of the State Tax Department at (304) 558-3940.

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