



# WEST VIRGINIA REGISTER

Published by the Office of the Secretary of State

Volume XXXV

Issue 22

June 1, 2018

A Weekly Publication

Administrative Law Division  
Judy Cooper, Manager

Mac Warner  
Secretary of State  
Administrative Law Division  
Bldg. 1, Suite 157K  
1900 Kanawha Blvd. E.  
Charleston, WV 25305-0770

(304) 558-6000  
www.wvsos.com

## CONTENTS

Chronological Index

Rule Monitor

Notices

- a. Legislative Rules
- b. Interpretive Rules
- c. Procedural Rules
- d. Emergency Rules
- e. Legislative Rule-Making Review Committee

Legislative Interims

Orders

Ethics Commission Opinions

Office of Tax Appeal Decisions

Other Documents or Information Filed

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

Health and Human Resources

Health Care Authority

Insurance Commission

Lottery Commission

Miners Health Safety and Training

Public Health, Bureau for

Senior Services

Water Resources, Div. of Water & Waste Mgmt.

CHRONOLOGICAL INDEX, VOLUME XXXV ISSUE 22

NEW PROPOSED RULES FILED FOR PUBLIC COMMENT THIS WEEK

| AGENCY  | RULE/TITLE   | AUTHORITY                       | HEARING/COMMENT PERIOD/LOCATION   |
|---|--|---------------------------------|---|
| Miners Health Safety and Training (56-08)           | Rule Governing the Submission and Approval of a Comprehensive Mine Safety Program for Coal Mining Operations in the State of WV<br>Legislative | §§22A-1-6 and 22A-1-36(a)and(c) | Written Comments Only<br>June 29, 2018, 4:00 pm<br>Eugene White<br>7 Players Club Drive, Suite 2<br>Charleston, WV 25311<br>eugene.e.white@wv.gov   |
| Miners Health Safety and Training (56-23)           | Rules for Operating Diesel Equipment in Underground Mines in WV<br>Legislative   | §§22A-2A-1001 and 22A-2A-308(a) | Written Comments Only<br>June 29, 2018, 4:00 pm<br>William Tucker<br>7 Players Club Drive, Suite 2<br>Charleston, WV 25311<br>william.h.tucker@wv.gov   |
| Senior Services (76-04)                             | West Virginia State Plan on Aging<br>Interpretive  | §16-5P-1                        | Written Comments Only<br>June 29, 2018, 4:00 pm<br>Commissioner Robert E Roswall<br>WV Bureau of Senior Services<br>1900 Kanawha Boulevard East<br>Charleston, WV 25305<br>robert.e.roswall@wv.gov  |
| Water Resources, Div. of Water & Waste Mgmt. (47-2) | Requirements Governing Water Quality Standards<br>Legislative  | §§22-11-4(a)(16); 22-11-7b      | Public Hearing<br>July 10, 2018, 6:00 pm<br>601 5 <sup>th</sup> Street SE<br>Charleston, WV 25304<br>Written Comments<br>July 10, 2018, 8:00 pm<br>Laura Cooper<br>601 5 <sup>th</sup> Street SE<br>Charleston, WV 25304<br>laura.k.cooper@wv.gov |

**NEW EMERGENCY RULES FILED THIS WEEK**

| <b>AGENCY</b>                                | <b>RULE/TYPE</b>  | <b>AUTHORITY</b>                | <b>EFFECTIVE DATE</b> | <b>DATE NOTICE FOR HEARING</b> |
|--|---|---------------------------------|-----------------------|--------------------------------|
| Miners Health Safety and Training<br>(56-08) | Rule Governing the Submission and Approval of a Comprehensive Mine Safety Program for Coal Mining Operations in the State of WV | §§22A-1-6 and 22A-1-36(a)and(c) | ERD by July 11, 2018  | June 29, 2018                  |
| Miners Health Safety and Training<br>(56-23) | Rules for Operating Diesel Equipment in Underground Mines in WV   | §§22A-2A-1001 and 22A-2A-308(o) | ERD by July 10, 2018  | June 29, 2018                  |



**Mac Warner**  
Secretary of State  
State of West Virginia

Office of the Secretary of State  
State Capitol  
Charleston, West Virginia 25305

Telephone: (304) 558-6000  
Toll Free: 1-866-SOS-VOTE  
Fax: (304) 558-0900  
[www.wvsos.gov](http://www.wvsos.gov)

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**

| <u>TITLE NUMBER</u> | <u>NAME OF AGENCY</u>                                  |
|---------------------|--|
| TITLE 1             | ACCOUNTANCY  |
| TITLE 3             | BARBERS AND COSMETOLOGISTS                             |
| TITLE 7             | PROFESSIONAL ENGINEERS                                 |
| TITLE 8             | HEARING AID DEALERS                                    |
| TITLE 10            | LICENSED PRACTICAL NURSES                              |
| TITLE 11            | MEDICINE   |
| 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 31            | DIETITIANS   |
| 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  |
| TITLE 78            | HUMAN SERVICES   |
| TITLE 81            | STATE POLICE   |
| TITLE 82            | CULTURE AND HISTORY                                    |
| TITLE 85            | WORKERSCOMPENSATION BY THE INSURANCE COMMISSION        |
| TITLE 86            | VETERANS AFFAIRS                                       |
| TITLE 87            | FIRE COMMISSION  |
| TITLE 90            | CORRECTIONS  |
| 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 HIGHWAYS                                   |
| TITLE 158           | ETHICS COMMISSION                                      |
| TITLE 162           | CONSOLIDATED PUBLIC RETIREMENT BOARD                   |
| TITLE 164           | SCHOOL BUILDING AUTHORITY                              |
| TITLE 172           | STATE RAIL AUTHORITY                                   |
| TITLE 174           | REAL ESTATE COMMISSION                                 |
| 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 194           | MESSAGE THERAPY LICENSURE BOARD                        |
| TITLE 199           | EXPLOSIVES & BLASTING                                  |
| TITLE 204           | HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY           |

RULE MONITOR

| AGENCY/SERIES NO                                | RULE   | NOTICE     | HEARING   | EMER RULE                            | SECSTATE  | LMRRC-ACTION   | LEGIS              | FINAL FILE | EFFECTIVE |
|---|--|------------|-----------|--------------------------------------|-----------|--|--------------------|------------|-----------|
| Accountancy, WV<br>Bc. Of<br>(1-01)             | Board Rules and Rules of Professional Conduct Legislative              | 6/23/2017  | 7/23/2017 |                                      | 7/28/2017 | Modified & Approved<br>9/20/2017<br>Filed<br>9/29/2017       | Bundled<br>HB 4079 | 5/7/2018   | 7/1/2018  |
| Agriculture<br>(81-118)                         | Auctioneers Legislative  | 6/28/2017  | 7/26/2017 |                                      | 7/28/2017 | Modified & Approved<br>12/2/2017<br>Filed<br>12/19/2017      | Bundled<br>HB 4079 | 5/4/2018   | 8/2/2018  |
| Agriculture<br>(81-36)                          | Farm to Food Bank Tax Credit Legislative                               | 12/18/2017 | 1/18/2018 | 12/18/2017<br>Effective<br>1/29/2018 | 1/19/2018 |  |                    |            |           |
| Board of Review<br>(84-1)                       | Procedural Rule Board of Review Procedural                             | 12/12/2017 | 1/16/2018 |                                      |           |  |                    |            |           |
| Comm. & Tech.<br>College Education<br>(135-12)  | Capital Project Management Legislative                                 | 12/11/2017 | 1/16/2018 |                                      | 1/26/2018 | Amended by LOCEA & Approved<br>2/6/2018<br>Filed<br>2/8/2018 | Bundled<br>HB 4622 |            |           |
| Comm. & Tech.<br>College Education<br>(135-32)  | Tuition and Fees Legislative   | 4/24/2018  | 5/25/2018 |                                      |           |  |                    |            |           |
| Comm. & Tech.<br>College Education<br>(135-55)  | Human Resources Administration Legislative                             | 12/8/2017  | 1/10/2018 |                                      | 1/26/2018 | Approved<br>2/6/2018   | Bundled<br>HB 4622 |            |           |
| Crime Delinquency<br>and Correction<br>(149-2)  | Law Enforcement Training and Certification Standards Legislative       | 6/21/2017  | 7/24/2017 |                                      | 7/26/2017 | Modified & Approved<br>12/2/2017<br>Filed<br>12/13/2017      | Bundled<br>SB 181  | 4/2/2018   | 7/1/2018  |
| Crime Delinquency<br>and Correction<br>(149-03) | Protocol for Law Enforcement Response to Domestic Violence Legislative | 6/28/2017  | 7/28/2017 |                                      | 7/28/2017 | Modified & Approved<br>12/2/2017<br>Filed<br>12/14/2017      | Bundled<br>SB 181  | 4/6/2018   | 7/1/2018  |
| Education<br>(126-12)                           | WV Accountability System (2322) Legislative Exempt                     | 4/12/2018  | 5/14/2018 |                                      |           |  |                    |            |           |
| Education<br>(126-14)                           | WV Measures of Academic Progress (2340) Legislative Exempt             | 4/12/2018  | 5/14/2018 |                                      |           |  |                    |            |           |

RULE MONITOR

| AGENCY/SERIES NO       | RULE   | NOTICE    | HEARING    | EMER RULE | SECSTATE  | LMRRC-ACTION                                      | LEGIS          | FINAL FILE | EFFECTIVE |
|------------------------|--|-----------|------------|-----------|-----------|---|----------------|------------|-----------|
| Education (126-28)     | West Virginia's Universal Access to a Quality Early Education System (2525)<br>Legislative Exempt                              | 8/10/2017 | 8/11/2017  |           |           |   |                | 10/12/2017 | 7/1/2018  |
| Education (126-32)     | Issuance of the State of WV High School Equivalency Diplomas and Option Pathway (2444.4)<br>Legislative Exempt                 | 4/12/2018 | 5/14/2018  |           |           |   |                |            |           |
| Education (126-41)     | Safe and Acceptable Use of the Internet by Students and Educators (2460)<br>Legislative Exempt                                 | 11/9/2017 | 12/11/2017 |           |           |   |                | 1/11/2018  | 7/1/2018  |
| Education (126-42)     | Assuring the Quality of Education: Regulations for Education Programs (2510)<br>Legislative Exempt                             | 11/9/2017 | 12/11/2017 |           |           |   |                | 1/11/2018  | 7/1/2018  |
| Education (126-44E)    | WV College and Career-Readiness Standards for Wellness Education (2520.5)<br>Legislative Exempt                                | 4/12/2018 | 5/14/2018  |           |           |   |                |            |           |
| Education (126-44G)    | WV College and Career-Readiness Standards for World Languages (2520.7)<br>Legislative Exempt                                   | 8/10/2017 | 8/11/2017  |           |           |   |                | 10/12/2017 | 7/1/2018  |
| Education (126-44I)    | WV College and Career-Readiness Standards for the Arts (2520.9)<br>Legislative Exempt  | 4/12/2018 | 5/14/2018  |           |           |   |                |            |           |
| Education (126-44M)    | WV College and Career-Readiness Programs of Study/Standards for Career and Technical Education (2520.13)<br>Legislative Exempt | 8/10/2017 | 8/11/2017  |           |           |   |                | 10/12/2017 | 7/1/2018  |
| Education (126-44O)    | WV Pre-K Standards (Ages 3-5) (2520.15)<br>Legislative Exempt  | 8/10/2017 | 8/11/2017  |           |           |   |                | 10/12/2017 | 7/1/2019  |
| Education (126-44P)    | WV Alternative Academic Achievement Standards (2520.16)<br>Legislative Exempt  | 8/10/2017 | 8/11/2017  |           |           |   |                | 10/12/2017 | 7/1/2018  |
| Fire Commission (87-3) | Hazardous Substances Emergency Response Training Programs<br>Legislative   | 6/19/2017 | 7/19/2017  |           | 7/25/2017 | Modified & Approved 12/2/2017<br>Filed 12/13/2017 | Bundled SB 181 | 4/26/2018  | 7/1/2018  |



RULE MONITOR

| AGENCY/SERIES NO                       | RULE  | NOTICE     | HEARING    | EMER RULE                           | SECSTATE  | LBMR-C-ACTION  | LEGIS              | FINAL FILE | EFFECTIVE |
|--|---|------------|------------|-------------------------------------|-----------|--|--------------------|------------|-----------|
| Fire Marshal (103-5)                   | Electricians Licensing Rules<br>Legislative   | 12/21/2017 | 1/20/2018  |                                     | 1/26/2018 |  | Bundled<br>SB 181  | 4/26/2018  | 7/1/2018  |
| Health (64-109)                        | General Rules-Medical Cannabis<br>Program<br>Legislative  |            |            | 4/3/2018<br>Effective<br>4/3/2018   |           |  |                    |            |           |
| Health (64-110)                        | Growth/Processors-Medical Cannabis Program<br>Legislative   |            |            | 4/4/2018<br>Effective<br>4/4/2018   |           |  |                    |            |           |
| Health (64-111)                        | Laboratories-Medical Cannabis Program<br>Legislative  |            |            | 4/4/2018<br>Effective<br>4/4/2018   |           |  |                    |            |           |
| Health (64-112)                        | Dispensaries-Medical Cannabis Program<br>Legislative  |            |            | 4/4/2018<br>Effective<br>4/4/2018   |           |  |                    |            |           |
| Health (64-113)                        | Safe Harbor Letter-Medical Cannabis Program<br>Legislative  |            |            | 4/4/2018<br>Effective<br>4/4/2018   |           |  |                    |            |           |
| Higher Education Policy Comm. (133-12) | Capitol Project Management<br>Legislative   | 11/20/2017 | 12/20/2017 |                                     | 1/22/2018 | Amended by<br>LOCEA &<br>Approved<br>2/6/2018<br>Filed<br>2/8/2018 | Bundled<br>HB 4622 |            |           |
| Higher Education Policy Comm. (133-32) | Tuition and Fee Policy<br>Legislative   | 11/20/2017 | 12/20/2017 |                                     | 1/16/2018 | Approved<br>1/16/2018  | Bundled<br>HB 4622 |            |           |
| Higher Education Policy Comm. (133-55) | Human Resources Administration<br>Legislative   | 11/21/2017 | 12/21/2017 |                                     | 2/8/2018  | Approved<br>2/6/2018   | Bundled<br>HB 4622 |            |           |
| Labor (42-37)                          | Jobs Act Procedures<br>Procedural   | 5/2/2018   | 6/3/2018   |                                     |           |  | HB-4079            | 5/9/2018   | 7/1/2018  |
| Medicine (11-01A)                      | Licensing and Disciplinary Procedures; Physicians; Podiatric Physicians and Surgeons<br>Legislative       |            |            |                                     |           |  |                    |            |           |
| Medicine (11-01B)                      | License, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants<br>Legislative | 7/11/2017  | 8/10/2017  | 9/11/2017<br>Approved<br>10/20/2017 | 8/29/2017 | Modified &<br>Approved<br>12/3/2017<br>Filed<br>12/6/2017          | Bundled<br>HB 4079 | 4/23/2018  | 7/1/2018  |
| Medicine (11-6)                        | Continuing Education for Physicians and Podiatrists<br>Legislative  | 6/21/2017  | 7/21/2017  |                                     | 7/26/2017 | Approved<br>8/29/2017  | Bundled<br>HB 4079 | 4/23/2018  | 7/1/2018  |

RULE MONITOR

| AGENCY/SERIES<br>NO                      | RULE  | NOTICE    | HEARING    | EMER RULE                        | SECSTATE | LMRRC-<br>ACTION   | LEGIS              | FINAL FILE | EFFECTIVE |
|--|---|-----------|------------|----------------------------------|----------|--|--------------------|------------|-----------|
| Miners Health Safety<br>(56-08)          | Rule Governing the Submission and Approval of a Comprehensive Mine Safety Program for Coal Mining Operations in the State of West Virginia<br>Legislative | 5/30/2018 | 6/29/2018  | 5/30/2018<br>ERD by<br>7/11/2018 |          |  |                    |            |           |
| Miners Health Safety<br>(56-23)          | Rules for Operating Diesel Equipment in Underground Mines in West Virginia<br>Legislative   | 5/30/2018 | 6/29/2018  | 6/29/2018<br>ERD by<br>7/10/2018 |          |  |                    |            |           |
| Mining and<br>Reclamation<br>(38-02)     | West Virginia Surface Mining Reclamation<br>Legislative   | 6/6/2017  | 7/18/2017  | 7/27/2017                        |          | Modified &<br>Approved<br>12/1/2017<br>Filed<br>12/5/2017  | Bundled<br>SB 163  | 3/21/2018  | 7/1/2018  |
| Optometry<br>(14-01)                     | WV Board of Optometry<br>Legislative  | 6/28/2017 | 7/28/2017  | 7/28/2017                        |          | Approved<br>8/29/2017                                      | Bundled<br>HB 4079 | 5/9/2018   | 7/1/2018  |
| Osteopathic<br>Medicine<br>(24-01)       | Licensing Procedures for Osteopathic Physicians<br>Legislative  | 5/24/2018 | 6/25/2018  |                                  |          |  |                    |            |           |
| Psychologists<br>(17-01)                 | Fees<br>Legislative   | 6/28/2017 | 7/28/2017  | 7/28/2017                        |          | Modified &<br>Approved<br>12/1/2017<br>Filed<br>12/13/2017 | Bundled<br>HB 4079 | 4/25/2018  | 7/1/2018  |
| Psychologists<br>(17-03)                 | Requirements for Licensure as a Psychologist and/or a School Psychologist<br>Legislative  | 6/28/2017 | 7/28/2017  | 7/28/2017                        |          | Approved<br>12/1/2017                                      | Bundled<br>HB 4079 | 4/26/2018  | 7/1/2018  |
| Psychologists<br>(17-06)                 | Code of Ethics<br>Legislative   | 6/28/2017 | 7/28/2017  | 7/28/2017                        |          | Approved<br>12/1/2017                                      | Bundled<br>HB 4079 | 4/26/2018  | 7/1/2018  |
| Public Service<br>Commission<br>(150-1)  | Rules of Practice and Procedure<br>Legislative Exempt   | 5/10/2018 | 7/10/2018  |                                  |          |  |                    |            |           |
| Public Service<br>Commission<br>(150-02) | Rules for the Construction and Filing of Tariffs<br>Legislative Exempt  | 5/10/2018 | 7/10/2018  |                                  |          |  |                    |            |           |
| Public Service<br>Commission<br>(150-3)  | Government of Electric Utilities<br>Legislative Exempt  | 11/8/2017 | 12/11/2017 |                                  |          |  |                    |            |           |
| Public Service<br>Commission<br>(150-4)  | Government of Gas Utilities and Gas Pipeline Safety<br>Legislative Exempt   | 11/8/2017 | 12/11/2017 |                                  |          |  |                    |            |           |

RULE MONITOR

| AGENCY/SERIES NO                   | RULE  | NOTICE                | HEARING               | EMER RULE                 | SECSTATE  | LRMRC-ACTION  | LEGIS           | FINAL FILE | EFFECTIVE |
|------------------------------------|---|-----------------------|-----------------------|---------------------------|-----------|---|-----------------|------------|-----------|
| Public Service Commission (150.25) | Telephone Emergency Service Legislative Exempt  | 3/8/2018              | 5/9/2018              |                           |           |   |                 |            |           |
| Racing Commission (178-1)          | Thoroughbred Racing Legislative   | 6/19/2017             | 7/19/2017             |                           | 7/27/2017 | Approved w/certain amendments 12/1/2017                             |                 | 3/29/2018  | 6/27/2018 |
| Real Estate Commission (174-01)    | Licensing Real Estate Brokers, Associate Brokers and Salespersons and the Conduct of Brokerage Business Legislative   | 6/23/2017             | 7/24/2017             |                           | 7/27/2017 | Modified & Approved 12/1/2017 Filed 12/8/2017                       | Bundled HB 4079 | 4/12/2018  | 7/1/2018  |
| Real Estate Commission (174-02)    | Schedule of Fees Legislative  | 6/28/2017             | 7/28/2017             |                           | 7/27/2017 | Approved 12/1/2017  | Bundled HB 4079 | 4/13/2018  | 7/1/2018  |
| Real Estate Commission (174-03)    | Requirements for Real Estate Com'n, Counsel Providers and Insulators Legislative  | 6/28/2017             | 7/28/2017             |                           | 7/27/2017 | Modified w/ certain amendments & Approved 12/1/2017 Filed 12/8/2017 | Bundled HB 4079 | 4/12/2018  | 7/1/2018  |
| Secretary of State (153-10)        | Loan and Grant Programs Under the Help America Vote Act (HAVA) for the Purchase of Voting Equipment, Elections Systems, Software, Services and Upgrades Legislative | 5/24/2018             | 6/25/2018             | 4/25/2018 ERO by 6/8/2018 |           |   |                 |            |           |
| Secretary of State (153-13)        | Early Voting In-Person Satellite Precincts Legislative  | 5/24/2018             | 6/25/2018             | 4/25/2018 ERO by 6/8/2018 |           |   |                 |            |           |
| Senior Services (176-3)            | West Virginia State Plan for Aging Programs - Title V Interpretive  | 4/9/2018<br>5/10/2018 | 5/18/2018<br>6/8/2018 |                           |           |   |                 |            |           |
| Senior Services (175-04)           | West Virginia State Plan on Aging Interpretive  | 5/31/2018             | 6/28/2018             |                           |           |   |                 |            |           |
| Tax (110-41)                       | Railroad Diesel Locomotive Refundable Exemption from the Variable Rate Component of the Motor Fuel Excise Tax Procedural  | 12/26/2017            | 1/26/2018             |                           |           |   |                 |            |           |

RULE MONITOR

| AGENCY/SERIES<br>NO   | RULE  | NOTICE    | HEARING   | EMER RULE | SECSTATE  | LRMRC-<br>ACTION  | LEGIS              | FINAL FILE | EFFECTIVE |
|---|---|-----------|-----------|-----------|-----------|---|--------------------|------------|-----------|
| Veterinary Medicine<br>(26-1)                                 | Organization and Operation and<br>Licensing of Veterinarians<br>Legislative | 6/12/2017 | 7/13/2017 |           | 7/18/2017 | Modified &<br>Approved<br>8/29/2017<br>Filed<br>8/29/2017 | Bundled<br>HB 4079 | 4/23/2018  | 7/1/2018  |
| Veterinary Medicine<br>(26-5)                                 | Certified Animal Euthanasia<br>Technicians<br>Legislative                   | 6/12/2017 | 7/13/2017 |           | 7/18/2017 | Approved &<br>Modified<br>8/20/2017<br>Filed<br>8/20/2017 | Bundled<br>HB 4079 | 4/23/2018  | 7/1/2018  |
| Veterinary Medicine<br>(26-6)                                 | Schedule of Fees<br>Legislative   | 6/12/2017 | 7/13/2017 |           | 7/18/2017 | Modified &<br>Approved<br>8/20/2017<br>Filed<br>8/29/2017 | Bundled<br>HB 4079 | 4/23/2018  | 7/1/2018  |
| Water Resources,<br>Div. of Water &<br>Waste Mgmt.<br>(47-02) | Requirements Governing Water<br>Quality Standards<br>Legislative            | 5/25/2018 | 7/10/2018 |           |           |   |                    |            |           |



ALAN H. LARRICK  
DIRECTOR

P.O. BOX 2057  
CHARLESTON, WV 25327

PHONE: 304.538.6500  
wvlottery.com

Do Not Mark In This Box

**FILED**

MAY 29 A 11:28

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

MAY 29 A 11:28

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

**FILE**

MAY 29 A 11:28

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

**West Virginia  
Secretary of State  
Mac Warner  
Administrative Law Division**

May 31, 2018

**Changes to Social Services Manuals**

Agency: West Virginia Department of Health and Human Resources  
Bureau: Children and Families, Division of Children and Adult Services

Rule: 78&5  
Change Number: CAS-AS-18-7  
Revision existing manual: Yes X No     

This is to provide a copy of a new social services policy. Please archive the Adult Protective Services (APS) Policy and replace it with the revised APS Policy with an effective date of June 4, 2018.

I have enclosed two copies; please file one (1) and send one (1) stamped back to the Bureau of Children and Families.

Please send to:  
Niggin Mission  
Health and Human Resources Specialist, Senior  
350 Capital Street, Room 691  
Charleston, WV 25301-3704

May 25, 2018

**FILED**  
2018 MAY 31 P 2 02  
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

Pursuant to W. Va. Code §25-22A-5(b), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to facemask video lottery which are specifically authorized by W. Va. Code §19-22A-1 et seq.

Dear Secretary Warner:

Enclosed are game rules for "Lotteria El Diable" and "Lotteria La Sirena" manufactured by Bully 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

All/Job  
Enclosures: Lotteria El Diable  
Lotteria La Sirena



P.O. BOX 2067  
CHARLESTON, WV 25327

ALAN H. LARRICK  
DIRECTOR

P.O. BOX 2067  
MILESTON, WV 25327

ALAN H. LARRICK  
DIRECTOR

PHONE: 304.558.0500  
wvlottery.com

LEGISLATIVE

May 31, 2018

**FILED**  
MAY 31 P 2 02  
OFFICE WEST VIRGINIA  
SECRETARIES OF STATE

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 §20-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Raceback Video Lottery which are specifically authorized by W. Va. Code §20-22A-1 et seq.

Enclosed are game rules for "Lotus Land Deluxe" manufactured 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/jpb  
Enclosures: Lotus Land Deluxe

May 31, 2017

**FILED**  
MAY 31 P 2 01  
OFFICE WEST VIRGINIA  
SECRETARIES OF STATE

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 §20-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Raceback Video Lottery which are specifically authorized by W. Va. Code §20-22A-1 et seq.

Enclosed are game rules for "Myth of Pharaoh," "Sally Pirates," "Ultra Stack Feature Africa" and "Ultra Stack Feature Butterfly" manufactured by Aruze Gaming America, 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/jpb  
Enclosures: Myth of Pharaoh  
Sally Pirates  
Ultra Stack Feature Africa  
Ultra Stack Feature Butterfly





PO. BOX 2067  
CHARLESTON, WV 25327

ALAN H. LARRICK  
DIRECTOR

PO. BOX 2067  
CHARLESTON, WV 25327

ALAN H. LARRICK  
DIRECTOR

PHONE: 304.558.0500  
wvlottery.com

LEGISLATIVE

May 31, 2018

**FILED**  
MAY 31 2 02  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

Honorable Mac Warner  
West Virginia Secretary of State  
Attn: Administrative Law Division  
1300 Kanawha Boulevard, East  
Charleston, WV 25305-0771

Dear Secretary Warner:

Pursuant to W. Va. Code §29-22A-5(j), 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 "Crazy Money High Demom," "Heart, 'Em Up Power Wheel" and "Money Roll HD" manufactured by Incredible Technologies, 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/jb

Enclosures: Crazy Money High Demom  
Heart 'Em Up Power Wheel  
Money Roll HD

May 31, 2018

**FILED**  
MAY 31 2 05  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

Honorable Mik Warner  
West Virginia Secretary of State  
Attn: Administrative Law Division  
1300 Kanawha Boulevard, East  
Charleston, WV 25305-0771

Dear Secretary Warner:

Pursuant to W. Va. Code §29-22A-5(j), 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 "Parties," "Reelboat Queen," "Snackin' 777" and "Yardbirds 2 Foxy's Revenge" manufactured by Ever 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/jb

Enclosures: Parties  
Reelboat Queen  
Snackin' 777  
Yardbirds 2 Foxy's Revenge





WEST VIRGINIA SECRETARY OF STATE  
MAC WARNER  
ADMINISTRATIVE LAW DIVISION

#FILED  
5/30/2018 1:44 PM  
Office of West Virginia  
Secretary of State



WEST VIRGINIA SECRETARY OF STATE  
MAC WARNER  
ADMINISTRATIVE LAW DIVISION

#FILED  
5/30/2018 1:39 PM  
Office of West Virginia  
Secretary of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Mines Health Safety And Training  
RULE TYPE: Legislative  
RULE NAME: Rule Governing the Submission and Approval of a Comprehensive Mine Safety Program for Coal Mining Operations in the State of West Virginia  
CITE STATUTORY AUTHORITY: W. Va. Code §122A-1-4 and 22A-1-36(a)(6)(c)  
COMMENTS LIMITED TO:  
Written

DATE OF PUBLIC HEARING:  
LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 06/20/2018 4:00 PM  
COMMENTS MAY BE MAILED OR EMAILED TO:  
NAME: Eugene White  
ADDRESS: 7 Players Club Driv., Suite 2  
Charleston, WV 25311  
EMAIL: eugene.a.white@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:  
RELEVANT FEDERAL STATUTES OR REGULATIONS: No  
(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)  
INCORPORATED BY REFERENCE: No  
(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Mines Health Safety And Training  
RULE TYPE: Legislative  
RULE NAME: Rules for Operating Diesel Equipment in Underground Mines in West Virginia  
CITE STATUTORY AUTHORITY: W. Va. Code §122A-2A-1001 & 22A-2A-300(a)  
COMMENTS LIMITED TO:  
Written

DATE OF PUBLIC HEARING:  
LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 06/20/2018 4:00 PM  
COMMENTS MAY BE MAILED OR EMAILED TO:  
NAME: William Tucker  
ADDRESS: 7 Players Club Driv., Suite 2  
Charleston, WV 25311  
EMAIL: william.h.tucker@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:  
RELEVANT FEDERAL STATUTES OR REGULATIONS: No  
(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)  
INCORPORATED BY REFERENCE: No  
(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)





WEST VIRGINIA SECRETARY OF STATE  
MAC WARNER  
ADMINISTRATIVE LAW DIVISION

FILED  
5/25/2018 2:40 PM  
Office of West Virginia  
Secretary Of State

LEGISLATIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Water Resources Division Of Water And Waste Management  
TITLE SERIES: 47-42  
RULE TYPE: Legislative Amendment to Existing Rule: Yes  
Repeat of existing rule: No  
RULE NAME: Requirements Governing Water Quality Standards  
CITE STATUTORY AUTHORITY: W. Va. Code §§ 22-11-40(a)(16); 22-11-7b  
COMMENTS LIMITED TO:  
Oral and Written

DATE OF PUBLIC HEARING: 07/10/2018 8:00 PM  
LOCATION OF PUBLIC HEARING:  
601 5TH ST SE Charleston, WV 25304  
DATE WRITTEN COMMENT PERIOD ENDS: 07/10/2018 8:00 PM  
COMMENTS MAY BE MAILED OR EMAILED TO:  
NAME: Laura Cooper  
ADDRESS: 601 5TH ST SE  
Charleston, WV 25304  
EMAIL: laura.k.cooper@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:  
RELEVANT FEDERAL STATUTES OR REGULATIONS: No  
(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)  
INCORPORATED BY REFERENCE: No  
(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)



STATE OF WEST VIRGINIA  
BUREAU OF SENIOR SERVICES  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0160  
Telephone (304) 586-3317  
www.wvseniorservices.gov



Ms. Maureen Lewis  
WV Secretary of State's Office  
1900 Kanawha Blvd., East  
State 157-K  
Charleston, WV 25305

Ms. Lewis:

The Bureau is requesting that the Notice filed for the West Virginia State Plan for Aging Programs on April 9, 2018, be withdrawn, since it was filed under the incorrect Series number.

We are also requesting a new Series number 76-04 to file the West Virginia State Plan for Aging Programs which is different from the West Virginia State Plan for Aging Programs—Title V.

Thank you.

Sincerely,

  
 Robert E. Rowell  
 Commissioner

**FILED**  
MAY 29 2 18  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

INTERPRETIVE



WEST VIRGINIA SECRETARY OF STATE  
MAC WARNER  
ADMINISTRATIVE LAW DIVISION

#FILED  
5/31/2018 9:30 AM  
Office of West Virginia  
Secretary of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Senior Services TITLE-SERIES: 76-04  
 RULE TYPE: Interpretive Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: West Virginia State Plan on Aging

CITE STATUTORY AUTHORITY: 16-20-1

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 06/20/2018 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Commissioner Robert E. Rowell/WV Bureau of Senior Services

ADDRESS: 1900 Kanawha Blvd., East

Charleston, WV 25305

robert.e.rowell@wv.gov

EMAIL:

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)



WEST VIRGINIA SECRETARY OF STATE  
MAC WARNER  
ADMINISTRATIVE LAW DIVISION

#FILED  
6/20/2018 1:30:02 PM  
Office of West Virginia  
Secretary of State



WEST VIRGINIA SECRETARY OF STATE  
MAC WARNER  
ADMINISTRATIVE LAW DIVISION

#FILED  
5/29/2018 4:21:04 PM  
Office of West Virginia  
Secretary of State

EMERGENCY

NOTICE OF AN EMERGENCY RULE

AGENCY: Miners Health Safety Acid Training  
 RULE TYPE: Legislative Amendment to Existing Rule: Yes  
 RULE NAME: Rule Governing the Submission and Approval of a Comprehensive Mine Safety Program for Coal Mining Operations in the State of West Virginia  
 CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:  
 W. Va. Code §§22A-1-6 and 22A-1-609(a-c)

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

W. Va. Code §(22A)-1-98.

PRIMARY CONTACT:

NAME: Eugene White  
 ADDRESS: 7 Playens Club Drive Suite 2  
 Charleston, WV 25311  
 EMAIL: ewhite@wv.gov  
 PHONE NUMBER: 304-558-1425

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE ON THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

NOTICE OF AN EMERGENCY RULE

AGENCY: Miners Health Safety Acid Training  
 RULE TYPE: Legislative Amendment to Existing Rule: Yes  
 RULE NAME: Rules for Operating Diesel Equipment in Underground Mines in West Virginia  
 CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:  
 W. Va. Code §§22A-2A-1001 & 22A-2A-306(a)

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

W. Va. Code §22A-2A-1001; the effective date for diesel generators to be used underground is 6/6/18. This rule implements the use of diesel generators underground.

PRIMARY CONTACT:

NAME: William Tucker  
 ADDRESS: 7 Playens Club Drive Suite 2  
 Charleston, WV 25311  
 EMAIL: william.t.tucker@wv.gov  
 PHONE NUMBER: 304-558-1425

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE ON THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

# Orders Report

| Docket Number | Agency                | Respondent                          | Date Rendered |
|---------------|-----------------------|-------------------------------------|---------------|
| 18-01-00000   | Health Care Authority | Appalachian Regional Healthcare Inc | 5/22/2018     |
| 18-01-00000   | Health Care Authority | Community Care of West Virginia Inc | 5/22/2018     |
| 18-01-00000   | Health Care Authority | Appalachian Regional Healthcare Inc | 5/22/2018     |
| 18-01-00000   | Insurance Commission  | Continental Casualty Company        | 5/9/2018      |
| 18-01-00000   | Insurance Commission  | Continental Indemnity Company       | 4/26/2018     |



STATE OF WEST VIRGINIA  
 DEPARTMENT OF ENVIRONMENTAL RESOURCES  
 Bureau for Public Health  
 Office of Environmental Health Service - Risk Control, MD, MPH, MBA, FACH  
 Commissioner  
 Bureau Health Officer

Bill J. Crouch  
 Cabinet Secretary

OTHER

**Lashmet PSD**  
**CATEGORICAL EXCLUSION DECISION**

(May 28, 2018)

**MEMORANDUM**

**TO:** Interested Parties

**THROUGH:** Patrick M. Murphy, P.E., Director  
 Environmental Engineering Division

**FROM:** Robert W. DeChase, P. E., *RWD*  
 Drinking Water Treatment Revolving Fund

**DATE:** May 28, 2018

**SUBJECT:** Categorical Exclusion Decisions (CE)  
 Lashmet PSD - Matoka Water Connection Project Part A

FILED  
 JUN 25 2018  
 OFFICE OF THE COMMISSIONER  
 DEPARTMENT OF ENVIRONMENTAL RESOURCES  
 STATE OF WEST VIRGINIA

**TO: ALL INTERESTED PARTIES**

In accordance with the Environmental Protection Agency (EPA) regulations for complying with the National Environmental Policy Act (NEPA) of 1969 (P.L. 91-190), a review has been performed on a request for a categorical exclusion for the environmental review requirements under NEPA, for the proposed action described below.

Lashmet PSD - Matoka Water Connection Project Part A  
 Mercer County, West Virginia  
 WVUDC Project #: 2018WV-1729  
 SER Project #: 18DWTREFA402a

**(Official Project Name and Number)**

Lashmet PSD  
 P O Box 189  
 Lashmet, WV 24733-0189

**(Project Applicant)**

Matoka  
 Mercer County, West Virginia

**(Project Location, City, County, State)**

\$ 183,704

**(Estimated Drinking Water Treatment Revolving Fund Financial Share)**

\$ 461,104

**(Estimated Total Project Cost)**

A copy of the Lashmet PSD Matoka Water Connection Project Part A Categorical Exclusion Decision (CE) is enclosed for your records.

The review process concluded that the proposed action is consistent with the categories of actions eligible for categorical exclusion. This means that environmental information about the project is sufficient to make a categorical exclusion decision. Additional environmental assessments or environmental impact statements will not be required for this project and the project is authorized to proceed forward.

This decision is based upon a careful review of supporting documents provided by the applicant and other documentation available to the West Virginia Bureau of Public Health (WVBPB). These documents are on file with the WVBPB, Office of Environmental Health Services (OEHS), Environmental Engineering Division (EED), and are available for review upon request.

Comments on this decision may be submitted for consideration to: WYBPH-OEHS/REED, attention Stephanie Redden, 300 Capitol Street, Room 313 Charleston, WV 25301-3713, or you may fax your comments to (204) 338-6691 or email [Stephanie.Redden@dnr.wv.gov](mailto:Stephanie.Redden@dnr.wv.gov).

RWD

Enclosures

300 Capitol Street, Room 313  
 Charleston, West Virginia 25301-3713  
 Telephone: (204) 338-2851 / Fax: (204) 338-4691

## ENVIRONMENTAL ASSESSMENT

for the

Lafayette PSD  
Manokwa Water Connection Project Part A

WV JDC Project No.: 2019W-1729 / SRP Project No.: HDWTR/AR2A

## OTHER

### VI. FLOODPLAIN MANAGEMENT/RESILIENCY

The engineer reviewed the FEMA Flood Insurance Rate Maps and concluded that the project will have no effect on the floodplain or floodway. There are 900 feet of proposed 6" wastewater that will be located within the 100-year floodplain. However, the wastewater will be installed at a minimum cover depth of 42" and will have no impact on the floodplain.

### I. PROPOSED PROJECT:

The Manokwa Line Extension Phase 3 Part A project will connect the Manokwa area to the Lafayette PSD system by installing a water line along State Route 10. Included in this portion of the project will be approximately 0.3 miles of 8" water line along with all necessary valves and appurtenances to the Lafayette PSD system will allow for the decommissioning of the Manokwa water treatment plant.

### II. PURPOSE AND NEED:

The Town of Manokwa is in the process of un-incorporating themselves which would leave no one to operate or maintain the current water system. Connecting to Lafayette PSD will provide them with water from West Virginia American Water and would allow for the Manokwa plant to be decommissioned. The current Manokwa water treatment plant has also had issues with benzene in the source water.

### III. ENVIRONMENTAL CONSEQUENCES IF PROJECT IS NOT BUILT:

If this project is not constructed and the Town of Manokwa un-incorporates themselves that would leave no one to operate or maintain the current water system.

### IV. CATEGORICAL EXCLUSION CRITERIA:

EPA regulation 40 CFR 6.106(d) permits the use of categorical exclusions from substantive environmental requirements of the National Environmental Policy Act (NEPA) for:

1. Actions which are solely directed toward minor rehabilitation of existing facilities, functional replacement of equipment, or construction of auxiliary facilities; or
  2. Other actions specifically allowed in program specific subparts of this regulation.
- Criteria which would prevent the use of a categorical exclusion are found in 40 CFR §6.107(e) summarized as follows:
3. The action may have a significant effect on the quality of the human environment, or
  4. The action may affect cultural resource areas, endangered or threatened species, environmentally important natural resources, or other identified resource areas of concern; or
  5. The action is not cost-effective or may cause public controversy.

### V. ANALYSIS:

The proposed project meets the criteria for categorical exclusion. It involves installing approximately 0.3 miles of 8" water line along State Route 10 along with all necessary valves and appurtenances. All work will be done on DOH right of way or previously disturbed ground and will have no adverse environmental impact.

### VII. CLIMATE CHANGE/ENERGY EFFICIENCY

A greenhouse gases evaluation was conducted for this project. For this water connection project it is assumed that there is no net change in the release of greenhouse gases. This project will be replacing the existing water system operated by the Town of Manokwa. With the project, there will be an increase in the production capacity and plant operating time at WVAV biomass plant, but it's anticipated that the increase in greenhouse gases will be offset by taking the Manokwa system off line. An energy efficiency evaluation was not needed because this portion of the project does not include any energy consuming equipment.

### VIII. REVOCAATION:

This conclusion can be revoked if additional advisor firm information indicates any of the following:

1. The proposed action no longer meets the defined category due to changes in the proposed action;
2. Serious local or environmental issues now exist; and/or
3. Federal, state or local laws may be violated.

### IX. DOCUMENTATION:

1. Categorical Exclusion Checklist as prepared by Stacy Fowler, PE, Staffed Consultant Inc.
2. West Virginia Division of Culture and History letter dated April 19, 2018
3. Natural Resources Conservation Service letter dated May 25, 2018
4. Division of Natural Resources letter dated April 30, 2018
5. U.S. Army Corps of Engineers email dated May 9, 2018
6. Environmental Justice Certification
7. Flood plain management documentation

### CATEGORICAL EXCLUSION DETERMINATION CHECKLIST

Project Name Giatts-Wyanoke Wastewater Extension / Marooka Water Connection

Applicant has provided sufficient information to allow review for a Categorical Exclusion (CE). Per EPA Regulations found under Part 6.204, CE and extraordinary circumstances:

OTHER

Extraordinary Circumstances (Environmental Crosscutters)

A project that will cause significant environmental impacts is not eligible for a CE. If answer to the following questions is "yes," please attach a detailed explanation to the checklist.

|  | YES | NO |
|--|-----|----|
| <input type="checkbox"/> Are there environmental justice issues?   |     | X  |
| <input type="checkbox"/> Are there impacts to federally-listed endangered/threatened species or habitats?                    |     | X  |
| <input type="checkbox"/> Are there impacts to archaeological/historic sites?   |     | X  |
| <input type="checkbox"/> Will the project impact wetlands, floodplains, fish & wildlife resources, or groundwater resources? |     | X  |
| <input type="checkbox"/> Are there any air quality issues?   |     | X  |
| <input type="checkbox"/> Are there any impacts on land use?  |     | X  |
| <input type="checkbox"/> Is there any public controversy concerning potential environmental impacts?                         |     | X  |

**Project Type**

- Existing Infrastructure
  - Minor Upgrading
    - If so, describe: \_\_\_\_\_ X
  - Minor Expansion
    - If so, describe: Giatts-Wyanoke wastewater extension from the existing storage tank located on Old Lathrop Road and then follow existing road right-of-ways to the Marooka water treatment plant
    - For projects involving minor expansion, check which category applies:
      - \_\_\_ Looping
      - Adjacent to an existing service area
- Rehabilitation (including functional replacement)
  - If so, describe: \_\_\_\_\_ X
- New Minor Ancillary Facilities
  - If so, describe: \_\_\_\_\_ X
- Replacement of existing On-lot systems \_\_\_\_\_ X
- Projects completed prior to Appropriation \_\_\_\_\_ X

Existing Infrastructure Projects will not qualify for a CE under the following circumstances (Check any that apply):

- \_\_\_ Project will involve a new or increased discharge.
- \_\_\_ Project will result in a substantial increase in the volume or pollutant loading to the receiving waters.
- \_\_\_ Project will provide capacity to population greater than 30% of existing population.
- \_\_\_ Project will not be consistent with State and Local Land Use Plans.
- \_\_\_ Project is primarily intended to support new development.

Project qualifies for a CE

X











DEPARTMENT OF THE ARMY  
 WASHINGTON, DC 20315  
 REGULATORY DIVISION  
 BRANCH

MAIL ROOM

Regulatory Division  
 Branch  
 LRLH-2018-377-NEW

MAY 03 2018

OTHER

We appreciate your concern for our nation's aquatic resources. If you have any questions concerning the above, please contact Lauren A. Pitt at (304) 396-5275, by mail at the above address or by email at lauren.a.pitt@usace.army.mil.

Sincerely,

Mr. Stacy Fowler  
 Lead Civil Consultants, Inc.  
 P.O. Box 516  
 Precincts, West Virginia 26748

Dear Mr. Fowler:

I refer to the Department of the Army (DA) permit application received in our office on April 13, 2018, regarding the Lathrop Public Service District (PSD) Guano-Wyomack Water Treatment Plant located near Lake Meads, in Mineral County, West Virginia at approximately latitude 37.413103, longitude 81.261403. This project has been assigned file number: LRLH-2018-377-NEW. Please refer to this number in any future correspondence regarding this matter.

This project has been reviewed in accordance with Section 404 of the Clean Water Act (Section 404) and Section 10 of the Rivers and Harbors Act of 1899 (Section 10). Under Section 404, the United States Army Corps of Engineers (Corps) regulates the discharge of dredged and/or fill material into waters of the United States (U.S.), including wetlands. Under Section 10 our responsibility is to regulate any work in, or affecting, navigable waters of the United States.

According to the information provided, the proposed project would not involve the discharge of dredged and/or fill material into waters of the United States in conjunction with the improvement of the existing waterline. The proposed work would include the installation of a waterline parallel to existing roads, with no work in waters of the United States and no discharge of dredged and/or fill material below the ordinary high water mark. As described above, a DA permit is not required from this office for this activity.

We have determined the proposed project will not result in discharge of dredged and/or fill material into waters of the United States or involve work in, on, over or under a navigable water of the United States. Therefore, a DA permit is not required from this office for the proposed activity. However, if this determination changes and it becomes necessary perform work in, on, over or under navigable waters, or to discharge dredged and/or fill material into waters or adjacent to or under navigable waters, or to discharge dredged and/or fill material into waters or navigable waters of the U.S., including wetlands, DA authorization would be required.

*Stacy Fowler*

Stacy M. Workman  
 Regulatory Project Manager  
 South Transportation Branch



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

West Virginia Field Office  
99 Vance Drive  
Elkins, West Virginia 26241



OTHER



# United States Department of the Interior

## NATIONAL PARK SERVICE

NEW RIVER GORGES NATIONAL MONUMENT  
GREAT RIVER NATIONAL RECREATION AREA  
NATIONAL MONUMENT  
1100 Main Drive  
Martinsburg, WV 25401  
Phone: 304.261.2266



Contact Name: Stacy Fowler

Email Address or Fax Number: stowen@staff.usdoj.gov

PWS File # 2018-02719 All future correspondence should clearly reference this PWS file #.

Project: Letcher PSD - Glatts-Waymole Water Extension, Mercer County, WV

Date of Letter Request: April 12, 2018

This is in response to your letter requesting threatened and endangered species information in regard to the proposed project listed above. These comments are provided pursuant to the Endangered Species Act (ESA, 16 U.S.C. 1531, et seq.).

We have made a "no effect" determination that the project will not affect federally listed threatened or endangered species. Therefore no biological assessment or further action is warranted. If you have any questions regarding this determination, please contact the change or amendments be proposed that we have not considered to you. Should project plans change, we will be notified and we will re-evaluate the project. If you have any additional information on listed and proposed species becomes available, or if new species become listed or critical habitat is designated, this determination may be reconsidered.

Definitive determinations of the presence of waters of the United States, including wetlands, in the project area and the availability of permits, if any, are made by the U.S. Army Corps of Engineers, Huntington, West Virginia, 25701, telephone (204) 398-5710.

*Carolee Solow*

Biologist

Date: 4/12/2018

*Stacy E. Schmitt*

Field Supervisor

Date: 4/25/2018

Updated April 2018

April 21, 2018

(NER)

Stacy A. Fowler, P.E.  
Project Manager  
Surface Consultants, Inc.  
1100 Main Drive  
Martinsburg, WV 25401  
Phone: 304.261.2266

Re: Letcher Public Service District Glatts-Waymole Water Extension Project, Monaca Water Commission Project

Dear Mr. Fowler:

Thank you for the opportunity to respond to your letter of April 12, 2018. After review of the USGS map provided a determination was made that the project area is not our property and therefore will not have any impact on New River Gorge National River.

Sincerely,

*Carolee Solow*

Lizette Wain  
Superintendent



### Environmental Justice (EJ) Impact Analysis Certification

1. Applicant's name and proposed project name or description: Letchum Public Service District  
Matawka Water Connection Project, EDC# Project #2018-1738, EPCRS Project #18070928ZANG

2. Are there any identified EJ (minority or low income population) areas within or nearby the proposed project area?  Yes  No

3. Is the applicant's proposed project likely to result in a change in the current land use patterns (types of land use, development densities)?  Yes  No

4. Does a demographic analysis indicate the applicant's proposed project may disproportionately affect any significant EJ population?  Yes  No

If the answer is no, skip to item 10. If the answer is yes, continue with items 5 through 9.

5. Identify, describe, and provide locations of EJ populations. \_\_\_\_\_

6. If a disproportionate adverse effect is expected to impact an EJ population, identify type/level of public services implemented. \_\_\_\_\_

7. Identify disproportionately high and adverse impacts on EJ populations. \_\_\_\_\_

8. Are adverse impacts appreciably more severe or greater in magnitude than the adverse impacts expected on non-minority/high-income populations?  Yes  No

9. Are alternatives and/or mitigation required to avoid impacts to EJ populations?  Yes  No

If yes, describe action: \_\_\_\_\_

10. I certify that this certification accurately describes the impact to EJ populations and

No major EJ impact is likely to result if the proposed project is implemented.

A major EJ impact is likely to result if the proposed project is implemented.

Attest: Donna Corra, Don Corra  
Project Manager & Title of Certifying Officer

Jeffrey Johnson 5-13-2018  
Signature Date



### STAFFORD CONSULTANTS INCORPORATED

Engineering, Design, and Consulting  
Planning and Environmental Services

May 21, 2018

FILE: 17-7559-ADJR  
10-7207-ADJR

Mr. Mickey Hunt, Chairman  
Letchum Public Service District  
P.O. Box 189  
Letchum, WV 24733-0189

Dear Mr. Hunt:

RE: Letchum Public Services District  
Matawka Water Connection  
Gaithe-Wyomahs Waterline Extension  
Floodplain Status

Pursuant to my review of the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM), it is my opinion that the project will have no effect on the floodplain or flooding. My opinion was derived based on the following:

- The project limits are located on parcels 44655C0111D (dE 08/02/2003) and 34655C0112D (dE 03/02/2005) near Matawka, WV.
- The limits of the project are not located within the floodway and therefore have no anticipated impact on the floodway.
- The limits of the project, except for approximately 900 feet of E' waterline, are not located within the 100 year floodplain as determined by the FIRM documents listed above.
- The 900 feet of proposed E' waterline that is located within the floodplain, along Valley Street in Matawka, WV, is to be installed at a minimum cover depth of 42" and will therefore have no impact on the floodplain;
- Enclosed correspondence from the Mercer County Floodplain Manager;

Post Office Box 3649 • 1165 Marrow Street • Princeton, West Virginia 24748  
Telephone: (606) 425-9535 • Fax: (606) 425-3987

OTHER

STAFFORD *S*

OTHER

If you have any questions or need additional information, please do not hesitate to contact

me.



Attachment: Mercer County Floodplain Manager correspondence

cc: Jeff Johnson, wjohnson@mercercountynj.gov  
Stephanie D. Hildebrand, P.E., whildebran@mercercountynj.gov  
Roger A. Earls, P.E., wvolsck@mercercountynj.gov

/s/