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Administration Law Division

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

(304) 558-6000

sos.wv.gov

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

Air Quality

Community & Technical College Education

Environmental Protection, Secretary's Office

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- Bureau for Medical Services

Health Care Authority

Higher Education Policy Commission

Human Services

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Mining and Reclamation

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Tax

CHRONOLOGICAL INDEX, VOLUME XXXVII ISSUE 23			
NEW RULES FILED FOR PUBLIC COMMENT THIS WEEK			
AGENCY	**RULE/TYPE**	**AUTHORITY**	**HEARING/COMMENT PERIOD/LOCATION**
Tax (110-21F)	The Coal Severance Tax Rebate Interpretive	§§11-13EE-14, 11-10-5	Written Comments Only July 6, 2020, 10:00 am Mark S. Morton PO Box 1005 Charleston, WV 25324 taxlegal@wv.gov

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

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

Mac Warner
Secretary of State
State of West Virginia

Telephone: (304) 558-6000
Toll Free: 1-866-SOS-VOTE
Fax: (304) 558-0900
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

TITLE NUMBER		NAME OF AGENCY
TITLE	1	ACCOUNTANCY
TITLE	2	ARCHITECTS
TITLE	3	BARBERS AND COSMETOLOGISTS
TITLE	4	CHIROPRACTIC EXAMINERS
TITLE	5	DENTISTRY
TITLE	6	FUNERAL SERVICE EXAMINERS
TITLE	7	PROFESSIONAL ENGINEERS
TITLE	10	LICENSED PRACTICAL NURSES
TITLE	11	MEDICINE
TITLE	14	OPTOMETRY
TITLE	15	PHARMACY
TITLE	16	PHYSICAL THERAPY
TITLE	17	PSYCHOLOGISTS
TITLE	19	REGISTERED PROFESSIONAL NURSES
TITLE	20	SANITARIANS
TITLE	22	FORESTRY
TITLE	24	OSTEOPATHIC MEDICINE
TITLE	25	SOCIAL WORK EXAMINERS
TITLE	26	VETERINARY MEDICINE
TITLE	27	COUNSELING
TITLE	29	SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
TITLE	30	RESPIRATORY CARE
TITLE	31	DIETITIANS
TITLE	32	ACUPUNCTURE
TITLE	33	WASTE MANAGEMENT, DIV. OF WATER AND WASTE MGMT.
TITLE	35	OIL AND GAS
TITLE	36	COAL MINE HEALTH AND SAFETY
TITLE	38	MINING AND RECLAMATION
TITLE	42	LABOR
TITLE	45	AIR QUALITY
TITLE	47	WATER RESOURCES, DIV. OF WATER AND WASTE MGMT.
TITLE	56	MINERS' HEALTH, SAFETY AND TRAINING
TITLE	58	NATURAL RESOURCES
TITLE	60	ENVIRONMENTAL PROTECTION – SECRETARY'S OFFICE
TITLE	61	AGRICULTURE
TITLE	64	HEALTH
TITLE	65	HEALTH CARE AUTHORITY
TITLE	69	HEALTH AND HUMAN RESOURCES
TITLE	76	SENIOR SERVICES
TITLE	78	HUMAN SERVICES
TITLE	81	STATE POLICE
TITLE	87	FIRE COMMISSION
TITLE	89	PUBLIC DEFENDER SERVICES
TITLE	90	CORRECTIONS
TITLE	91	MOTOR VEHICLES
TITLE	94	REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY
TITLE	110	TAX DEPARTMENT
TITLE	112	TREASURER
TITLE	114	INSURANCE COMMISSION
TITLE	126	EDUCATION
TITLE	127	SECONDARY SCHOOLS ACTIVITIES COMMISSION
TITLE	133	HIGHER EDUCATION POLICY COMMISSION
TITLE	135	COMMUNITY AND TECHNICAL COLLEGE EDUCATION
TITLE	143	PERSONNEL
TITLE	144	TOURISM
TITLE	145	DEVELOPMENT OFFICE
TITLE	146	STATE ELECTION COMMISSION
TITLE	148	ADMINISTRATION
TITLE	149	CRIME, DELINQUENCY AND CORRECTIONS
TITLE	150	PUBLIC SERVICE COMMISSION
TITLE	153	SECRETARY OF STATE
TITLE	155	AUDITOR
TITLE	157	HIGWAYS
TITLE	164	SCHOOL BUILDING 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 COMMISSION
TITLE	190	REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Accountancy (1-01)	Board Rules and Rules of Professional Conduct Legislative	6/7/2019 8/22/2019	7/8/2019 9/22/2019		7/23/2019 9/27/2019	Modified & Approved 10/24/2019 Filed 11/8/2019	BUNDLED HB4252	4/9/2020	7/1/2020
Agriculture (61-29)	Industrial Hemp Legislative	6/21/2019	7/22/2019		7/26/2019	Modified & Approved 12/18/2019 Filed 1/7/2020	BUNDLED HB4252	4/30/2020	7/1/2020
Agriculture (61-30)	Hemp Products Legislative	6/21/2019	7/22/2019		7/26/2019	Modified & Approved 12/18/2019 Filed 1/7/2020	BUNDLED HB4252	4/30/2020	7/1/2020
Air Quality (45-08)	Ambient Air Quality Standards Legislative	6/5/2019	7/9/2019		7/19/2019	Approved 9/26/2019	BUNDLED HB4217	6/1/2020	6/1/2020
Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	6/5/2019	7/9/2019		7/19/2019	Approved 9/26/2019	BUNDLED HB4217	6/1/2020	6/1/2020
Air Quality (45-25)	Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities Legislative	6/5/2019	7/9/2019		7/19/2019	Modified & Approved 9/26/2019 Filed 10/2/2019	BUNDLED HB4217	6/1/2020	6/1/2020
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	6/5/2019	7/9/2019		7/19/2019	Approved 9/26/2019	BUNDLED HB4217	6/1/2020	6/1/2020
Air Quality (45-40)	Control of Ozone Season Nitrogen Oxides Emissions Legislative	6/5/2019	7/9/2019		7/19/2019	Approved 9/26/2019	BUNDLED HB4217	6/1/2020	6/1/2020
Architects (2-01)	Registration of Architects Legislative	6/5/2019 8/22/2019	7/9/2019 9/22/2019		7/16/2019 9/24/2019	Modified & Approved 11/17/2019 Filed 11/18/2019	BUNDLED HB4252	4/20/2020	7/1/2020
Architects (2-03)	Fees for Registration of Architects Legislative	6/5/2019	7/9/2019		7/16/2019	Modified & Approved 11/17/2019 Filed 11/18/2019	BUNDLED HB4252	4/20/2020	7/1/2020
Chiropractic Examiners (4-07)	Request for Waiver of Initial Licensing Fees for Certain Individuals Legislative	6/10/2019	7/10/2019		7/10/2019	Modified & Approved 9/26/2019 Filed 10/4/2019	BUNDLED HB4252	3/30/2020	7/1/2020
Chiropractic Examiners (4-08)	Consideration of Prior Criminal Convictions in Initial Licensure Determinations Legislative	8/5/2019	9/9/2019		9/10/2019	Modified & Approved 11/17/2019 Filed 11/18/2019	BUNDLED HB4252	3/30/2020	7/1/2020

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Coal Mine Health and Safety (36-18)	The Responsibility For Care and Maintenance of Equipment Legislative Exempt	10/24/2019	12/9/2019						
Coal Mine Health and Safety (36-57)	Rules Governing Proximity Detection Systems and Haulage Safety Generally Legislative Exempt	10/24/2019	12/9/2019						
Community and Technical College Education (135-08)	West Virginia Invests Grant Program Legislative	4/29/2019	5/30/2019	4/29/2019 Effective 4/29/2019	6/3/2019	Approved 10/4/2019	BUNDLED HB4480	6/2/2020	7/2/2020
Education (126-028)	WV Universal Access to a Quality Early Education System (Policy 2525) Legislative Exempt	5/13/2020	6/12/2020						
Education (126-042)	Assuring the Quality of Education: Regulations for Education Programs (Policy 2510) Legislative Exempt	12/12/2019	1/24/2020					2/13/2020	7/1/2020
Education (126-044AA)	WV College and Career Readiness Standards for English Language Arts (Policy 2520.1A) Legislative Exempt	5/13/2020	6/12/2020						
Environmental Protection - Secretary's Office (60-03)	Voluntary Remediation and Redevelopment Rule Legislative	6/5/2019	7/8/2019		7/25/2019	Approved 11/17/2019	BUNDLED HB4217	6/1/2020	6/1/2020
Fire Commission (87-01)	State Fire Code Legislative	6/13/2019	7/16/2019		7/25/2019	Modified & Approved 12/18/2019 Filed 1/6/2020	BUNDLED HB4275	5/5/2020	8/1/2020
Fire Commission (87-04)	State Building Code Legislative	6/13/2019	7/16/2019		7/25/2019	Modified & Approved 12/18/2019 Filed 1/6/2020	BUNDLED HB4275	5/5/2020	8/1/2020
Health (64-114)	Public Health Standards for Businesses Remaining Open During the COVID-19 Outbreak Legislative	5/15/2020 5/18/2020	6/15/2020 6/17/2020	4/16/2020 Approved 4/16/2020 Amendment 4/21/2020 Approved 4/21/2020 Amendment 5/15/2020 Approved 5/15/2020					

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health and Human Resources (69-15)	Recovery Residence Certification and Accreditation Program Legislative	5/8/2020	6/8/2020	4/29/2020 ERD by 6/10/2020					
Higher Education Policy Commission (133-03)	Higher Education Accountability System Legislative	6/17/2019	7/17/2019		9/30/2019		BUNDLED 4480	6/2/2020	7/2/2020
Higher Education Policy Commission (133-26)	Underwood-Smith Teacher Scholarship Legislative	9/30/2019	10/30/2019		11/5/2019		BUNDLED 4480	6/2/2020	7/2/2020
Higher Education Policy Commission (133-49)	Accountability System Legislative	6/17/2019	7/17/2019		7/18/2019	Approved 10/4/2019	BUNDLED 4480	6/2/2020	7/2/2020
Housing Development Fund (88-03)	Purchasing Procedure Procedural	4/22/2020	5/22/2020						
Lottery (179-10)	WV Lottery Interactive Wagering Rule Legislative			5/15/2020 Approved 5/18/2020					
Medicine (11-01B)	Licensure, Disciplinary and Compliant Procedures, Continuing Education, Physician Assistants Legislative	6/19/2019	7/19/2019	6/19/2019 Amendment 7/25/2019 Approved 7/30/2019	7/25/2019	Modified & Approved 9/26/2019 Filed 10/8/2019	BUNDLED HB4252	5/4/2020	8/2/2020
Medicine (11-13)	Waiver of Initial Licensing Fees for Certain Initial Licensure Applicants Legislative	6/19/2019	7/19/2019		7/25/2019	Modified & Approved 9/26/2019 Filed 10/8/2019	BUNDLED HB4252	5/4/2020	8/2/2020
Medicine (11-14)	Registration to Practice During Declared State of Emergency Legislative	4/23/2020	5/23/2020	3/26/2020 Approved 3/26/2020					
Mining and Reclamation (38-02)	West Virginia Surface Mining Reclamation Rule Legislative	6/5/2019	7/8/2019		7/25/2019	Authorized with Certain Amendments 12/18/2019	BUNDLED HB4217	6/1/2020	7/1/2020
Mining and Reclamation (38-02F)	Groundwater Protection Rules Coal Mining Operations Legislative	6/5/2019	7/8/2019		7/25/2019	Approved 12/18/2019	BUNDLED HB4217	6/1/2020	7/1/2020
Natural Resources (58-36)	Cabwaylingo State Forest Trail System Two Year Pilot Project Permitting ATVs and ORVs Legislative				Sunset Extension 2/26/2020				
Occupational Therapy (13-03)	Fees For Services Rendered By the Board Legislative	5/8/2019	7/1/2019		7/3/2019	Approved 9/26/2019	BUNDLED HB4252	4/8/2020	7/1/2020

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Occupational Therapy (13-07)	Request for Waiver of Initial Licensing Fees for Certain Individuals Legislative	5/13/2019	7/1/2019		7/3/2019	Modified & Approved 9/26/2019 Filed 9/30/2019	BUNDLED HB4252	4/8/2020	7/1/2020
Occupational Therapy (13-08)	Consideration of Prior Criminal Convictions in Initial Licensure Determinations Legislative	10/30/2019	11/30/2019		12/2/2019	Approved 12/18/2019	BUNDLED HB4252	4/8/2020	7/1/2020
Oil & Gas Conservation Commission (39-01)	Rules of The Commission Legislative	6/14/2019	7/16/2019	6/14/2019 Withdrawn 7/26/2019	7/25/2019	Modififed & Approved 12/19/2019 Filed 1/3/2020	BUNDLED HB4217		
Osteopathic Medicine (24-02)	Osteopathic Phyician Assistants Legislative	6/28/2019	7/29/2019	6/28/2019 Amendment 7/31/2019 Approved 8/5/2019	7/31/2019	Modified & Approved 10/24/2019 Filed 11/14/2019	BUNDLED HB4252	5/4/2020	8/2/2020
Osteopathic Medicine (24-09)	Emergency Temporary Permits to Practice During States of Emergency or State of Preparedness Legislative	4/15/2020	5/15/2020	3/26/2020 Approved 3/26/2020					
Pharmacy (15-01)	Licensure and Practice of Pharmacy Legislative	4/30/2020	5/31/2020	4/30/2020 Approved 4/30/2020	6/5/2020				
Pharmacy (15-02)	Uniform Controlled Substances Act Legislative	4/30/2020	5/31/2020	4/1/2020 Approved 4/1/2020	6/5/2020				
Pharmacy (15-12)	Immunizations Administered by Pharmacist and Pharmacy Interns Legislative	5/1/2020	6/2/2020	4/20/2020 Approved 4/20/2020	6/5/2020				
Psychologists (17-07)	Consideration of Prior Criminal Convictions in Initial Licensure Determinations Legislative	8/30/2019	9/30/2019		10/11/2019	Modified & Approved 12/192019 Filed 1/8/2020	BUNDLED HB4252	5/13/2020	7/1/2020
Public Service Commisison (150-39)	Rules Governing Siting Certificates for Solar Exempt Wholesale Generators Legislative Exempt	5/28/2020	6/29/2020						
Racing Commission (178-01)	Throughbred Racing Legislative	6/10/2019	7/10/2019		7/18/2019	Modified & Approved 12/18/2019 Filed 12/20/2019	BUNDLED SB357	3/11/2020	6/9/2020

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Real Estate Commission (174-06)	Application for Waiver of Initial Licensing Fees for Certain Individuals Legislative	5/31/2019	6/30/2019		7/2/2019	Modified & Approved 9/26/2019 Filed 10/7/2019	BUNDLED HB4252	4/1/2020	7/1/2020
Real Estate Commission (174-07)	Conisderation of Prior Criminal Convictions In Initial License Eligibility Determination Legislative	8/27/2019	9/26/2019		9/27/2019	Modified & Approved 11/17/2019 Filed 12/3/2019	BUNDLED HB4252	4/1/2020	7/1/2020
Respiratory Care (30-02)	Establishment of Fees Legislative	5/7/2019	6/7/2019		6/27/2019	Modified & Approved 9/26/2019 Filed 10/1/2019	BUNDLED HB4252	5/4/2020	8/4/2020
Respiratory Care (30-09)	Student Temporary Permits Legislative	5/22/2019	6/24/2019		6/27/2019	Modified & Approved 9/26/2019 Filed 10/2/2019	BUNDLED HB4252	5/11/2020	8/11/2020
Respiratory Care (30-10)	Conideration of Prior Criminal Convictions in Initial Licensure Determinations Legislative	11/7/2019	12/9/2019		12/10/2019	Approved 12/19/2019	BUNDLED HB4252	5/4/2020	7/1/2020
Secondary School Activities Comm. (127-02)	Athletics, Provisions Governing Eligibility Legislative Exempt	5/13/2020	6/12/2020						
Secondary School Activities Comm. (127-03)	Provisions Governing Contests Legislative Exempt	5/13/2020	6/12/2020						
Secretary of State (153-10)	Loan and Grant Programs Under the Help America Vote Act (HAVA) for the Purchase of Voting Equipment, Election Systems, Software, Services and Upgrades Legislative	4/24/2020	5/29/2020	3/25/2020 Amendment 4/24/2020 Amendment 4/27/2020 ERD by 6/8/2020					
Secretary of State (153-45)	Guidelines and Standards for Electronic Notarization Legislative	4/30/2020	6/1/2020	3/27/2020 Amendment 3/31/2020 Approved 4/1/2020					
Secretary of State (153-53)	Election Processes and Absentee Eligibility During State of Emergency			3/20/2020 Effective 3/20/2020					
Senior Services (76-03)	West Virginia State Plan for Aging Programs- Title V Interpretive	3/9/2020	4/8/2020					5/15/2020	7/1/2020

RULE MONITOR

AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Social Work Examiners (25-01)	Qualifications for the Profession of Social Work Legislative	8/27/2019	9/26/2019		9/27/2019	Modified & Approved 10/24/2019 Filed 11/1/2019	BUNDLED HB4252	5/12/2020	7/1/2020
Social Work Examiners (25-03)	Fee Schedule Legislative	6/5/2019	7/5/2019		7/10/2019	Modified & Approved 9/26/2019 Filed 10/10/2019	BUNDLED HB4252	5/12/2020	7/1/2020
Speech-Language Pathology and Audiology (29-01)	Licensure of Speech-Pathology and Audiology Legislative	5/14/2019	6/17/2019		6/28/2019	Modified & Approved 10/24/2019 Filed 11/4/2019	BUNDLED HB4252	5/5/2020	7/1/2020
Speech-Language Pathology and Audiology (29-04)	Disciplinary & Complaint Procedures for Speech-Language Pathology & Audiology Legislative	8/8/2019	9/13/2019		9/17/2019	Modified & Approved 10/24/2019 Filed 11/5/2019	BUNDLED HB4252	5/5/2020	7/1/2020
Tax (110-21F)	The Coal Severance Tax Rebate Interpretive	6/5/2020	7/6/2020						
Underground Facilities Damage Prevention Bd. (214-01)	Board Meetings, Organization, and Operation Procedural	5/12/2020	6/12/2020						
Veterinary Medicine (26-01)	Organization and Operation and Licenisng of Veterinarians Legislative	8/7/2019	9/8/2019		9/9/2019	Modified & Approved 12/19/2019 Filed 1/2/2020	BUNDLED HB4252	4/1/2020	7/1/2020
Veterinary Medicine (26-03)	Registration of Veterinary Technicians Legislative	5/30/2019 8/7/2019	7/7/2019 9/8/2019		7/11/2019 9/9/2019	Modified & Approved 12/19/2019 Filed 1/2/2020	BUNDLED HB4252	4/1/2020	7/1/2020
Veterinary Medicine (26-06)	Schedule of Fees Legislative	5/30/2019 8/7/2019	7/7/2019 9/8/2019		7/11/2019 9/9/2019	Authorized as Modified with Certain Amendments 12/19/2019 Filed 1/2/2020	BUNDLED HB4252	4/1/2020	7/1/2020
Waste Management, Div. of Water & Waste Mgmt. (33-20)	Hazardous Waste Management System Legislative	6/5/2019	7/8/2019		7/25/2019	Approved 10/25/2019	BUNDLED HB4217		
Water Development Authority (44-04)	Purchasing Procedure Procedural	4/15/2020	5/18/2020						

RULE MONITOR									
AGENCY/SERIES NUMBER	RULE	NOTICE	HEARING	EMER RULE	AGENCY APPROVED	LRMRC/LOCEA ACTION	LEGIS	FINAL FILE	EFFECTIVE
Water Resources Division of Water and Waste Management (47-02)	Requirements Governing Water Quality Standards Legislative	3/31/2020	5/19/2020						
Water Resources Division of Water and Waste Management (47-02B)	Assessment Methodology for the Biological Component of the Narrative Criteria in Wadeable Streams Procedural	2/7/2020 3/20/2020	3/26/2020 4/20/2020						

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED
6/1/2020 11:31:04 AM

Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Air Quality TITLE-SERIES: 45-08

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Ambient Air Quality Standards

CITE STATUTORY AUTHORITY: W. Va. Code § 22-5-4

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4217

Section 64-3-1 (a) Passed On 3/3/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

June 1, 2020

This rule shall terminate and have no further force or effect from the following date:

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jason E Wandling – 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.

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/1/2020 11:33:23 AM

Office of West Virginia
Secretary Of State

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Air Quality TITLE-SERIES: 45-16

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Standards of Performance for New Stationary Sources

CITE STATUTORY AUTHORITY: W. Va. Code § 22-5-4

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4217

Section 64-3-1 (b) Passed On 3/3/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

June 1, 2020

This rule shall terminate and have no further force or effect from the following date:

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jason E Wandling – 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.

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
6/1/2020 11:37:23 AM
Office of West Virginia Secretary Of State

LEGISLATIVE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Air Quality TITLE-SERIES: 45-25

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities

CITE STATUTORY AUTHORITY: W. Va. Code §§ 22-5-4 and 22-18-6

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4217

Section 64-3-1 (c) Passed On 3/3/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

June 1, 2020

This rule shall terminate and have no further force or effect from the following date:

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes
Jason E Wandling -- 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.

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
6/1/2020 11:47:12 AM
Office of West Virginia Secretary Of State

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Air Quality TITLE-SERIES: 45-34

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Emission Standards for Hazardous Air Pollutants

CITE STATUTORY AUTHORITY: W. Va. Code § 22-5-4

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4217

Section 64-3-1 (d) Passed On 3/3/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

June 1, 2020

This rule shall terminate and have no further force or effect from the following date:

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes
Jason E Wandling -- 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.

LEGISLATIVE

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
6/1/2020 11:50:51 AM
Office of West Virginia
Secretary Of State

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Air Quality TITLE-SERIES: 45-40

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Control of Ozone Season Nitrogen Oxides Emissions

CITE STATUTORY AUTHORITY: W. Va. Code § 22-5-4

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4217

Section 64-3-1 (e) Passed On 3/3/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

June 1, 2020

This rule shall terminate and have no further force or effect from the following date:

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jason E Wandling -- 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.

WEST VIRGINIA SECRETARY OF STATE
MAC WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
6/2/2020 1:36:32 PM
Office of West Virginia
Secretary Of State

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Community And Technical College Education TITLE-SERIES: 135-08

RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: West Virginia Invests Grant Program

CITE STATUTORY AUTHORITY: 18B-1-6; 18C-9-4

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4480

Section 18B-17-3(x) Passed On 3/3/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

July 2, 2020

This rule shall terminate and have no further force or effect from the following date:

July 02, 2025

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Angela S Kerns -- 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.

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED
6/1/2020 11:53:18 AM

Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Environmental Protection Secretarys Office TITLE-SERIES: 60-03

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Voluntary Remediation and Redevelopment Rule

CITE STATUTORY AUTHORITY: W. Va. Code §§ 22-22-3 and 22-22-4(c)

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB4217

Section § 64-3-1 Passed On 3/3/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

June 1, 2020

This rule shall terminate and have no further force or effect from the following date:

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jason E Wandling -- 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.

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/2/2020 3:13:50 PM

Office of West Virginia
Secretary Of State

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Higher Education Policy Commission TITLE-SERIES: 133-03

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: Yes

RULE NAME: Higher Education Accountability System

CITE STATUTORY AUTHORITY: 18B-1-6

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) House Bill 4480

Section 18B-17-2(ii) Passed On 3/3/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

July 2, 2020

This rule shall terminate and have no further force or effect from the following date:

July 02, 2025

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Cindy L Anderson -- 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.

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/2/2020 3:17:17 PM

Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Higher Education Policy Commission TITLE-SERIES: 133-26

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: Yes

RULE NAME: Underwood-Smith Teaching Scholars Program and Teacher Education Loan Repayment Program

CITE STATUTORY AUTHORITY: 18B-1-6

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) House Bill 4480

Section 18B-17-2(jj) Passed On 3/3/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

July 2, 2020

This rule shall terminate and have no further force or effect from the following date:

July 02, 2025

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Cindy L Anderson -- 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.

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED
6/2/2020 3:18:48 PM

Office of West Virginia
Secretary Of State

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Higher Education Policy Commission TITLE-SERIES: 133-49

RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: Yes

RULE NAME: Accountability System

CITE STATUTORY AUTHORITY: 18B-1-6

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) House Bill 4480

Section 18B-17-2(kk) Passed On 3/3/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

July 2, 2020

This rule shall terminate and have no further force or effect from the following date:

July 02, 2025

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Cindy L Anderson -- 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.

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Bill J. Crouch
Cabinet Secretary

MEMORANDUM

FILED IN THE OFFICE OF THE SECRETARY OF STATE
THIS DATE June 5, 2020
ADMINISTRATIVE LAW DIVISION

DATE: June 4, 2020

TO: Mac Warner
Secretary of State

FROM: Bill J. Crouch
Secretary of Department of Health and Human Resources

RE: Minimum Licensing Requirements for Residential Child Care and Treatment Facilities for Children and Transitioning Adults in West Virginia
W. Va. C.S.R. § 78-3 AMENDED REQUEST

The Bureau for Children and Families of the Department of Health and Human Resources requests that W. Va. C.S.R. §78-3 be temporarily suspended in part effective immediately pursuant to W. Va. Code §15-5-6(c)(7) and the State of Emergency declared by Governor Justice on March 16, 2020. This suspension supersedes all previously filed guidance for this Legislative Rule.

W. Va. C.S.R. §78-3 establishes and sets forth the requirements for residential child care and treatment facilities for child and transitioning adults. Strict compliance with the following sections will hinder and delay necessary action in coping with the emergency declared by the Governor:

W. Va. C.S.R. §78-3.5.4.1.h. – requiring facilities to accommodate face-to-face visitation between children and family or significant individuals as specified in the plan of care, the child's case plan, or both.

W. Va. CSR §§78-3.10.2.8. through 78-3.10.2.11. – requiring organizations to submit a request for a criminal history background check to the WV CARES unit of the Department.

W. Va. C.S.R. §§78-3.11.1. and 2. – requiring extensive training for all new employees and continuing training for current employees.

If granted, the Bureau for Children and Families further requests that the rule be suspended until such time as the State of Emergency is lifted.

One Davis Square, Suite 100, East • Charleston, West Virginia 25301 • 304 558-0684 • 304-558-1130 (fax) • dhhr.wv.gov

LEGISLATIVE

NOTICE OF REPEAL OF LEGISLATIVE RULE

Title and series number: 78 CSR 24

Name of rule: Qualifications for a Provisional License to Practice as a Social Worker within the Department of Health and Human Resources

Effective date: (In Progress) June 3, 2020

Decision to repeal the rule: During the 2020 Regular Legislative Session, Senate Bill 312 amended W. Va. Code §30-30-16(c)(2). The amendment removed the provision that allowed employees of the West Virginia Department of Health and Human Resources (DHHR) to satisfy certain training requirements through training courses developed by DHHR through this legislative rule. DHHR's statutory rule-making authority was also repealed.

Desired effective date of repeal: June 3, 2020, to coincide with effective date of SB 312.

FILED
2020 JUN -1 P 12:01

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/1/2020 2:53:07 PM

Office of West Virginia
Secretary Of State

LEGISLATIVE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Mining And Reclamation TITLE-SERIES: 38-02

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: WEST VIRGINIA SURFACE MINING RECLAMATION RULE

CITE STATUTORY AUTHORITY: W.Va. Code §22-3-4, 22-3-12, 22-3-13(g), 22-3-23(i), and 22-3-35.

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) House Bill 4217

Section §64-3-1(f) Passed On 3/3/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

July 1, 2020

This rule shall terminate and have no further force or effect from the following date:

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jason E Wandling -- 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.

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE

AGENCY: Mining And Reclamation TITLE-SERIES: 38-02F

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: GROUNDWATER PROTECTION RULES COAL MINING OPERATIONS

CITE STATUTORY AUTHORITY: W. Va. Code §22-12-5

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) House Bill 4217

Section §64-3-1(g) Passed On 3/3/2020 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

July 1, 2020

This rule shall terminate and have no further force or effect from the following date:

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jason E Wandling -- 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.

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/5/2020 12:31:57 PM

Office of West Virginia
Secretary Of State

LEGISLATIVE

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

AGENCY: Pharmacy TITLE-SERIES: 15-01

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: 15-01 Licensure and Practice of Pharmacy

PRIMARY CONTACT

NAME: Ryan Hatfield

ADDRESS: 2310 Kanawha Blvd E

Charleston, WV 25311

EMAIL: ryan.l.hatfield@wv.gov

PHONE NUMBER: 304-208-3145

CITE STATUTORY AUTHORITY: 30-5-7, 30-5-14, and 29A-3-15

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

Change to definition of "compounding."

Change to "emergency prescriptions."

Medication Limitations on chloroquine and hydroxychloroquine.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 5/30/2020

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 5/31/2020

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/5/2020 12:01:24 PM

Office of West Virginia
Secretary Of State

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

AGENCY: Pharmacy TITLE-SERIES: 15-02

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: 15-02 Uniform Controlled Substances Act

PRIMARY CONTACT

NAME: Ryan Hatfield

ADDRESS: 2310 Kanawha Blvd E

Charleston, WV 25311

EMAIL: ryan.l.hatfield@wv.gov

PHONE NUMBER: 304-208-3145

CITE STATUTORY AUTHORITY: 60A-3-301 and 29A-3-15

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

Emergency changes needed to emergency prescriptions due to DEA changing policies.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 4/30/2020

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 5/31/2020

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/5/2020 11:57:15 AM

Office of West Virginia
Secretary Of State

LEGISLATIVE

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

AGENCY: Pharmacy TITLE-SERIES: 15-12

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: 15-12 Immunizations Administered by Pharmacists and Pharmacy Interns

PRIMARY CONTACT

NAME: Ryan Hatfield

ADDRESS: 2310 Kanawha Blvd E

Charleston, WV 25311

EMAIL: ryan.l.hatfield@wv.gov

PHONE NUMBER: 304-208-3145

CITE STATUTORY AUTHORITY: 60A-3-301 and 29A-3-15

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

A bill passed last session giving pharmacists the ability to provide all CDC recommended immunizations. The Covid pandemic has made this emergency rule necessary rather than waiting for this rule to go through the legislative process.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 4/30/2020

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 5/31/2020

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED
6/5/2020 12:45:44 PM
Office of West Virginia
Secretary Of State

INTERPRETIVE

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Tax

TITLE-SERIES: 110-21F

RULE TYPE: Interpretive

Amendment to Existing Rule: No

Repeal of existing rule: No

RULE NAME: THE COAL SEVERANCE TAX REBATE

CITE STATUTORY AUTHORITY: W. Va. Code §§11-13EE-14 and 11-10-5

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/06/2020 10:00 AM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: MARK S. MORTON

ADDRESS: P.O. BOX 1005

CHARLESTON, WV 25324

EMAIL: taxlegal@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: Yes

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

Orders Report

Docket Number	Agency	Respondent	Date Rendered
[redacted]	**Health Care Authority**	CCGEN Holdings LLC	5/22/2020
[redacted]	**Health Care Authority**	Reconnection LLC	5/22/2020
[redacted]	**Health Care Authority**	Hospice Care Corporation	5/22/2020
[redacted]	**Health Care Authority**	Boone Memorial HomeCare LLC	5/22/2020
[redacted]	**Health Care Authority**	Ronceverte Physician Group LLC	5/22/2020
[redacted]	**Health Care Authority**	Mon Health Marion Neighborhood Hospital Inc	5/18/2020
[redacted]	**Health Care Authority**	Potomac Valley Hospital	5/27/2020
[redacted]	**Health Care Authority**	Braxton County Memorial Hospital	5/27/2020
[redacted]	**Health Care Authority**	West Virginia University Hospitals Inc	5/18/2020
[redacted]	**Insurance Commission**	State Farm Fire & Casualty Company	5/22/2020
[redacted]	**Insurance Commission**	Travelers Property Casualty Company of America	5/11/2020
[redacted]	**Insurance Commission**	Safeco Insurance Company of America	5/18/2020
[redacted]	**Medicine, West Virginia Board Of**	David Jay Currence, MD	5/28/2020

Grievances Report

Docket Number	Grievants Name	Respondents Name	Date Decision
2019-1226-CONS	Anna McCumbers	Department Of Health And Human Resources	4/2/2020
		Bureau For Children And Families	4/2/2020
	Debora Pigman	Department Of Health And Human Resources	4/2/2020
		Bureau For Children And Families	4/2/2020
2019-0881-CONS	Marshall Tincher, II	Division of Corrections and Rehabilitation	4/2/2020
		Bureau of Prisons and Jails	4/2/2020
		Mount Olive Correctional Complex and Jail	4/2/2020
	Marshall Tincher, Sr.	Division of Corrections and Rehabilitation	4/2/2020
		Bureau of Prisons and Jails	4/2/2020
		Mount Olive Correctional Complex and Jail	4/2/2020
2020-0863-DHHR	Timothy William Denny	Department Of Health And Human Resources	4/3/2020
		Mildred Mitchell-Bateman Hospital	4/3/2020
2020-0579-CabED	Brenda Graves	Cabell County Board Of Education	4/3/2020
2017-0960-DOR	Vickie L. Hanson	Tax Department	4/3/2020
2020-0694-DOT	Gerald E. Robinson	Division of Highways	4/3/2020
2020-0455-CONS	Gerald Robinson	Division of Highways	4/3/2020
	Raymond Allen Owens	Division of Highways	4/3/2020
2016-1636-GrnED	Charlotte Brown	Grant County Board Of Education	4/10/2020
2017-1638-FSU	Macgorine A. Cassell	Fairmont State University	4/10/2020
2020-0658-KanED	Alison Douglas	Kanawha County Board Of Education	4/10/2020
2017-1120-FSU	Albert Magro	Fairmont State University	4/10/2020
2019-1351-DJPS	Wayne D. Banks	Division of Corrections and Rehabilitation	4/17/2020
		Bureau of Prisons and Jails	4/17/2020
		Southern Regional Jail and Correctional Facility	4/17/2020

6/2/2020 8:46:52 AM

2020-0559-DOC	**Ronald K. Luther Jr.**	Division of Natural Resources	4/17/2020
2017-2100-BarED	**Susan Anglin**	Barbour County Board Of Education	4/17/2020
2020-0943-BooED	**Cynthia Anne Foster**	Boone County Board Of Education	4/17/2020
2020-0954-BooED	**Candess Rae Hatfield**	Boone County Board Of Education	4/17/2020
2020-0959-BooED	**Jacob Scott Jones**	Boone County Board Of Education	4/17/2020
2020-0356-DHHR	**Belinda Keene**	Department Of Health And Human Resources	4/17/2020
		Bureau For Children And Families	4/17/2020
		Division Of Personnel	4/17/2020
2017-2101-BarEd	**Angela McDaniel**	Barbour County Board Of Education	4/17/2020
2020-0540-PSCWVU	**Jared Miller**	West Virginia University Potomac State College	4/17/2020
2014-0176-CONS-1	**John Richard Rossell**	Division of Forestry	4/23/2020
2014-1773-CONS	**John Richard Rossell**	Division of Forestry	4/23/2020
2019-0565-DHHR	**Misti J. Broyles**	Department Of Health And Human Resources	4/24/2020
		Bureau For Children And Families	4/24/2020
2018-1331-WayED	**Reva Wallace**	Wayne County Board Of Education	4/24/2020
2019-0640-KanED	**Kimberly Williams**	Kanawha County Board Of Education	4/24/2020
2019-1199-MAPS	**James E. Goddard**	Division of Corrections and Rehabilitation	4/24/2020
		Bureau of Prisons and Jails	4/24/2020
		Division Of Personnel	4/24/2020
2019-0665-DOT	**Patty Shirk**	Division of Highways	4/24/2020
2020-0740-DHHR	**Lawrence Taylor**	Department Of Health And Human Resources	4/24/2020
		Bureau For Children And Families	4/24/2020
2020-1127-DOC	**Deborah A. Wilson**	Workforce West Virginia	4/24/2020

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

EXECUTIVE ORDER NO. 41-20

By the Governor

WHEREAS, a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

WHEREAS, Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein, and to perform and exercise other functions, powers, and duties that are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, Executive Order 9-20 required all businesses and operations in West Virginia, except Essential Businesses and Operations as defined therein, to cease all activities within the state except for such minimum basic operations as are necessary to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions, and the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences, and provided exceptions for businesses such as home-based businesses and certain small businesses while requiring proper social distancing and hygiene practices be maintained at such businesses; and

WHEREAS, since the issuance of Executive Order 9-20 and other executive orders ordering closed or otherwise limiting occupancy of certain establishments and facilities in this state, implementation of successful public health measures has resulted in revised projections of rates of infection and COVID-19 related deaths in West Virginia, as well as ever-strengthening supply chains for personal protective equipment and other medical equipment and supplies, resulting in greater preparedness and response capacity throughout the state; and

WHEREAS, on April 27, 2020, I, Governor Jim Justice, announced the state's reopening plan, West Virginia Strong: *The Comeback* (the "Comeback Plan"), to phase in the reopening of businesses in the state of West Virginia on a week by week basis to most effectively monitor and respond to the public health effects of this phased reopening, to be based upon certain metrics and conditions to safely reopen segments of West Virginia's economy and get our citizens back to work, while ensuring the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population who are at most risk from the COVID-19 virus; and

WHEREAS, Executive Order 28-20 and Executive Order 30-20 allowed for the resumption of all medical procedures throughout the state while requiring that hospitals and ambulatory surgical centers around the state limit procedures to only more urgent procedures to ensure adequate response capacity and preserve necessary personal protective equipment and other resources at such facilities in the event of any surge of COVID-19; and

WHEREAS, under the Comeback Plan, Executive Order 32-20, Executive Order 36-20, Executive Order 37-20, Executive Order 39-20, and Executive Order 40-20 have been issued to transition the State to a safer-at-home policy and to allow certain types of businesses to begin to reopen or expand their operations, provided that certain safety measures are in place; and

WHEREAS, reopening additional segments of the state's economy in accordance with the Comeback Plan, utilizing a phased approach to reopen sectors of the economy week by week, while continuing to prioritize and provide for the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population, is in the public interest; and

WHEREAS, West Virginia's public health experts have advised that allowing for the reopening and/or expansion of certain types of businesses and activities in this state, including spas and massage businesses, swimming pools, places of indoor amusement (e.g., bowling alleys, pool halls, and ice and roller rinks), and limited video lottery retailers, is appropriate at this time; and

NOW, THEREFORE, I, JIM JUSTICE, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER**, effective as of 12:01 AM, Eastern Standard Time, on the Thirtieth day of May, Two Thousand Twenty, unless rescinded, amended, or otherwise postponed by subsequent executive order prior to the effective date of this Order, as follows:

1. The following provisions of Executive Order 9-20, as previously amended by Executive Orders 32-20, 36-20, 37-20, 39-20, and 40-20 are hereby further amended and supplemented as follows:

   a. Section 3 is hereby amended and supplemented by the addition of the following subsections to include spas and massage businesses, swimming pools, places of indoor amusement, and limited video lottery retailers as essential businesses:

      "ff. **Spas and Massage Businesses**. Spas, massage businesses, and similar businesses and facilities may resume operations, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such facilities, *A Guide to Safely Reopening Spas*, is available at governor.wv.gov."

      "gg. **Pools**. Swimming pools, adventure lakes, and similar places or facilities may resume operations, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such zoos, *A Guide to Safely Reopening Pools*, is available at governor.wv.gov."

      "hh. **Indoor Amusement**. Places of indoor amusement, including by way of example only bowling alleys, pool halls, and ice and roller rinks, may resume operations, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such facilities, *A Guide to Safely Reopening Bowling Alleys and Other Indoor Recreation Facilities*, is available at governor.wv.gov."

      "ii. **Limited Video Lottery Retailers**. Limited video lottery retailers and facilities that offer such services may resume operations, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such facilities, *A Guide to Safely Reopening Limited Video Lottery Retailers*, is available at governor.wv.gov."

   b. Section 4, as amended, is hereby deleted in its entirety and replaced with the following to allow for museums, zoos, and bars to resume operations, provided that certain safeguards are in place:

      "4. **Prohibited activities.** Locations with amusement rides, carnivals, fairs, bingo halls, movie and other theaters (except for drive-in movie theaters which ensure that proper social distancing and hygiene practices are maintained, and operated in accordance with the *Guidance for West Virginia Drive-In Movie Theaters*, available at governor.wv.gov), concert and music halls, adult entertainment venues, racetracks (except where racetracks offer spectator-less horse races, beginning no sooner than May 14, 2020, which shall not allow any in-person spectators but which horse races may be simulcast, provided that such horse racing shall be conducted in accordance with guidance and best practices developed, published, and disseminated by the applicable track operators and horsemen's associations, including ensuring all staff and employees maintain proper social distancing and hygiene practices; and except for outdoor motorsport or powersport racetracks or venues, which shall not allow any in-person spectators but which may allow for operation in accordance with the guidance, *A Guide to Safely Reopening Outdoor Motorsport and Powersport Racing*, available at governor.wv.gov), and other similar businesses shall be closed; provided, however, that the following specific outdoor recreational businesses and activities may resume operations as follows:

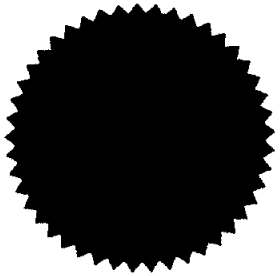
         a. The Hatfield McCoy Trail System may reopen in accordance with the guidance, *A Guide to Safely Opening & Operating the Hatfield McCoy Trail System*, available at governor.wv.gov;

         b. Outdoor recreation outfitters may reopen in accordance with the guidance, *A Guide to Safely Reopening Outdoor Recreation Outfitters*, available at governor.wv.gov;

c. Whitewater rafting businesses may resume operations in accordance with the guidance, *A Guide to Safely Reopening Whitewater Rafting*, available at governor.wv.gov; and

d. Ziplining businesses may resume operations in accordance with the guidance, *A Guide to Safely Reopening Zipline Outfitters*, available at governor.wv.gov."

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, this Twenty-ninth day of May, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-seventh year of the State.

GOVERNOR

By the Governor

SECRETARY OF STATE

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

EXECUTIVE ORDER NO. 42-20

By the Governor

WHEREAS, a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

WHEREAS, Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein, and to perform and exercise other functions, powers, and duties that are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, Executive Order 9-20 required all businesses and operations in West Virginia, except Essential Businesses and Operations as defined therein, to cease all activities within the state except for such minimum basic operations as are necessary to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions, and the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences, and provided exceptions for businesses such as home-based businesses and certain small businesses while requiring proper social distancing and hygiene practices be maintained at such businesses; and

WHEREAS, since the issuance of Executive Order 9-20 and other executive orders ordering closed or otherwise limiting occupancy of certain establishments and facilities in this state, implementation of successful public health measures has resulted in revised projections of rates of infection and COVID-19 related deaths in West Virginia, as well as ever-strengthening supply chains for personal protective equipment and other medical equipment and supplies, resulting in greater preparedness and response capacity throughout the state; and

WHEREAS, on April 27, 2020, I, Governor Jim Justice, announced the state's reopening plan, West Virginia Strong: *The Comeback* (the "Comeback Plan"), to phase in the reopening of businesses in the state of West Virginia on a week by week basis to most effectively monitor and respond to the public health effects of this phased reopening, to be based upon certain metrics and conditions to safely reopen segments of West Virginia's economy and get our citizens back to work, while ensuring the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population who are at most risk from the COVID-19 virus; and

WHEREAS, Executive Order 28-20 and Executive Order 30-20 allowed for the resumption of all medical procedures throughout the state while requiring that hospitals and ambulatory surgical centers around the state limit procedures to only more urgent procedures to ensure adequate response capacity and preserve necessary personal protective equipment and other resources at such facilities in the event of any surge of COVID-19; and

WHEREAS, under the Comeback Plan, Executive Order 32-20, Executive Order 36-20, Executive Order 37-20, Executive Order 39-20, Executive Order 40-20, and Executive Order 41-20 have been issued to transition the State to a safer-at-home policy and to allow certain types of businesses to begin to reopen or expand their operations, provided that certain safety measures are in place; and

WHEREAS, reopening additional segments of the state's economy in accordance with the Comeback Plan, utilizing a phased approach to reopen sectors of the economy week by week, while continuing to prioritize and provide for the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population, is in the public interest; and

WHEREAS, West Virginia's public health experts have advised that allowing for the reopening and/or expansion of certain types of businesses and activities in this state, including movie theaters and casinos, and increasing the social gathering size limitation from 25 people to 100 people, is appropriate at this time; and

NOW, THEREFORE, I, JIM JUSTICE, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER,** effective as of 12:01 AM, Eastern

Standard Time, on the Fifth day of June, Two Thousand Twenty, unless rescinded, amended, or otherwise postponed by subsequent executive order prior to the effective date of this Order, as follows:

1. The following provisions of Executive Order 9-20, as previously amended by Executive Orders 32-20, 36-20, 37-20, 39-20, 40-20, and 41-20 are hereby further amended and supplemented as follows:

   a. Section 1.g. is hereby deleted in its entirety and replaced with the following to increase the gathering size restriction from 25 people to 100 people:

      "g. Engaging in outdoor activity, provided that individuals at all times and as much as reasonably possible maintain social distancing of six feet from one another and abide by a 100-person limitation on gathering size."

   b. Section 3 is hereby amended and supplemented by the addition of the following subsections to include movie theaters and casinos as essential businesses:

      "jj. **Theaters**. Movie and other theaters may resume operations, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such facilities, *Safety Guidance for Indoor Movie Theaters*, is available at governor.wv.gov."

      "kk. **Casinos**. Casinos, bingo halls, and similar places or facilities may resume operations, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such facilities, *A Guide to Safely Reopening Casinos* and *Safety Guidance for Bingo Halls*, is available at governor.wv.gov."

   c. Section 4, as amended, is hereby deleted in its entirety and replaced with the following to allow for movie and other theaters and casinos and bingo halls to resume operations, provided that certain safeguards are in place:

      "4. **Prohibited activities.** Locations with amusement rides, carnivals, fairs, concert and music halls, adult entertainment venues, racetracks (except where racetracks offer spectator-less horse races, beginning no sooner than May 14, 2020, which shall not allow any in-person spectators but which horse races may be simulcast, provided that such horse racing shall be conducted in accordance with guidance and best practices developed, published, and disseminated by the applicable track operators and horsemen's associations, including ensuring all staff and employees maintain proper social distancing and hygiene practices; and except for outdoor motorsport or powersport racetracks or venues, which shall not allow any in-person spectators but which may allow for operation in accordance with the guidance, *A Guide to Safely Reopening Outdoor Motorsport and Powersport Racing*, available at governor.wv.gov), and other similar businesses shall be closed; provided, however, that the following specific outdoor recreational businesses and activities may resume operations as follows:

         a. The Hatfield McCoy Trail System may reopen in accordance with the guidance, *A Guide to Safely Opening & Operating the Hatfield McCoy Trail System*, available at governor.wv.gov;

         b. Outdoor recreation outfitters may reopen in accordance with the guidance, *A Guide to Safely Reopening Outdoor Recreation Outfitters*, available at governor.wv.gov;

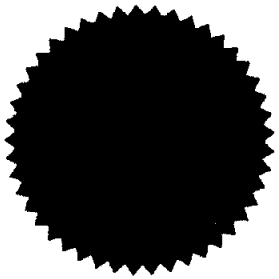
         c. Whitewater rafting businesses may resume operations in accordance with the guidance, *A Guide to Safely Reopening Whitewater Rafting*, available at governor.wv.gov; and

         d. Ziplining businesses may resume operations in accordance with the guidance, *A Guide to Safely Reopening Zipline Outfitters*, available at governor.wv.gov."

   e. Section 5 is hereby deleted in its entirety and replaced with the following to increase the social gathering size restriction from 25 people to 100 people:

      "5. **Avoid social gatherings.** All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes permitted by this Order including for purposes of any Essential Businesses and Operations. Any gathering of more than 100 people, unrelated to any Essential Businesses and Operations, is prohibited unless exempted by this Order. Nothing in this Order prohibits the gathering of members of a household or residence."

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, this Fourth day of June, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-seventh year of the State.

GOVERNOR

By the Governor

SECRETARY OF STATE

PUBLIC NOTICE

FILED

2020 MAY 28 P 3: 20

OFFICE WEST VIRGINIA SECRETARY OF STATE

OTHER

WEST VIRGINIA MEDICAID PROGRAM

STATE PLAN AMENDMENT 20-001

REGARDING

CHIROPRACTOR'S SERVICES

Pursuant to 42 U.S.C. §1396a(a)(13)(1997) and 42 C.F.R. §447.205, the Department of Health and Human Resources ("Department"), Bureau for Medical Services ("BMS") provides notice of the filing of a state plan amendment (SPA), identified as SPA 20-001, regarding the Chiropractor's Services under West Virginia Medicaid. The SPA-2001, Chiropractic Services mean services, including any necessary supplies and equipment provided to a recipient by or under the direction of a qualified chiropractor within the scope of his or her practice under State law. A "chiropractor" is an individual who meets qualifications specified in regulations are 42 CFR 440.60(b) and is licensed pursuant to West Virginia law. No referral or prior authorization is required for up to 20 visits, combined, of physical therapy, occupational therapy, and chiropractic services.

This SPA will be effective April 1, 2020, pending CMS approval. The estimated annual fiscal year impact will be $900,000.

The SPA and this notice will be available for public inspection in each county office of the Department of Health and Human Resources during normal business hours, 8:30 a.m. to 4:30 p.m., beginning Wednesday, June 3, 2020, through Friday, July 3, 2020 and on the web at: www.dhhr.wv.gov/bms, then click "Public Notices" on the top toolbar.

Written comments may be sent between the above referenced dates to the West Virginia Department of Health and Human Resources, Bureau for Medical Services, 350 Capitol Street, Suite 251, Charleston, WV 25301-3706, or by email at SPAComments@wv.gov. Any written comments received will be available for review at the above address during normal business hours, 8:30 a.m. to 4:30 p.m.

PUBLIC NOTICE

FILED

2020 MAY 28 P 3: 35

OFFICE WEST VIRGINIA SECRETARY OF STATE

WEST VIRGINIA MEDICAID PROGRAM

STATE PLAN AMENDMENT 20-002

REGARDING

DENTAL SERVICES

Pursuant to 42 U.S.C. §1396a(a)(13)(1997) and 42 C.F.R. §447.205, the Department of Health and Human Resources ("Department"), Bureau for Medical Services ("BMS") provides notice of the filing of a state plan amendment (SPA), identified as SPA 20-002, regarding the Dental Services under West Virginia Medicaid.

SPA 20-002: Dental practitioners who provide covered dental services shall be reimbursed, by procedure, utilizing the American Dental Association Survey of Dental Fees for the Southern Atlantic Region Norms. The 25 percentile of the Southern Atlantic Regional Survey constitutes the Medicaid cap.

Physicians who provide covered oral and maxillofacial services shall be reimbursed by the upper limit utilizing a Resource-Based Relative Value (RBVU) for the procedure times a conversion factor as determined by the type of service. The conversion factors were developed using utilization and payment level data for the defined service group. Payment shall not exceed the provider's usual customary charge to the public. The agency's rates are reviewed annually and published on the website (http://dhhr.wv.gov/bms/FEES/Pages/Dental-Fee-Schedule.aspx) with an effective date for payment implementation. Except as otherwise noted in the plan, State developed fee Schule rates are the same for both governmental and private providers.

Administration of anesthesia services shall be reimbursed by Current Dental Terminology (CDT) codes based on an average American Society of Anesthesiologist based units (for Head Procedures) plus time units multiplied by the anesthesia conversion factor. Payment shall not exceed the provider's usual customary charge to the public

This SPA will be effective April 1, 2020, pending CMS approval. The schedule 10% increase, effective April 1, 2020, would increase annual costs by $7,500,000.

The SPA and this notice will be available for public inspection in each county office of the Department of Health and Human Resources during normal business hours, 8:30 a.m. to 4:30 p.m., beginning Wednesday, June 3, 2020, through Friday, July 3, 2020 and on the web at: www.dhhr.wv.gov/bms, then click "Public Notices" on the top toolbar.

Written comments may be sent between the above referenced dates to the West Virginia Department of Health and Human Resources, Bureau for Medical Services, 350 Capitol Street, Suite 251, Charleston, WV 25301-3706, or by email at SPAComments@wv.gov. Any written comments received will be available for review at the above address during normal business hours, 8:30 a.m. to 4:30 p.m.

OTHER

FILED
2020 JUN -5 A 10: 55
OFFICE WEST VIRGINIA SECRETARY OF STATE

July 1, 2020 – June 30, 2021

INTENDED USE PLAN

For the

WEST VIRGINIA DRINKING WATER STATE REVOLVING FUND

State of West Virginia

Department of Health and Human Resources
Bureau for Public Health
Office of Environmental Health Services
Environmental Engineering Division

July 2020

OTHER

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I. INTRODUCTION

The Safe Drinking Water Act (SDWA) amendments of 1996 authorized a Drinking Water State Revolving Fund (DWSRF) program to assist public water systems in financing the cost of the infrastructure needed to achieve or maintain compliance with SDWA requirements and protect public health. This Intended Use Plan (IUP) details the intended use for the State Fiscal Year 2021 (FFY 2020) Capitalization Grant funds totaling $11,011,000 and will require a 20% state match of $2,202,200. The available State Program Cash Match is $647,500. The West Virginia Infrastructure and Jobs Development Council (Infrastructure Council) will commit the funds for the required 20% match at its June 2020 meeting.

From the FFY 2020 Capitalization Grant, $8,059,240 (along with the state match, projected earned interest, loan repayments and In-Kind reimbursements) shall be used to construct projects. These funds are the Drinking Water Treatment Revolving Fund (DWTRF). The 2% Technical Assistance is used to contract a Continuing Education Training program for water operator training and certification. The 4% Administration funding is used to manage the DWTRF program. The 10% Program Management funding is used for enhancing the Public Water Supply Supervision Program (PWSS). The 15% Local Assistance funding is used in implementing the required state Source Water Protection Program, assessing, and assisting in the technical, managerial and financial capacity of small systems. West Virginia plans to apply for any additional stimulus funding that may be appropriated by Congress later in the year. Projects will be added to the IUP from the PPL in priority order, subject to readiness to proceed.

II. PROJECTS

A. Project Funding Requirements

Approval from the Infrastructure Council is required for any project to receive DWTRF assistance. The Infrastructure Council, with recommendations from its Water Technical Review Committee and the Funding Committee, must approve all projects. Both of the following requirements must be considered for funding of projects:

1) At least 15% of the funds in the DWTRF must go to systems serving less than 10,000 total persons. Federal code allows crediting prior year's excess above the 15% for the annual requirement. Ninety three percent (93%) of this year's planned funding will go to systems with less than 10,000 population.

2) West Virginia legislation authorizes the DWTRF requirement for disadvantaged communities. *"The division of health shall, in accordance with the provisions of the safe drinking water act, establish a program for loan subsidies to disadvantaged communities. Thirty percent of the federal capitalization grants made to this state shall be dedicated to the funding of projects for disadvantaged communities"* (Authority §16-13C-3). This requirement is not a federal requirement. At least 30% of the cumulative federal funds will be used for disadvantaged communities. The 30% requirement will be calculated on a cumulative basis of awarded grants. All planned funds will go to disadvantaged systems.

B. The Project Priority List (PPL) Process

The PPL process uses an application that the water system must complete to be considered for DWTRF funding. This application process has improved the DWTRF program by listing only those systems that are truly interested in using low interest loan funds. This eliminates the need to bypass many projects that are not interested in using the DWTRF low interest loan money.

Each water system submits a pre-application through the Infrastructure Council, also:

1) Has its project scored using DWTRF criteria;

2) May be contacted concerning its interest in DWTRF funding; and

3) If the water system is interested in DWTRF, they submit a form to be included on the next priority list that is put out for public comment.

Water systems that are the closest to going to bid, (e.g., the project design is complete and a Public Service Commission application, where applicable, has been submitted, etc.) are given top priority when issuing binding commitment letters, thus, some projects which have not received other funding or have not been designed will be bypassed in accordance with the IUP.

In order to fund more projects with DWTRF funds, the PPL may be issued for public comment several times a year so that projects that have been approved by the Infrastructure Council and have been scored and ranked can be given binding letter of commitments sooner. The PPL will include a summary of the health benefits for the project.

Water systems that have been on the prior PPL, but have not received a funding commitment will be added to the new PPL unless we have information that would indicate they no longer wish to obtain DWTRF funding.

Projects requesting DWTRF funding assistance are prioritized using the DWTRF Project Priority Ranking System (Attachment 1). Three categories (public health, regulatory compliance, and affordability) are used to determine project scoring. Projects that apply for DWTRF funding are ranked on a PPL and are listed in the Project Priority List/Comprehensive List (Attachment 2). The PPL includes the name of the public water system, description of the project, priority assigned, expected financial terms, size of community served, and whether or not the system is disadvantaged. The highest ranked projects on the PPL are contacted concerning their project status to determine if funding from the DWTRF is appropriate and the project is ready to proceed. The PPL ranking system allows for higher public health ranking for utilities that have multiple violations as reflected in the Enforcement Tracking Tool (ETT). The ranking system allows coordination of projects funded with consideration of the enforcement agency. It is the ultimate responsibility of the water system to inform the DWTRF staff of changes to its readiness to proceed status.

Projects expecting to receive assistance from the FFY 2019 Capitalization Grant Funds are on the Funding List Detailed Description (Attachment 3). Projects that rank lower on the PPL may still receive funding should one or more of the higher ranked projects be bypassed using the bypass procedure described below. Projects on the most recent PPL are also eligible to receive funding from previously awarded capitalization grants or repayments.

All projects on the PPL will be designated as equivalency projects unless specifically stated on the PPL as not being an equivalency project.

C. Bypass Procedure

Prior to implementing the bypass procedure, water system projects listed on the PPL will be reviewed to determine their project status as compared to the ready to proceed project awaiting a funding commitment. Based on the review, DWTRF staff will determine whether to bypass the project and select another project for funding commitment consideration. The following provisions will be used to bypass a project on the PPL:

1) Even though the project is for a system with significant non-compliance of the SDWA, it is determined the proposed project will not ensure compliance.

2) The project is for a system that would not have operators properly certified to operate and maintain the system by the time the project is to receive funding.

3) The project changes significantly in scope and requires re-evaluation of the proposal using the DWTRF ranking system.

4) The project is unable to proceed in a timely manner.

5) Other project funding is not committed. Should the bypassed project be within the fundable range, it may be funded at a later date.

6) The project costs significantly exceed the anticipated loan amounts. The project scope could be reduced to within the available DWTRF loan amount provided the ranking does not change.

7) The system declines the assistance.

8) The project is not determined as technically and financially feasible by the Infrastructure Council.

9) The project is unable to meet the schedule developed and agreed upon by the project sponsor and the DWTRF staff.

10) A lower ranked project attains a higher rating due to revised information, such as an environmental or public health emergency.

OTHER

11) The water system is not considered as having the managerial, financial, and technical capacity, even after project completion, based upon a Capacity Development Assessment by the Office of Environmental Health Services (OEHS) staff.

12) If one or more Green Infrastructure Projects are required to be funded from the Capitalization Grant further down the list in grants that require Green Infrastructure Projects to be funded. For this specific IUP, this is not a grant requirement. OEHS does not have any requirements for Green Infrastructure Projects.

When OEHS bypasses a project, the project will remain on the PPL for consideration at a future time. If the project no longer needs or wants DWTRF funding, it is removed from future PPLs. OEHS will provide technical assistance (as needed) with bypassed projects to assist them in being eligible for the future funding. DWTRF will provide low interest design loans to increase the project pace, where needed.

In cases where a project is bypassed, the next project on the list (not being bypassed) will be funded within the funds available through the criteria outlined in this section. If a funded project comes in under cost, the remaining funds may be used to fund additional project work that can be associated with the project scope; to fund the next project on the PPL (if the cost does not exceed the available funds); or to fund other water system project needs as deemed appropriate by OEHS.

D. Emergency Projects

Projects to remediate an imminent significant hazard to a community's public health may be considered an "Emergency" project if approved by OEHS. An emergency project may not be required to be on the approved PPL if the evaluation by OEHS verifies the urgency of the project execution to avoid a major impact to the water system's customers. Emergency projects will be able to be assigned to any capitalization grant for available funding. All emergency projects must be reviewed and approved by the Infrastructure Council.

E. Loan Terms and Fees

Eligible public water systems may use the DWTRF assistance to fund the cost of infrastructure needed to achieve or maintain compliance with the SDWA and other drinking water regulations. OEHS proposes to use $10,261,440 ($8,059,240 of federal funds and $2,202,200 state matching funds) to provide loans to public water systems for infrastructure improvements. The DWTRF program interest rates will be below AAA Municipal Yield Market rates.

Interest Rate

a) The affordability standard for the annual water user rate is set at 1.25% of Median Household Income (MHI) for 3,400 gallon monthly usage as defined by the Infrastructure Council rules unless the project sponsor can clearly show that a magisterial district census income reflects the affordability more appropriately. In this case, the magisterial district census data may be used in place of the county census data. Projects previously reviewed by the Infrastructure Council will be 'grandfathered' for up to three years from the date of

the change by the Infrastructure Council. The DWTRF program will typically use the same data and criteria for median household income and typical residential usage rates as the Infrastructure Council to achieve consistency in affordability and financial evaluations by state funding agencies. If the utility can provide a reasonable justification for use of magisterial district median household incomes, the DWTRF program can use them instead of the county or municipal census data. The threshold of 1.25% may be lower than the rate the Infrastructure Council uses for its determination of disadvantaged rates. Water rates equal to or greater than this affordability standard will be considered disadvantaged. Water rates below this affordability standard will be considered non-disadvantaged.

Principal forgiveness funding assistance will typically be provided in combination with a DWTRF repayment loan for disadvantaged public water systems. Principal forgiveness alone may be provided to water systems for a design loan or for construction if special circumstances occur for the project. The disadvantaged loan interest rates will be 1.0% for systems with rates between 1.25% and 1.99% of MHI and 0.5% for systems with rates above 2% of MHI. The non-disadvantaged water systems will be eligible for 2.75% loans.

b) If DWTRF funding replaces another agency's grantor loan funds on a previously approved Infrastructure Council project, additional subsidization can be provided to maintain the approved level of affordability.

Loan Terms

Terms are given up to 20 years for non-disadvantaged loans and up to 30 years for disadvantaged community water systems loans. A recent change in the federal Water Infrastructure Finance and Innovation Act (WIFIA) now allows the DWTRF program to extend its loan terms by an additional ten years provided the project equipment has a life span at least as long as the loan term.

Administrative Fees

The OEHS administrative fee for projects is 0.25% of the loan amount to be repaid and the fee is paid evenly over the life of the loan. This administrative fee may be adjusted to make the project affordable. Administrative fees for principal forgiveness loans will be waived.

Design Loans

The DWTRF provides design loans to eligible public water systems for projects on the PPL. The purpose of design loans is to make the projects more attractive for outside additional funding and to decrease the time between project design and construction. The loans will be offered at the same terms as those determined for the full project infrastructure improvements as approved at Infrastructure Council or principal forgiveness, if eligible and necessary. Design loan payback will begin within nine months following the design's scheduled completion.

Graduated Loan Repayment

The DWTRF loan program can provide graduated loan repayment schedules to make projects more affordable to water systems. In this case, the water system will start repayments following construction completion, but the initial payments will be reduced until one or more existing loans are paid in full. Then, the water system will make accelerated DWTRF payments

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within the loan period. This will allow a level debt service payment for water systems to make infrastructure projects more affordable. The repayment of loans will still be completed in the same time period of the project's eligibility.

F. Project Selection and Loan Activities

The PPL was developed from the projects on prior PPLs that did not receive funding commitments and new applications. Project representatives of prior listed projects were contacted to determine if they still desired DWTRF funding. Those projects which indicated they still desired to be considered for funding were kept on the list and any other project recently submitting an application to OEHS or applying for DWTRF funding through the Infrastructure Council was added to the list.

The PPL will be finalized after the public comment period. The Funding List Detailed Description (Attachment 3) describes the projects most likely to be funded from this Capitalization Grant.

G. Additional Subsidization

The Capitalization Grant requires that at least 20% (at least 6% must be used for disadvantaged communities per WIFIA) of assistance provided up to a maximum of 35% of the grant is in the form of additional subsidies (principal forgiveness). OEHS has the authority to offer principal forgiveness loans in an amount up to100% of a loan made by the State's DWSRF program. The intent of this program is to provide principal forgiveness to those water systems that have significantly higher user rates versus those that may barely meet the disadvantaged criteria. The Funding List Detailed Description includes six projects that are eligible to receive $2,558,475 in subsidization for disadvantaged water systems. The 20% amount of the capitalization grant funds is $2,202,200 so OEHS has a plan to meet the requirement for additional subsidization.

H. Green Infrastructure (Green Project Reserve – GPR)

The Capitalization Grant does not require any of the funds provided for projects to be used for water efficiency, energy efficiency, green infrastructure, or other environmentally innovative activities. OEHS does not have any requirements for green project reserve.

I. Davis Bacon Wage Rates (DB)

The Capitalization Grant requires all loan recipients to pay applicable DB wages for all construction contracts. All loan recipients must also follow all federal Department of Labor DB Wage Rate requirements.

J. Asset Management Implementation Effect on Loan Rates

The DWTRF program has required loan recipients to implement a BPH approved asset management plan (AMP) since 2009 to help ensure sustainability of their water systems by properly managing their assets. As many of these plans have been developed and approved by BPH, we are

now assessing the required maintenance and use of the approved plan in subsequent loan applications. For those systems that have maintained and updated their AMP they will be eligible for a reduction of their eligible loan rate by 0.5% on their next project funding. Conversely, those systems who had an approved AMP, but have not maintained the AMP, will be assessed an additional 0.5% above their eligible loan rate on their next project funding. Loan recipients who have not maintained their AMP will be required to update their AMP as part of the funding process for a new loan.

K. American Iron and Steel

All projects funded by this IUP will follow all of the American Iron and Steel requirements as prescribed by EPA issued documents.

L. Disadvantaged Business Enterprise (DBE)

All projects funded by this IUP will follow all of the Disadvantaged Business Enterprise requirements as prescribed by EPA issued documents.

III. FINANCIAL STATUS

The DWTRF will be managed by OEHS with assistance, through a contract agreement, from the West Virginia Water Development Authority (WDA). The WDA maintains the financial records and insures bond conditions and audit requirements are met. OEHS manages the DWSRF set-aside funds. The DWTRF program financial status is healthy with a principal and interest repayment stream from loans at $8,000,000 per year. The Administrative fee from loans has an annual income stream of $800,000 which would sustain the administrative staff in perpetuity.

A. Total Amount of Funds in the DWSRF (Construction & Set-Asides)

The amounts available for the DWSRF program are as shown in Tables 1, 2, and 3. Table 4 summarizes all incoming funds through June 2020 and shows the projected disbursed and obligated amounts through 2021.

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TABLE 1. FUNDS AWARDED PRIOR TO STATE FISCAL YEAR 2019 (Construction & Set-Asides)

U.S. Environmental Protection Agency (Total from 1998 through and including 2019)*	$224,367,782
WV State Match – Infrastructure Council (Total from 1998 through and including 2019)	$40,959,957
WVDHHR: 10% Set-Aside State Match (Total from 1998 through and including 2019)	$14,771,600
SUB-TOTAL	$280,099,339
Loan Repayments (Principal only 2858) as of 12/31/19	$73,838,669
Admin. Fee plus Fee Investment Interest as of 12/31/19	$7,719,770
Interest Earnings (WVSTO Reinvestment Income 2858 & 2856) WV DWTRF as of 12/31/19	$4,997,551
TOTAL	$366,655,329

* Grant amounts include the in-kind services for the following grants:
- FS-99390003 - $10,000 for Northbridge Environmental Program Support (4%)
- FS-99390006 - $134,176 for AWOP/PBT Contractor Support (10%)
- 2F-99390009 - $250,000 for TetraTech Support of ARRA Projects (4%)
- FS-99390010-1 - $228,679 for TetraTech Support of Projects (4%)
- FS-99390010-1 - $200,000 for Compliance/Enforcement Contractor Support (10%)
- FS-99390011 - $224,458 for project administration & Compliance Support (4%)
- FS-99390011 - $25,542 for Compliance & Enforcement support (10%)
- FS-99390011 - $100,000 for AWOP/PBT support (15%)
- FS-99390012 - $125,000 for Project Administration Contractor Support (4%)
- FS-99390012 - $20,000 for AWOP/PBT Support (15%)
- FS-99390013 - $175,000 for project administration supports (4%)
- FS-99390014 - $400,000 for Source Water Protection (15%)
- FS-99390014 - $200,000 for Capacity and Development (10%)
- FS-99390015 - $300,000 for Source Water Protection (15%)
- FS-99390015 - $191,300 for Capacity and Development (15%)
- FS-99390017 - $74,924 for Source Water Protection (15%)
- FS-99390018 - $0.00
- FS-99390019 - $0.00

TABLE 2. FUNDS AWARDED DURING STATE FISCAL YEAR 2020 (Construction & Set-Asides)

U.S. Environmental Protection Agency (FS-99390019) (Grant)	$11,004,000
WV State Match - Infrastructure Council (FS-993900019)	$2,200,800
WVDHHR: 10% Set-Aside State Match (FS-993900019) (Approp)	$647,500
TOTAL	$13,852,300

TABLE 3. FUNDS REQUESTED DURING STATE FISCAL YEAR 2021 (Construction & Set-Asides)

U.S. Environmental Protection Agency (FS-99390020) (Grant)	$11,011,000
WV State Match - Infrastructure Council (FS-993900020)	$2,202,200
WVDHHR: 10% Set-Aside State Match (FS-993900020) (Approp)	$647,500
TOTAL	$13,860,700

TABLE 4. SET-ASIDE FUNDS DISBURSED OR PROJECTED THROUGH STATE FISCAL YEAR 2019 & CONSTRUCTION LOANS & COMMITMENTS THROUGH JUNE 2019 (Construction & Set-Asides)

(Table 4 "Cumulative Grant Funds Received Thru 6/30/2019" includes the in-kind services for the capitalization grants)

Set-Aside Funds	Cumulative Grant Funds Received Thru 6/30/2019	Additional Funds From FS-993900020*	Minus In-Kind Services	Total Incoming Funds	Cumulative Funds Disbursed as of 12/31/19	Projected Disbursements From Jan '20 Thru June '21	Funds Remaining 6/30/2021
Administration (4%)	$7,207,656	$440,440	$1,013,137	$6,634,959	$6,217,708	$250,000	$167,251
Small Systems Technical Assistance (2%)	$3,817,631	$220,220	$0	$4,037,851	$3,725,086	$200,000	$112,765
Program Management Federal (10%)	$17,301,884	$1,101,100	$359,718	$18,043,266	$16,941,960	$500,000	$601,306
Program Management State Match (10%)	$14,679,132	$647,500	$0	$15,326,632	$13,832,833	$400,000	$1,093,799
Total Program Management	$31,981,016	$1,748,600	$359,718	$33,369,898	$30,774,793	$900,000	$1,695,105
Local Assistance (15%)	$24,789,180	$1,190,000	$1,286,500	$24,692,680	$23,041,092	$800,000	$851,588
Total Set-Aside Funds	$67,795,483	$3,599,260	$2,659,155	$68,735,588	$63,758,678	$2,150,000	$2,826,910
	Cumulative Construction Funds 6/30/2019	Construction Funds SFY2020 July 1, 2019 to Dec. 31, 2019	Projected Funds from January 2020 to June 2020	Projected Activity in SFY2021	Cumulative Construction Funds 6/30/2021		
Construction Assistance Funds From Cap Grant	$160,247,431	$8,355,836	$0	$8,059,240	$176,662,507		
20% State Match For Cap Grant	$38,759,157	$2,200,800	$0	$2,202,200	$43,162,157		
Loan Repayments (Principal Only)	$69,698,117	$4,140,551	$4,340,064	$8,680,128	$85,858,861		
Interest On Loans	$7,274,480	$445,290	$432,558	$860,000	$9,012,328		
Interest Earnings	$2,128,581	$307,124	$240,000	$480,000	$3,155,705		
Total Funds For Loans	$278,107,766	$15,449,602		$20,281,568	$318,851,558		
Closed Loans	$249,703,499	$2,658,100	$538,000	$47,398,940	$300,290,539		
Letters of Commitment	$0	$0	$0	$0	$0		
Planned Future Letters of Commitment		$0		$18,351,700	$18,351,700		
Total Committed/Planned Funds	$0	$0		$18,351,700	$18,351,700		
Funds Remaining To Be Committed					$209,319		
	Cumulative Administration Fees Thru 6/30/2019	Administration Fees SFY2020 July 1, 2019 to Dec. 31, 2020	Projected Fees from January 2020 to June 2020	Projected Fees in SFY 2021	Cumulative Administration Fees 6/30/2021		
Administrative Fees on DWTRF Assistance	$7,274,480	$445,290	$432,558	$860,000	$9,012,328		
Administrative Fees Withdrawals	$529,360	$77,041	$52,710	$108,000	$767,111		
Net Administrative Fees	$6,745,120	$368,249	$379,848	$752,000	$8,245,217		
Total Program Funds	$352,648,369	$19,417,111	$3,039,003	$89,769,156	$390,855,452		$11,281,445

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B. Uses of the New Funds (Construction & Set-Asides)

Below in Table 5 is a summary of the amounts to be used for each activity. Any funds not used for set-aside activities will be used for construction projects. Please note that the DWTRF interest earnings are utilized to supplement the construction funds, specifically for project overruns, as necessary. Planned disbursement of these funds will be included in the payment schedule included in the grant application.

TABLE 5. USES OF NEW/REQUESTED FUNDS (Construction & Set-Asides)

Sources and Uses of Funds							
Uses of Funds	Federal Funds	Infrastructure Council Grant Match	State Program Match	Admin Fee/Admin Interest	Interest Earnings	Loan Repayments	Total
Administration	$440,440	$0	$0	$0	$0	$0	$440,440
Technical Assistance	$220,220	$0	$0	$0	$0	$0	$220,220
State Program Management	$1,101,100	$0	$647,500	$0	$0	$0	$1,748,600
Local Assistance	$1,190,000	$0	$0	$0	$0	$0	$1,190,000
Construction	$8,059,240	$2,202,200	$0	$0	$0	$0	$10,261,440
Total	$11,011,000	$2,202,200	$647,500	$0	$0	$0	$13,860,700

Notes to Table 5:

- Administrative Fees, Interest Earnings, and Loan Repayments are included in the grant application.
- Cash draws for loan disbursements will be proportional to the federal construction and matching state funds.
- There are no plans to transfer funds between the DWTRF and the Clean Water State Revolving Fund.

C. Types of Projects Funded

OEHS is proposing to fund seven projects as described in Attachment 3. These projects include distribution system upgrades and extensions to new customers. Projects solely for economic growth or projects solely for fire protection are not eligible for DWTRF assistance.

D. Project Benefits Reporting (PBR) and National Information Management System (NIMS)

OEHS will report appropriate information into the PBR and NIMS systems as required by EPA. This IUP will be administered as required by the Operating Agreement between OEHS and EPA.

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IV. GOALS OF THE DWSRF

A. Short Term Goals

1) Increase source water protection for surface water by further developing a surface source water/early warning detection system: River Alert Information Network (RAIN) in the Monongahela River Basin and examine feasibility of duplicating that system into other drainage basins in West Virginia.

2) Support the Stream Gaging Network for the purpose of collecting steam flow data that is used to document variations in flow over time for various rivers in West Virginia. These data are used to develop more accurate flow models for future protection area generation and determining more accurate time of travel models for waterborne contaminants.

B. Long Term Goals

1) Provide the necessary infrastructure replacement, upgrade, and service with the overall goal of upgrading water quality for existing public water customers and providing water to new customers whose water currently does not comply with the SDWA or is unreliable. The DWTRF has a utilization goal of meeting or exceeding the national average and the average of EPA's Region 3 states by achieving a 2021 fund utilization goal of 95%.

2) Develop the DWTRF to ensure the long term perpetuity of the fund where after the initial capitalization years, the loan repayments in the fund will be used to finance additional projects.

3) Close the DWTRF loans to recipients within twelve months of a letter of binding commitment.

4) Continue implementation of the Capacity Development Strategy including assisting existing public water supplies in acquiring and maintaining the technical, managerial, and financial capacity to comply with the federal SDWA. Provide assistance to ensure that all new community water supplies and new non-transient non-community supplies have the technical, managerial, and financial capacity to comply with current regulations and those regulations likely to be in effect, when the system initiates operations.

5) Continue development, enhancement, and improvement of the PWSS through improved methodology and consistency of the sanitary surveys. This includes completion of a full complement of staffing in the district offices and implement an automated data collection system for laboratories to forward results to our agency.

6) Protect source water from future contamination through Source Water Assessment and Protection (SWAP) and Well Head Protection (WHP) programs.

7) Continue to implement an operator training continuing education program focusing on training course/instructor criteria and operator training requirements.

8) Continue to strive to minimize unliquidated obligations (ULOs) by expeditiously disbursing both set-aside and construction funds in a timely manner. The goal is to attain a half year or less balance for the 2%, 10% and 15% set-asides at the time a new grant is awarded. Set-aside amounts requested in this IUP are supportive of minimizing ULOs.

V. SET-ASIDE ACTIVITIES

In addition to the DWTRF construction fund, there are four "set-aside" or non-project accounts to be administered by OEHS. These separate accounts include Administration of the Loan Program, Technical Assistance, State Program Management, and Local Assistance. In addition to funding for staff expenses, there are also programs being undertaken to improve the health and safety of State water systems. These activities are described in more detail in the associated grant application work plan. The set-aside programs demonstrate compliance with the capacity development authority, capacity development strategy, and operator certification program provisions in order to avoid withholdings.

The different set-aside accounts are specified in the SDWA to enable the State to finance the cost of administering and managing the DWTRF program and supporting local public water systems. These accounts are described in more detail below.

The goals, objectives, methods, outputs, and outcomes for these set-asides are located in the grant work plan.

No In-Kind Service funds from this grant will be used.

A. Administration ($440,440)

The SDWA authorizes the State to use 4% of the Capitalization Grant for administration of the DWTRF program or the maximum based on three options listed below. Based on option #3, $440,440 is eligible from the grant for the administration set-aside.

Option #	Description	Calculation	Result
1	$400,000 Flat Rate	n/a	$400,000
2	1/5th of one percent of the current total net position of the fund	$168,148,727 X 0.002	$336,297
3	4 percent of grant	$11,011,000 X 0.04	$440,440

The State plans to use this set-aside for administration of the program. Administrative tasks include but are not limited to:

1) Developing legislation regarding issues related to the DWSRF.
2) Preparing the Capitalization Grant agreement.

3) Developing memorandums of understanding between federal and state agencies.
4) Reviewing West Virginia Infrastructure Council applications.
5) Preparing the IUP.
6) Providing project review, priority ranking procedures, environmental reviews, and required DWTRF project information coordination (project scheduling, advertisements, loan closure).
7) Providing project inspections, administration of the funds.
8) Tracking and accounting of the funds.
9) Auditing of the funds.
10) Processing payment requests and managing loan repayments.
11) Assisting Compliance & Enforcement staff in providing monitoring.
12) Provide grants as available for planning and evaluation of proposed projects.

The DWTRF program will utilize the WDA, which already administers state-funded construction loans to public wastewater and water systems.

B. State Program Management ($1,101,100 – Federal; $647,500 - State Match Cash;

The SDWA authorizes the state to use up to 10% from the federal Capitalization Grant to support the Public Water Supply Supervision (PWSS), Data Information System Management, PWS operator certification and programs. This year no federal funds are requested from the reserve account. It will support the water systems needing to improve their facilities and security through source water grants. The state match is made through state appropriations.

C. **Technical Assistance ($220,220)**

The SDWA authorizes the State to use up to 2% of each capitalization grant to provide technical assistance to small water systems. The full amount of the 2% is being requested. Small water systems are defined as those that serve less than 10,000 persons. These set-aside funds will be used for technical, financial, and managerial continuing education training of water system operators to meet their certification and training requirements. A contractor, meeting the state requirements, will coordinate the technical assistance program.

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D. Local Assistance and Other State Activities ($1,190,000)

The SDWA authorizes the State to use up to 15% of the federal capitalization grant for this set-aside, but no more than 10% may be used for any one activity. Only $1,190,000 is being requested for this set-aside and adds $461,650 to the construction fund for this grant. These set-aside funds will be used for the Capacity Development Program, the Wellhead Protection (WHP) Program and grants, to support the Interstate Commission on the Potomac River Basin (ICPRB), Data Information System Management, improving GIS capabilities, to support the River Alert Information Network (RAIN), an internet website for GIS support, and a stream gauge network for local waters. Working in conjunction with the Compliance and Enforcement Program, the Capacity Development Program will provide support to non-compliant systems not needing infrastructure investment.

VI. PUBLIC COMMENT PROCESS

The public comment process for this IUP is described in attachment 4.

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ATTACHMENT 1

DWTRF Project Priority Ranking System

System: _____ County: _____ Date_____

Project#:_____Project:_____

DWTRF Project Priority Ranking System

(1) ____ **PUBLIC HEALTH** (0 to 50 points - 50 points maximum)

Up to fifty points may be given to a project for public health. The public health categories are listed below. A project may apply to several categories. In such cases, the project will be given the highest rating.

(A) ____ **Projects to correct acute health hazards** - (50 points) Fifty points will be given to projects that propose to eliminate a problem that poses an acute, ongoing health hazard to the consumer. Violations should be included in the Enforcement Tracking Tool (ETT). Examples are listed below.

- Projects that address documented nitrate or nitrite violations.
- Projects that address documented exceedances of primary inorganic MCL's
- Projects that address a problem where a system has significant turbidity violations. The project must ensure compliance to receive DWTRF assistance.
- Projects that address a problem where a system has significant microbiological violations. The project must ensure compliance to receive DWTRF assistance.
- Projects that propose filtration for surface water source that currently do not have filtration.
- Projects that propose disinfection for a system that currently do not have disinfection.
- Projects that address documented or potential water outages for extended periods (1 week or more) due to contamination or system/design deficiencies.

(B) ____ **Correct chronic health hazards** - (40 points) Forty points will be given to projects that propose to eliminate a chronic health hazard to the consumer. Examples are listed below.

- Projects that address occasional turbidity violations for a system that has a moderate ETT score.
- Projects that address occasional microbiological violations for a system that has a moderate ETT score.
- Projects that address exceedances of the Lead and Copper Rule.
- Projects that address documented exceedances of primary organic MCL's.

- Projects that address documented exceedances of radiological MCL's.
- Projects that address treatment technologies for the SWTR.
- Projects that address documented or potential water outages (1 to 6 days) due to contamination or system/design deficiencies.
- Projects that enhance source water protection to prevent widespread contamination throughout the distribution system via alternate water sources or additional storage.

(C). _____ **Correct periodic health hazards** - (30 points) Thirty points will be awarded to projects that propose to eliminate a documented health hazard which has occurred periodically. Examples are listed below.

- Projects that address low chlorine residuals.
- Projects that address periodic exceedances of a primary MCL.
- Projects that address periodic water outages to some customers for at least a day due to design or system deficiency.
- Projects to bring existing facilities to current design standards which affect water quality: treatment, chemical application, pumping facilities, finished storage and distribution systems.

(D) _____ **Correct potential health hazards** - (20 points) Twenty points will be given to projects that propose to eliminate potential health hazards. Examples are listed below.

- Projects for line extensions to areas with poor water quality or limited quantity.
- Projects to develop new source to augment existing sources where there is no other health hazard associated with the project. Dams and reservoirs are not eligible.
- Projects for installation / upgrade of waste disposal facilities.

(E) _____ **System Improvements** - (10 points) Ten points will be given to projects that propose general system improvements. Examples are listed below.

- Projects to replace / repair old, undersized, or malfunctioning equipment.
- Projects to replace leaking water line.
- Projects to improve aesthetic quality of the water such as iron, manganese, taste and odor.

(2) _____ **REGULATORY COMPLIANCE** (0 to 20 points, 20 points maximum)

(A)_____ Correction of chronic non-compliance - 20 points
Compliance with administrative orders, agreements, statutes, or regulatory requirements.

(B)_____ Compliance with periodic and potential non-compliance - 10 points
Compliance with sanitary survey recommendations, NPDES permits, new

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regulations, or design standards.

(C)_____ Protection against non-compliance -5 points
Compliance with proposed regulations.

(D)_____ Line extensions with documented cases of fecal coliform - 3 points

(3) _____ **AFFORDABILITY** (0 to 30 points) (Based on post-project user rates)

Rates = 0% to 0.49% MHI (0 points)
Rates = 0.50% to 0.99% MHI (5 points)
Rates = 1.00% to 1.24% MHI (10 points)
Rates = 1.25% to 1.49% MHI(15 points)
Rates = 1.50% to 1.74% MHI (20 points)
Rates = 1.75% to 1.99% MHI (25 points)
Rates $\geq$ 2.0% MHI (30 points)

Note: MHI = median household income by county or municipality as published by the West Virginia Infrastructure and Jobs Development Council (IJDC) at time of approval for funding by IJDC. If the project sponsor can clearly show that a magisterial district census income reflects the affordability more appropriately the magisterial district census data may be used in place of the county census data.
Rates are based on 3,400 gallons.

Public Health	
Compliance	
Affordability	
Total Points	

Tie Breaker:
If two or more systems have the same score, the following will be used as the tie- breaker.

1. Whichever system has the highest public health rating will be ranked highest.

2. In the event there is still a tie, then the system with the smaller population served will be ranked higher.

Definitions

EPA -- Environmental Protection Agency
MCL -- Maximum Contaminant Level
MHI -- Median Household Income
ETT -- Enforcement Tracking Tool
SWTR -- Surface Water Treatment Rule

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ATTACHMENT 2

Project Priority List/Comprehensive List

WEST VIRGINIA 20DWTRFA PROJECT PRIORITY LIST (PPL) COMPREHENSIVE LIST

RANKING	SYSTEM	COUNTY	PROJECT NAME	PROJECT DESCRIPTION	LIBC NUMBER	1% PERCENT MHI	5000 CURRENT	5000 PROPOSED	AFFORD-ABILITY	DISADVAN-TAGED	DWTRF TERMS	NEW POPU-LATION	POINTS	HEALTH	COMPLIANCE	AFFORD-ABILITY	DWTRF FUNDING REQUESTED	TOTAL COST	BYPASS RATIONALE
1	Town of Franklin	Pendleton	Plant Upgrade/Line Replacement	[illegible]	2019W-1845	$36.36	$56.75	$75.25	2.25	Yes	1%, 0.25% Admin, 30 years, Principal Forgiveness	1,392	30	40	20	30	$1,389,200	$3,472,348	Project design has not started and is not ready for construction.
2	Chestnut Ridge PSD	Barbour	Water System Improvements	[illegible]	2019W-1839	$32.25	$65.45	$65.47	2.53	Yes	1%, 0.25% Admin, 30 years, Principal Forgiveness	2,843	30	35	20	30	$1,390,000	$5,350,000	Design loan will be funded. Project design has not started and is not ready for construction.
3	City of Ronceverte	Greenbrier	Water system upgrade Phase 1	[illegible]	2019W-1740	$39.43	$72.76	$55.17	1.25	Yes	0.25%, 1% Admin, 30 years, Principal Forgiveness	966	35	40	10	20	$3,390,000	$4,400,000	Project will be funded
4	Town of Mill Creek	Randolph	Water System Improvements	The project will replace the water lines within the Town of Mill Creek's water distribution system	2012W-1583	$30.94	$30.44	$31.46	2.09	Yes	Principal Forgiveness	934	35	30	10	30	$862,475	$6,432,475	Project will be funded
5	Central Hampshire PSD	Hampshire	Augusta System Improvements	The project includes approximately 2.5 miles of 2-inch to 8-inch distribution line, one (1) hydropneumatic pump station, 14 gate valves, 4 fire hydrants, telemetry with software and other appurtenances. Also included in the project scope is meter replacement.	2019W-1792	$29.16	$53.73	$58.85	2.53	Yes	0.5%, 0.25% Admin, 30 years, Principal Forgiveness	3,918	70	30	10	30	$1,900,000	$2,785,000	Project design has not started and is not ready for construction.
6	Town of Worthington	Marion	Worthington Line Upgrades/Replacement	The project will make upgrades to the Town's distribution system and will include an interconnection between Four States and Monongah. The project also includes a water line extension to the Horse Hill area that will serve five (5) new customers. The project will consist of the installation of approximately 11,900 LF of 6" and 10,000 LF of 2" water line 10,000 LF of ¾" service line replacements; 28 valves; one (1) PRV Station; 12 fire hydrants, two (2) solenoid master meters, 13 leak detection meters; 465 radio-read meters; all necessary piping, valves and appurtenances.	2019W-1912	$37.44	$27.12	$43.83	1.96	Yes	1%, 0.25% Admin, 30 years, Principal Forgiveness	1099	65	30	10	25	$2,866,390	$3,366,390	Project design has not started and is not ready for construction.
7	Cowen PSD	Webster	Water System Rehabilitation	This project will replace about 30,000 linear feet of 6-inch through 1-inch water line, about 210 service connections, (25) fire hydrants, (250) water meters, an intake pump and all necessary valves and appurtenances. Also included will be the rehabilitation and improvements to the raw water intake, Nursing Home Booster Station, Bolair Booster Station, 185,000 gallon Nursing Home Tank, 200,200 gallon Cowen Tank, and adding a portable generator.	2019W-1788	$36.36	$53.55	$46.95	1.52	Yes	1.5%, 0.25% Admin, 30 years, Principal Forgiveness	1,139	65	30	10	25	$2,821,000	$3,321,000	Project will be funded
8	Nettie-Leivasy PSD	Nicholas	Raw water line replacement and McCue Road extension	Raw water line replacement and McCue Road extension for 13 new customers.	2019W-1737	$40.80	$44.32	$53.12	1.63	Yes	0.75%, 0.5% Admin., 30 years, Principal Forgiveness	1415	60	30	10	20	$1,000,000	$2,192,190	Project will be funded with remaining 2019 grant funds.
9	Camden On Gauley	Webster	Cranberry Ridge & Gauley Mills Extension	This project will extend water service to 84 new customers in the areas of Cranberry Ridge and Gauley Mills. The project will include approximately 3.3 miles (17,500 LF) of 6" and 2" water mains, (1) booster pump station, (4) fire hydrants, and all necessary valves and appurtenances.	2016W-1627	$29.19	$44.42	$44.42	2.44	Yes	0.75%, 0.5% Admin., 30 years, Principal Forgiveness	301	53	30	3	38	$400,000	$1,359,000	Project design has not started and is not ready for construction.
10	Jumping Branch Nimitz PSD	Summers	Brooksmont Rd./Mark Meador Rd Extension	The project will provide water service to the Brooksmont Rd. and Mark Meador Rd areas of western Summers County. Residents experience low water quantity and poor quality water issues in existing private wells. In addition, many residents haul water, use cisterns, and some report fecal contaminants in wells.	2019W-1113	$31.18	$57.94	$66.38	2.18	Yes	1%, 0.25% Admin, 30 years	1,414	53	20	5	38	$400,000	$4,811,900	Project design will be funded.
11	New Haven PSD	Fayette	Contract 13 - Sundial Rd. Confluence/Elliot Cutoff area	Water line extension to Sundial Rd./Confluence/Elliot Cutoff area, including possible Springtown connector & Chilly connector. Approximately 67 new customers	2018W-1761	$37.81	$49.21	$51.93	1.75	Yes	1%, 0.25% Admin, 30 years, Principal Forgiveness	4,469	41	20	5	25	$2,493,325	$2,939,635	Project design has not started and is not ready for construction.
12	New Haven PSD	Fayette	Contract 14 - Ramsey Extension	Water line extension to Cane Branch, Ramsey, Harvey Rd., South Miller Ridge Arrowwood Rd., Dotson Ridge & Lower Dotson Ridge, Whispering Pines Approximately 73 new customers	2018W-1766	$37.81	$49.21	$51.32	1.92	Yes	1%, 0.25% Admin., 30 years, Principal Forgiveness	4,438	41	20	5	25	$3,927,290	$4,841,486	Project design has not started and is not ready for construction.
13	Claywood Park PSD	Wood	Freeport Water Extension	This project is to extend water service to approximately 45 new customers in the Freeport Area of Wirt County. The project will consist of the installation of approximately 12,585 LF of 6", 4,100 LF of 4", 4,924 LF of 3", 1,125 LF of 2" water line, one (1) pressure booster station and all necessary valves and appurtenances.	2018W-1712	$48.99	$56.55	$58.85	1.79	Yes	0.5%, 0.25% Admin., 30 years, Principal Forgiveness	41,025	45	20	0	25	$857,000	$1,332,000	Project will be funded

OTHER

WEST VIRGINIA 20DWTRFA PROJECT PRIORITY LIST (PPL) COMPREHENSIVE LIST

RANKING	SYSTEM	COUNTY	PROJECT NAME	PROJECT DESCRIPTION	LIBC NUMBER	1% PERCENT MHI	5000 CURRENT	5000 PROPOSED	AFFORD-ABILITY	DISADVAN-TAGED	DWTRF TERMS	NEW POPU-LATION	POINTS	HEALTH	COMPLIANCE	AFFORD-ABILITY	DWTRF FUNDING REQUESTED	TOTAL COST	BYPASS RATIONALE
14	Lashmeet PSD (WVAWC)	Mercer	Mary Branch Water Extension	Extension of public water to the Mary Branch area of Mercer County, West Virginia. 4 miles. Approximately 43 new customers.	2018W-1728	$42.30	$49.24	$51.14	1.20	Yes	1%, 0.25% Admin, 30 years	127	40	20	0	20	$907,665	$2,033,200	Project design has not started and is not ready for construction.
15	Yawkey-Ranger PSD	Lincoln	New Water Treatment Plant and Distribution System Upgrades	This project proposes to build a new 640 GPM ... membrane plant. The project will include a 234,000 gallon water storage tank, a 100,000 gallon water storage tank, 2 new booster pump stations, approximately 44,000 LF of 8-inch and smaller water line, and miscellaneous fire hydrants, valves and other appurtenances.	2017W-1684	$43.17	$51.18	$60.17	1.25	Yes	0.75%, 0.5% Admin., 30 years	2,047	40	20	5	15	$6,542,000	$6,542,000	Project will be funded with remaining 2019 grant funds.
16	Town of Elizabeth	Wirt	Munday Extension	This project extends water service to approximately 100 new customers in the Wesley Road, Fish Hatchery Road, Evergreen Road and the Creston areas. The project includes approximately 10 miles (53,000 feet) of 4-inch distribution line, one (1) - 40 GPM booster pump station, 41 gate valves, 37 fire hydrants and other appurtenances.	2018W-1735	$48.00	$45.06	$50.00	1.53	Yes	0.75%, 0.5% Admin., 30 years, Principal Forgiveness	2,261	40	20	0	25	$1,000,000	$1,600,000	Project will be funded with remaining 2019 grant funds
17	Salt Rock PSD (WVAWC)	Cabell	Watershed Extension Project	This project will extend water service to 196 new customers in the Upper Tom's Creek, Big Cabell Creek, Lower Heath Creek, Bateman Creek, Cavill Creek and Fleming Road areas of Cabell County. The project will consist of approximately twelve (12) miles of 2" through 8" water line, one hundred and six (106) meter settings, twenty-eight (28) fire hydrants and all necessary valves and appurtenances.	2017W-1716	$38.30	$49.24	$51.10	1.72	Yes	0.75%, 0.5% Admin., 30 yrs. Principal Forgiveness	44,350	40	20	0	20	$1,294,440	$1,660,000	Project will be funded with remaining 2019 grant funds.
18	Kanawha Falls PSD	Fayette	System Improvements	This project will replace all the existing water meters with radio read meters, make repairs to the Low water storage Tank to increase its useful life, add telemetry for all tanks and booster stations, and at the water treatment plant replace the filters, backwash pumps, high service pumps & suction lines, install winch/trolley system for high service pumps, clean the clearwell and all necessary piping, valves and appurtenances.	2019W-1799	$37.80	$39.56	$45.95	1.50	Yes	1%, 0.25% Admin, 30 years, Principal Forgiveness	2,410	40	10	15	20	$3,342,000	$3,842,000	Project design has not started and is not ready for construction
19	Greenbrier County PSD #2	Greenbrier	Charmco to Rupert Extension	This project extends water service to approximately 110 new customers from Charmco to Rainelle. The project includes approximately 4.5 miles (23,640 feet) of 2-inch to 8-inch distribution line, one (1) pressure reducing station, one (1) 50,000-gallon water storage tank, 18 gate valves, 15 fire hydrants, 10 flushing hydrants and other appurtenances.	2015W-1133	$41.80	$46.29	$84.67	1.65	Yes	0.75%, 0.5% Admin., 35 years, Principal Forgiveness	1,798	35	20	0	15	$2,250,000	$2,250,000	Project design has not started and is not ready for construction.
20	Craigsville PSD	Nicholas	Water Treatment Plant and Distribution System Upgrades	This project will upgrade the existing water treatment plant to 900 gpm and installing a dedicated transmission line from the water treatment plant to existing elevated water storage tanks. The project will consist of a new raw water intake system and hydrotreat system, raw water pump station, flocculator, sedimentation basin, filter equipment, backwash/waste pump station, chemical feed system, painting four (4) existing water tanks, approximately 4 miles of 10" water line, and all necessary appurtenances.	2015W-1298	$33.53	$29.45	$34.46	1.90	Yes	0.75%, 0.5% Admin., 30 years, Principal Forgiveness	7,837	35	10	10	15	$2,318,600	$3,066,000	Project will be funded.
21	City of Follansbee	Brooke	Water Treatment Plant and Distribution System Upgrades	This project proposes to make improvements to the Hooverson Heights water treatment plant including the raw water intake. Portions of the distribution system of both the Hooverson Heights and Follansbee systems will be replaced to help reduce the high unaccounted water loss. Four existing tanks will be cleaned and two others tanks will be painted to extend the useful life of the tanks.	2018W-1734	$42.52	$38.12	$42.32	1.25	Yes	0.75%, 0.5% Admin., 30 years	4,920	35	10	10	5	$4,500,000	$4,500,000	Project design has not started and is not ready for construction.
22	City of Ravenswood	Jackson	Water System Improvements	The City desires to refurbish or replace components of the system that are no longer fully functional or are deteriorating. Additional improvements will address shortcomings identified by the WV Bureau for Public Health in its most recent (2017) Sanitary Survey.	2020W-1864	$31.83	$23.71	$29.79	1.15	No	3%, 0.25% Admin., 25 years	9,029	30	10	10	10	$5,062,245	$6,397,045	Project design has not started and is not ready for construction.
23	City of Weirton	Hancock	Water Treatment Plant Refurbish & Expand	This project will upgrade and increase the Weirton Water Board's 4.0 MGD Water Treatment Plant to an 8.0 MGD plant. Major new construction will consist of a pre-sedimentation basin with sludge removal equipment, a flocculation tank with plate settlers, a sludge thickener, a backwash filter tank, an emergency generator and the expansion of the existing filter building and clearwell. The existing Raney Well will also be reconstructed.	2019W-1795	$41.19	$24.96	$43.34	1.27	Yes	1%, 0.25% Admin, 30 years	24,000	25	10	0	15	$7,000,000	$22,470,809	Project design has not started and is not ready for construction

Counties on County PSD and Timberlane PSD were evaluated using 2010 Census Data. All other projects were evaluated using 2015 Census Data.

ATTACHMENT 3

Funding List Detailed Description With
– Green Project Reserve
– Additional Subsidization

OTHER

2020 Funding List Detailed Description

RANKING	SYSTEM	PROJECT DESCRIPTION	DWTRF TERMS	POPULATION	ESTIMATED DATE OF CONSTRUCTION	GREEN PROJECT DESIGNATION	GREEN PROJECT RESERVE	PRINCIPAL FORGIVENESS	TOTAL DWTRF ASSISTANCE FROM GRANT	TOTAL PROJECT COST
2	Chestnut Ridge PSD	Design Loan Only for 2020. This project will make improvements to the PSD's water distribution system, including water line and valve replacement, upgrading booster stations, replacing water meters and upgrades to the SCADA and telemetry systems.	Principal Forgiveness	2643	Design Loan Only	N/A	$0	$500,000	$500,000	$3,472,518
3	City of Ronceverte	The project will replace the 250,00-gal West End Tank and the 239,000-gal Brier Hill Tank. 2.3 miles of water main will be replaced to reduce water loss	0.75%, 0.5% Admin., 30 years, Principal Forgiveness	960	November-20	N/A	$0	$600,000	$3,700,000	$4,200,000
4	Town of Mill Creek	This project will replace the water lines within the Town of Mill Creek's water distribution system.	Principal Forgiveness	974	November-20	N/A	$0	$862,475	$862,475	$8,422,475
7	Cowen PSD	This project will replace about 30,000 linear feet of 6-inch through 1-inch water line, about 210 service connections, (25) fire hydrants, (250) water meters, an intake pump, and all necessary valves and appurtenances. Also included will be the rehabilitation and improvements to the raw water intake, Nursing Home Booster Station, Bolair Booster Station, 105,000 gallon Nursing Home Tank, 200,000 gallon Cowen Tank, and adding a portable	0.5%, 0.25% Admin, 30 years, Principal Forgiveness	2,139	December-20	N/A	$0	$500,000	$2,821,000	$3,321,000
10	Jumping Branch Nimitz PSD	This project will provide water service to the Brownsbraw Rd. and Mark Meadow Rd. areas of western Summers County. Residents experience low water quality and poor quality water issues in existing private wells	1%, 0.25% Admin, 30 years	1,414	Design Loan Only	N/A	$0	$0	$400,000	$4,811,800
13	Claywood Park PSD	This project is to extend water service to approximately 45 new customers in the Freeport Area of Wirt County. The project will consist of the installation of approximately 12,325 LF of 6", 4,100 LF of 4", 4,824 LF of 3", 1,125 LF of 2" water line, one (1) constant pressure booster station and all necessary valves and appurtenances.	0.5%, 0.25% Admin, 30 years, Principal Forgiveness	44,028	September-20	N/A	$0	$196,000	$637,000	$1,137,000
21	Craigsville PSD	This project will upgrade the existing water treatment plant to 900 gpm and installing a dedicated waterline from the water treatment plant to existing elevated water storage tanks. The project will consist of a new raw water intake screen and hydroburst system, raw water pump station, flocculator, sedimentation basin, filter equipment, backwash solids pump station, chemical feed systems, painting four (4) existing water tanks, approximately 4 miles of 10" water line, and all necessary appurtenances.	0.75%, 0.5% Admin., 30 years, Principal Forgiveness	1,813	December-20	N/A	$0	$400,000	$1,440,965	$8,086,000
Total							$0	$2,558,475	$10,261,440	$27,988,275

2020 Capitalization Grant Amount: $11,011,000

$0 No Green Project Reserve Required	$2,202,200 20% Minimum Principal Forgiveness Required	$10,261,440 Total Amount of Grant Construction Funds Available*

OTHER

ATTACHMENT 4

Public Comment Process/Response

JULY 1, 2020 – JUNE 30, 2021
DRAFT INTENDED USE PLAN
PUBLIC COMMENT PROCESS

The public comment for this IUP will be during the period of June 5, 2020 through July 7, 2020. OEHS will post the IUP on the website and make it available at all district offices and the central office. The draft IUP will be sent to key stakeholders for comment. A public notice will be published in the West Virginia Register (State Register) on June 5, 2020 concerning the web posting and public comment period. A public meeting will be held on June 30, 2020 at 3pm in the OEHS central office to receive public comments.

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

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2020 JUN -1 A 10: 03

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

June 1, 2020

LEGAL NOTICE

The West Virginia Health Care Authority announces the following Certificate of Need activities for the week ending **May 29, 2020**.

CERTIFICATE OF NEED APPLICATIONS RECEIVED

May 29, 2020 – St. Mary's Medical Center, Inc., Huntington, Cabell County, CON File #20-2-11852-P, for the development of an ambulatory health care facility in Cabell County through the acquisition of a physician practice; capital expenditure: $10,550,000.

May 29, 2020 – THS Physician Partners, Inc., South Charleston, Kanawha County, CON File #20-3-11853-P, for the development of an ambulatory health care facility through the acquisition of a physician practice in St. Albans, Kanawha County; capital expenditure: $45,000.

CERTIFICATE OF NEED APPROVAL ISSUED

May 27, 2020 - Braxton County Memorial Hospital, Gassaway, Braxton County, CON File #20-7-11823-P, for the development of an ambulatory health care facility through the relocation of a Rural Health Clinic in Braxton County; capital expenditure: $10,000.

NOTICE OF SUBSTANTIAL COMPLIANCE

The following project has been implemented in substantial compliance with the decision issued in this matter and the case file is now closed.

Potomac Valley Hospital, Keyser, Mineral County, CON File #19-8-11640-E, for the development of fixed site magnetic resonance imaging (MRI) services; capital expenditure: $1,546,337.

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

OTHER

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
WV Health Care Authority

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2020 JUN -1 P 12: 02

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Bill J. Crouch
Cabinet Secretary

Barbara Skeen
Interim Executive Director

NOTICE OF REVIEW

FOR IMMEDIATE RELEASE

June 1, 2020

NEWS ITEM

The Health Care Authority (Authority), pursuant to the Certificate of Need program, has declared complete and accepted for review the expedited applications referenced below:

May 29, 2020 – St. Mary's Medical Center, Inc., Huntington, Cabell County, CON File #20-2-11852-P, for the development of an ambulatory health care facility in Cabell County through the acquisition of a physician practice; capital expenditure: $10,550,000.

May 29, 2020 – THS Physician Partners, Inc., South Charleston, Kanawha County, CON File #20-3-11853-P, for the development of an ambulatory health care facility through the acquisition of a physician practice in St. Albans, Kanawha County; capital expenditure: $45,000.

An application that has been declared complete is one in which there is sufficient information for the Authority to make an informed decision. It does not mean that the approval of the application is warranted.

The review cycle begins on **May 29, 2020**.

On or before **June 29, 2020**, any affected person has the right to request that the Authority hold a public hearing on the projects as part of the review. If a public hearing is conducted during the course of the review, a notice of hearing, specifying the date, time and location of the hearing, will be issued to affected persons.

If no public hearing is requested, the file closing date will be **July 6, 2020**. After that date, no further information or evidence will be accepted by the Authority for the remainder of the review of the applications.

The Decision on the projects referenced above will be issued by the Authority after it has reviewed the contents of the case files of the projects, including the application, additional information submitted to the Authority during the review, and the record of any Authority public hearing. If there is no request for public hearing, the Decisions will be issued on or before **July 28, 2020**.

A press release will be issued after the decisions are made. Anyone wishing to be directly notified of the Decisions should submit a written request to Barbara Skeen, Director, Certificate of Need, Health Care Authority, 100 Dee Drive, Charleston, West Virginia, 25311-1600. Further information on any project referenced in this news release may be obtained by contacting the Certificate of Need office at telephone number (304) 558-7000.

6/1/20
Date

Barbara Skeen
Barbara Skeen, Director, Certificate of Need
Health Care Authority

OTHER

Jim Justice
Governor

Bill J. Crouch, Cabinet Secretary
West Virginia Department of
Health and Human Resources

FILED
2020 JUN -5 A 11:38
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

In Re:

UNITED HOSPITAL CENTER, INC.
CON File No. 20-5-11836-Z

NOTICE OF PREHEARING CONFERENCE AND ADMINISTRATIVE HEARING

PLEASE TAKE NOTICE that pursuant to Chapter 16, Article 2D, and to Chapter 29A, Article 5, of the West Virginia Code of 1931, as amended, that Barbara Skeen, Interim Executive Director of the West Virginia Health Care Authority, wishes to announce that the following proceedings have been scheduled for the above-noted application:

A PREHEARING CONFERENCE will be held, **August 12, 2020, at 1:30 p.m.**, in the Large Conference Room of the West Virginia Health Care Authority, 100 Dee Drive, Charleston, West Virginia.

AN ADMINISTRATIVE HEARING will be held, **August 19, 2020, at 9:00 a.m.**, in the Large Conference Room of the West Virginia Health Care Authority, 100 Dee Drive, Charleston, West Virginia.

This application concerns the need for the provision of home health services in Roane County, West Virginia.

You and any other "affected persons" as defined by W. Va. Code §16-2D-2 wishing to participate in the hearing of this application are directed to be present at both the prehearing conference and the administrative hearing.

The purpose of the prehearing conference is to designate parties to the hearing, to designate the issues for the hearing, resolve any procedural matters, receive any motions, establish the order of proceedings, receive a listing of the witnesses and a summary of direct testimony that will be offered at the hearing, receive a listing of evidence to be offered and copies of any documents to be offered such as reports or analysis prepared by expert witnesses including any financial reports and any other procedural matters. The prehearing conference will be conducted in conformance to Rule 16, West Virginia Rules of Civil Procedure for pretrial conferences.

WEST VIRGINIA
HEALTH CARE AUTHORITY

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2020 JUN -5 A 11:40

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

OTHER

In Re: **UNITED HOSPITAL CENTER, INC.**
CON File # 20-5-11836-Z

HEARING ORDER

The following shall apply to and govern the above-captioned action and activities conducted in connection with it. In the absence of a specific date or deadline for a given activity, it is anticipated that such activity will be scheduled and conducted within a reasonable time prior to the hearing.

The parties may not amend, modify or adjust any provision of this order except by leave of the Authority.

1. Hearing date: **August 19, 2020, at 9:00 a.m.**

2. Prehearing conference date: **August 12, 2020, at 1:30 p.m.**

3. Settlement conference (optional): **N/A**

4. All replacement pages to CON application to be filed by: **June 16, 2020**
   Pursuant to W. Va. Code St. R. §65-32-6, if the applicant submits a substantial amendment to the application the Authority may withdraw the application from review. The board may examine the extent of additional information or any amendment made by the applicant to the application and its impact on the new institutional health service, and determine the application to be a new proposal subject to a new review cycle.

5. Motions for discovery to be filed by: **June 30, 2020**

6. Discovery completed on or before: **July 31, 2020**
   Parties engaging in discovery are required to file a copy of the certificate of service attached to the discovery request or response with the board. Affected parties shall not file copies of the actual discovery and responses with the board. To the extent that an affected party intends to introduce a document obtained through the discovery process at the administrative hearing, the document and two (2) copies must be filed at the prehearing conference.

Entered this 2nd day of June, 2020.

B. Allen Campbell
B. Allen Campbell
Senior Assistant Attorney General
Counsel for the West Virginia Health Care Authority

Jim Justice
Governor

Bill J. Crouch, Cabinet Secretary
West Virginia Department of
Health and Human Resources

FILED
2020 JUN -5 A 11:37
OFFICE WEST VIRGINIA
SECRETARY OF STATE

In Re:

UNITED HOSPITAL CENTER, INC.
CON File No. 20-5-4/7/8-11837-Z

NOTICE OF PREHEARING CONFERENCE AND ADMINISTRATIVE HEARING

PLEASE TAKE NOTICE that pursuant to Chapter 16, Article 2D, and to Chapter 29A, Article 5, of the West Virginia Code of 1931, as amended, that Barbara Skeen, Interim Executive Director of the West Virginia Health Care Authority, wishes to announce that the following proceedings have been scheduled for the above-noted application:

A PREHEARING CONFERENCE will be held, **August 11, 2020, at 1:30 p.m.**, in the Large Conference Room of the West Virginia Health Care Authority, 100 Dee Drive, Charleston, West Virginia.

AN ADMINISTRATIVE HEARING will be held, **August 18, 2020, at 9:00 a.m.**, in the Large Conference Room of the West Virginia Health Care Authority, 100 Dee Drive, Charleston, West Virginia.

This application concerns the need for the provision of home health services in Grant, Pocahontas, Randolph and Tucker Counties, West Virginia.

You and any other "affected persons" as defined by W. Va. Code §16-2D-2 wishing to participate in the hearing of this application are directed to be present at both the prehearing conference and the administrative hearing.

The purpose of the prehearing conference is to designate parties to the hearing, to designate the issues for the hearing, resolve any procedural matters, receive any motions, establish the order of proceedings, receive a listing of the witnesses and a summary of direct testimony that will be offered at the hearing, receive a listing of evidence to be offered and copies of any documents to be offered such as reports or analysis prepared by expert witnesses including any financial reports and any other procedural matters. The prehearing conference will be conducted in conformance to Rule 16, West Virginia Rules of Civil Procedure for pretrial conferences.

OTHER

In a hearing, any person has the right to be present or to be represented by counsel and to present oral or written arguments and relevant evidence. Any person affected by the matter which is the subject of the hearing may conduct reasonable questioning of persons who make factual allegations relevant to such matters.

PLEASE TAKE NOTICE that if the party who requested the hearing withdraws that request, then the hearing will be canceled.

The file on this application is available for examination in the offices of the Health Care Authority from 8:30 a.m. to 5:00 p.m., Monday through Friday. If you have questions concerning this matter, please contact Barbara Skeen, Interim Executive Director, at (304) 558-7000.

Date: June 2, 2020

Barbara Skeen/BJC
Barbara Skeen, Interim Executive Director

WEST VIRGINIA
HEALTH CARE AUTHORITY

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2020 JUN -5 A 11:40

OTHER

In Re: **UNITED HOSPITAL CENTER, INC.**
CON File # 20-5-4/7/8-11837-Z

HEARING ORDER

The following shall apply to and govern the above-captioned action and activities conducted in connection with it. In the absence of a specific date or deadline for a given activity, it is anticipated that such activity will be scheduled and conducted within a reasonable time prior to the hearing.

The parties may not amend, modify or adjust any provision of this order except by leave of the Authority.

1. Hearing date: **August 18, 2020, at 9:00 a.m.**

2. Prehearing conference date: **August 11, 2020, at 1:30 p.m.**

3. Settlement conference (optional): **N/A**

4. All replacement pages to CON application to be filed by: **June 11, 2020**
   Pursuant to W. Va. Code St. R. §65-32-6, if the applicant submits a substantial amendment to the application the Authority may withdraw the application from review. The board may examine the extent of additional information or any amendment made by the applicant to the application and its impact on the new institutional health service, and determine the application to be a new proposal subject to a new review cycle.

5. Motions for discovery to be filed by: **June 24, 2020**

6. Discovery completed on or before: **July 24, 2020**
   Parties engaging in discovery are required to file a copy of the certificate of service attached to the discovery request or response with the board. Affected parties shall not file copies of the actual discovery and responses with the board. To the extent that an affected party intends to introduce a document obtained through the discovery process at the administrative hearing, the document and two (2) copies must be filed at the prehearing conference.

Entered this 2nd day of June, 2020.

B. Allen Campbell
B. Allen Campbell
Senior Assistant Attorney General
Counsel for the West Virginia Health Care Authority

Jim Justice
Governor

Bill J. Crouch, Cabinet Secretary
West Virginia Department of
Health and Human Resources

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2020 JUN -5 A 11:38
OFFICE WEST VIRGINIA
SECRETARY OF STATE

In Re:

UNITED HOSPITAL CENTER, INC.
CON File No. 20-5-11835-Z

NOTICE OF PREHEARING CONFERENCE AND ADMINISTRATIVE HEARING

PLEASE TAKE NOTICE that pursuant to Chapter 16, Article 2D, and to Chapter 29A, Article 5, of the West Virginia Code of 1931, as amended, that Barbara Skeen, Interim Executive Director of the West Virginia Health Care Authority, wishes to announce that the following proceedings have been scheduled for the above-noted application:

A PREHEARING CONFERENCE will be held, **August 12, 2020, at 1:30 p.m.**, in the Large Conference Room of the West Virginia Health Care Authority, 100 Dee Drive, Charleston, West Virginia.

AN ADMINISTRATIVE HEARING will be held, **August 19, 2020, at 9:00 a.m.**, in the Large Conference Room of the West Virginia Health Care Authority, 100 Dee Drive, Charleston, West Virginia.

This application concerns the need for the provision of home health services in Tyler County, West Virginia.

You and any other "affected persons" as defined by W. Va. Code §16-2D-2 wishing to participate in the hearing of this application are directed to be present at both the prehearing conference and the administrative hearing.

The purpose of the prehearing conference is to designate parties to the hearing, to designate the issues for the hearing, resolve any procedural matters, receive any motions, establish the order of proceedings, receive a listing of the witnesses and a summary of direct testimony that will be offered at the hearing, receive a listing of evidence to be offered and copies of any documents to be offered such as reports or analysis prepared by expert witnesses including any financial reports and any other procedural matters. The prehearing conference will be conducted in conformance to Rule 16, West Virginia Rules of Civil Procedure for pretrial conferences.

OTHER

In a hearing, any person has the right to be present or to be represented by counsel and to present oral or written arguments and relevant evidence. Any person affected by the matter which is the subject of the hearing may conduct reasonable questioning of persons who make factual allegations relevant to such matters.

PLEASE TAKE NOTICE that if the party who requested the hearing withdraws that request, then the hearing will be canceled.

The file on this application is available for examination in the offices of the Health Care Authority from 8:30 a.m. to 5:00 p.m., Monday through Friday. If you have questions concerning this matter, please contact Barbara Skeen, Interim Executive Director, at (304) 558-7000.

Date: June 2, 2020

Barbara Skeen /BK
Barbara Skeen, Interim Executive Director

WEST VIRGINIA
HEALTH CARE AUTHORITY

FILED

2020 JUN -5 A 11:40

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

OTHER

In Re: **UNITED HOSPITAL CENTER, INC.**
CON File # 20-5-11835-Z

HEARING ORDER

The following shall apply to and govern the above-captioned action and activities conducted in connection with it. In the absence of a specific date or deadline for a given activity, it is anticipated that such activity will be scheduled and conducted within a reasonable time prior to the hearing.

The parties may not amend, modify or adjust any provision of this order except by leave of the Authority.

1. Hearing date: **August 19, 2020, at 9:00 a.m.**

2. Prehearing conference date: **August 12, 2020, at 1:30 p.m.**

3. Settlement conference (optional): **N/A**

4. All replacement pages to CON application to be filed by: **June 16, 2020**
   Pursuant to W. Va. Code St. R. §65-32-6, if the applicant submits a substantial amendment to the application the Authority may withdraw the application from review. The board may examine the extent of additional information or any amendment made by the applicant to the application and its impact on the new institutional health service, and determine the application to be a new proposal subject to a new review cycle.

5. Motions for discovery to be filed by: **June 30, 2020**

6. Discovery completed on or before:
   Parties engaging in discovery are required to file a copy of the certificate of service attached to the discovery request or response with the board. Affected parties shall not file copies of the actual discovery and responses with the board. To the extent that an affected party intends to introduce a document obtained through the discovery process at the administrative hearing, the document and two (2) copies must be filed at the prehearing conference.

7. Dispositive and preliminary motions to be filed by: **August 7, 2020**
   Parties shall file all prehearing motions with the board a minimum of three (3) days prior to the prehearing conference.

8. All requests for subpoenas and/or subpoenas duces tecum to be filed by: **August 7, 2020**

Entered this 2nd day of June, 2020.

B. Allen Campbell
B. Allen Campbell
Senior Assistant Attorney General
Counsel for the West Virginia Health Care Authority

OTHER

Dave Hardy
Secretary of Revenue

STATE TAX DEPARTMENT

Dale W. Steager
State Tax Commissioner

FILED
2020 MAY 29 P 12: 34

Administrative Notice 2020-17

Projected accumulated cost account, and accumulated cost account adjustments, projected reconciliation adjustment, projected periodic cost recovery fee and projected allocable revenues for the 2021 fiscal year: Title 110, Code of State Rules, Series 28.

Section 110-28-4.8 of the Code of State Rules authorizes issuance of the Administrative Notice by the Tax Commissioner setting forth projections relating to administration of the municipal consumers sales and service tax and use tax and related fees.

In accordance with Section 110-28-4.8 of the West Virginia Code of State Rules the Tax Department hereby issues the following projections for the fiscal year July 1, 2020 to June 30, 2021.

Accumulated Cost Account Projection for the Fiscal year Ending June 30, 2021	**Projected Amount**
Beginning Balance	$0
Offsets and Adjustments (including Reconciliation adjustment for prior year)	($38,000)
Operating Costs	$1,869,000
Periodic Cost Recovery Fee	($2,025,000)
Ending Balance	($194,000)

This projected operating cost represents an administrative fee of approximately 2.25% of total municipal sales and use tax collections for fiscal year ending June 30, 2021.

Pursuant to the authorization of Section 110-28-4.10 of the West Virginia Code of State Rules, the Tax Commissioner has elected to solicit comments and recommendations regarding the projections set forth herein for a period of 30 days. The Comment and recommendations submission period will close at 5:00 p.m., Eastern Daylight time on June 30, 2020.

Submit all comments and recommendations by United States Postal service to the following address.

Projection AN 2020-17
West Virginia Tax Department
P.O. Box 2389
Charleston, WV 25329-2389

Comments and recommendations received after the deadline will not be considered.
Notice of this determination will be filed in the West Virginia Register.

Issued: May 29, 2020

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2020 MAY 29 P 12: 35

Lydia S. McKee
Lydia S. McKee
Deputy Tax Commissioner
State Tax Department

Tax Commissioner's Office, 1001 Lee Street East, P.O. Box 11771, Charleston, WV 25339-1771
Telephone 304-558-0751
Fax 304-558-8999