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CHRONOLOGICAL INDEX, VOLUME XXXIII ISSUE 4			
NO NEW PROPOSED RULES WERE FILED FOR PUBLIC COMMENT THIS WEEK			
AGENCY	RULE/TYPE	AUTHORITY	HEARING/COMMENT PERIOD/LOCATION

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

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GUIDE FOR USING THE RULE MONITOR IN THE STATE REGISTER

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

- Titles followed by an asterisk (**) indicate that the rule is in effect as an emergency
- 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)
- If a particular step is not required by law for a particular rule, the "N/A" will appear in the excluded step column
- Once a rule becomes effective & the effective date appears in Column 10, the rule will be removed from the monitor after the rule is distributed in the loose leaf version of the Code of State Rules

CROSS REFERENCE OF RULE MONITOR TITLE NUMBERS AND AGENCIES

TITLE NUMBER		NAME OF AGENCY
TITLE	3	BARBERS AND COSMETOLOGISTS
TITLE	7	PROFESSIONAL ENGINEERS
TITLE	10	LICENSED PRACTICAL NURSES
TITLE	11	MEDICINE
TITLE	13	OCCUPATIONAL THERAPY
TITLE	14	OPTOMETRY
TITLE	15	PHARMACY
TITLE	16	PHYSICAL THERAPY
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TITLE	24	OSTEOPATHY
TITLE	25	SOCIAL WORK EXAMINERS
TITLE	26	VETERINARY MEDICINE
TITLE	27	COUNSELING
TITLE	29	SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY
TITLE	33	OFFICE OF WASTE MANAGEMENT (FORMERLY PART OF TITLE 47)
TITLE	35	OFFICE OF OIL AND GAS
TITLE	36	COAL MINE HEALTH & SAFETY
TITLE	38	MINING & RECLAMATION
TITLE	42	LABOR
TITLE	45	OFFICE OF AIR QUALITY
TITLE	47	OFFICE OF WATER RESOURCES
TITLE	48	MINES TRAINING EDUCATION & CERTIFICATION
TITLE	56	MINERS' HEALTH, SAFETY AND TRAINING
TITLE	58	NATURAL RESOURCES
TITLE	60	ENVIRONMENTAL PROTECTION, SECRETARY'S OFFICE
TITLE	61	AGRICULTURE
TITLE	63	CONSERVATION AGENCY
TITLE	64	HEALTH
TITLE	65	HEALTH CARE AUTHORITY
TITLE	69	HEALTH & HUMAN RESOURCES
TITLE	76	SENIOR SERVICES
TITLE	78	HUMAN SERVICES
TITLE	81	STATE POLICE
TITLE	82	CULTURE AND HISTORY
TITLE	85	WORKERSCOMPENSATION BY THE INSURANCE COMMISSION
TITLE	86	VETERANS AFFAIRS
TITLE	87	FIRE COMMISSION
TITLE	90	CORRECTIONS
TITLE	91	MOTOR VEHICLES
TITLE	94	REGIONAL JAIL & CORRECTIONAL FACILITY AUTHORITY
TITLE	96	WORKFORCE WEST VIRGINIA
TITLE	110	TAX DEPARTMENT
TITLE	112	TREASURER
TITLE	113	HEALTH INSURANCE PLAN
TITLE	114	INSURANCE
TITLE	126	EDUCATION
TITLE	127	SECONDARY SCHOOLS ACTIVITIES COMM.
TITLE	133	HIGHER EDUCATION POLICY COMMISSION
TITLE	135	COMMUNITY & TECHNICAL COLLEGE EDUCATION
TITLE	143	PERSONNEL
TITLE	144	TOURISM
TITLE	146	STATE ELECTION COMMISSION
TITLE	148	ADMINISTRATION
TITLE	149	CRIME, DELINQUENCY AND CORRECTION
TITLE	150	PUBLIC SERVICE COMMISSION
TITLE	153	SECRETARY OF STATE
TITLE	157	DIVISION OF HIGWAYS
TITLE	158	ETHICS COMMISSION
TITLE	162	CONSOLIDATED PUBLIC RETIREMENT BOARD
TITLE	172	STATE RAIL AUTHORITY
TITLE	175	ALCOHOL BEVERAGE CONTROL COMMISSION
TITLE	176	ALCOHOL BEVERAGE CONTROL COMMISSION – BEER
TITLE	177	ATHLETIC COMMISSION
TITLE	178	RACING COMMISSION
TITLE	179	LOTTERY
TITLE	184	PARKWAYS ECONOMIC DEV. & TOURISM AUTHORITY
TITLE	190	REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD
TITLE	191	FAMILY PROTECTION SERVICES BOARD
TITLE	199	EXPLOSIVES & BLASTING
TITLE	204	HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY
TITLE	205	OUTDOOR HERITAGE CONSERVATION FUND
TITLE	207	COALFIELD COMMUNITY DEVELOPMENT
TITLE	210	GOHELP

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Accountancy (1-1)	Board Rules and Rules of Professional Conduct Legislative	6/15/2015	7/15/2015		7/24/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 148		
Administration (148-1)	Purchasing Division Legislative	7/27/2015	8/26/2015	7/23/2015 Approved 7/31/2015	9/1/2015	Approved 11/19/2015	SB149		
Administrative Hearings (105-1)	Appeal Procedures Legislative	6/22/2015	7/22/2015		7/31/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 150		
Agriculture (61-23D)	Inspection of Nontraditional, Domesticated Animals Legislative	6/10/2015	7/17/2015	6/10/2015 Effective 7/22/2015	7/30/2015	Modified & Approved 10/22/2015 Filed 11/3/2015	SB 151		
Agriculture (61-28)	Poultry Litter and Manure Movement Into Primary Poultry Breeder Rearing Areas Legislative	6/30/2015	7/30/2015		7/31/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 152		
Agriculture (61-30)	Dangerous Wild Animal Rule-Repeal Legislative	1/11/2016	2/10/2016						
Agriculture (61-31)	Livestock Care Standards Legislative	6/30/2015	7/30/2015		7/31/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 153		
Agriculture (61-31)	Livestock Care Standards-Repeal Legislative	1/11/2016	2/10/2016						
Agriculture (61-34)	Captive Cervid Farming Legislative	4/28/2015	5/28/2015	4/28/2015 Approved 5/12/2015	7/28/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 154		
Air Quality (45-16)	Standards of Performance for New Stationary Sources Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 10/22/2015	SB 172		
Air Quality (45-18)	Control of Air Pollution from Combustion of Solid Waste Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 10/22/2015	SB 173		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Air Quality (45-25)	Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 10/22/2015	SB174		
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 10/22/2015	SB 175		
Air Quality (45-39)	Control of Annual Nitrogen Oxides Emissions - Repeal Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 11/19/2015	SB 176		
Air Quality (45-40)	Control of Ozone Season Nitrogen Oxides Emissions Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 11/19/2015	SB 177		
Air Quality (45-41)	Control of Annual Sulfur Dioxide Emissions - Repeal Legislative	6/3/2015	7/6/2015		7/24/2015	Approved 11/19/2015	SB 178		
Alcohol Beverage Control Comm. (175-2)	Private Club Licensing Legislative	6/10/2015	7/11/2015		7/31/2015	Approved 10/22/2015	SB 155		
Alcohol Beverage Control Comm. (175-10)	Distilleries and Mini-Distilleries Legislative	6/10/2015	7/11/2015		7/31/2015	Modified & Approved 10/22/2015 Filed 11/4/2015	SB 156 BUNDLED SB 157		
Alcohol Beverage Control Comm – Beer (176-1)	Nonintoxicating Beer Licensing and Operations Procedures Legislative	6/10/2015	7/11/2015		7/31/2015	Modified & Approved 10/22/2015 Filed 11/4/2015	SB 157 BUNDLED SB 157		
Community & Technical College Ed. (135-21)	Freshman Assessment and Placement Standards Procedural	8/24/2015 10/26/2015	9/28/2015 11/30/2015					12/14/2015	1/14/2016
Conservation Committee (63-2)	WV Conservation Agency Financial Assistance Program Legislative	4/29/2015	5/29/2015	4/29/2015 Approved 5/12/2015	6/5/2015	Modified & Approved 9/15/2015 Filed 9/16/2015	SB 158		
Consolidated Public Retirement Board (162-2)	Benefit Determination and Appeal Legislative	6/4/2015	7/6/2015		7/28/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 163		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Consolidated Public Retirement Board (162-3)	Teachers' Defined Contribution Retirement System Legislative	6/4/2015	7/6/2015		7/28/2015	Modified & Approved 9/15/2015 Filed 9/22/2015	SB 164		
Consolidated Public Retirement Board (162-4)	Teachers Retirement System Legislative	6/4/2015	7/6/2015		7/28/2015	Modified & Approved 9/15/2015 Filed 9/22/2015	SB 165		
Consolidated Public Retirement Board (162-7)	Refund, Reinstatement, Retroactive Service,Loan and Correction of Error Interest Factors Legislative	6/4/2015	7/6/2015		7/28/2015	Modified & Approved 9/15/2015 Filed 9/22/2015	SB 166		
Consolidated Public Retirement Board (162-8)	Service Credit for Accrued and Unussed Sick and Annual Leave Legislative	6/4/2015	7/6/2015		7/28/2015	Approved 9/15/2015	SB 167		
Consolidated Public Retirement Board (162-9)	West Virginia State Police Legislative	6/4/2015	7/6/2015		7/28/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 168		
Consolidated Public Retirement Board (162-10)	Deputy Sheriff Retirement System Legislative	6/4/2015	7/6/2015		7/28/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 169		
Counseling (27-1)	Licensing Rule Legislative	6/15/2015	7/15/2015		7/28/2015	Modified & Approved 10/22/2015 Filed 10/20/2015	SB 129		
Counseling (27-3)	Licensed Professional Counselor License Renewal and Continuing Professional Education Requirements Legislative	6/15/2015	7/15/2015		7/28/2015	Modified & Approved 9/16/2015 Filed 9/29/2015	SB 160		
Counseling (27-5)	Disciplinary and Complaint Procedures for Counselors Procedural	6/17/2015	7/20/2015						
Counseling (27-8)	Marriage and Family Therapists Licensing Rule Legislative	6/15/2015	7/15/2015		7/28/2015	Modified & Approved 10/22/2015 Filed 10/20/2015	SB 161		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Counseling (27-10)	Marriage and Family License Renewal and Continuing Professional Education Legislative	6/15/2015	7/15/2015		7/28/2015	Modified & Approved 9/16/2015 Filed 9/29/2015	SB 162		
Counseling (27-11)	Disciplinary and Complaint Procedures for Marriage and Family Therapists Procedural	6/17/2015	7/20/2015						
Counseling (27-12)	Contested Case Hearing Procedure for Marriage and Family Therapist Procedural	6/17/2015	7/20/2015						
Crime, Delinquency and Correction (GCCDC) (149-2)	Law Enforcement Training and Certification Standards Legislative	6/15/2015	7/22/2015		7/27/2015	Modified & Approved 10/22/2015 Filed 11/5/2015	SB 214		
Dangerous Wild Animal Board (74-1)	Dangerous Wild Animals Legislative	1/11/2016	2/10/2016						
Dentistry (5-11)	Continuing Education Requirements Legislative	5/13/2015	6/13/2015		7/23/2015	Modified & Approved 9/16/2015 Filed 9/23/2015	SB170		
Dentistry (5-13)	Expanded Duties of Dental Hygienists and Dental Assistants Legislative	5/13/2015	6/13/2015		7/23/2015	Modified & Approved 9/16/2015 Filed 9/23/2015	SB171		
Education (126-14)	WV Measurers of Academic Progress (2340) Legislative Exempt	11/13/2015	12/14/2015					12/18/2015	1/19/2016
Education (126-15)	Programs of Study for Limited English Proficient Students (2417) Legislative Exempt	11/13/2015	12/14/2015					12/18/2015	1/19/2016
Education (126-44AA)	WV College and Career-Readiness Standards for English Language Arts (2520.1A) Legislative Exempt	11/13/2015	12/14/2015					12/18/2015	7/1/2016
Education (126-44BB)	WV College and Career-Readiness Standards for Mathematics (2520.2B) Legislative Exempt	11/13/2015	12/14/2015					12/18/2015	7/1/2016

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Education (126-44P)	Alternate Academic Achievement Standards for Science in WV Schools (2520.16) Legislative Exempt	8/13/2015	9/14/2015					10/15/2015	7/1/2016
Education (126-73)	School Calendar (3234) Legislative Exempt	12/18/2015	1/19/2016						
Education (126-142)	Performance Evaluation of School Personnel (5310) Legislative Exempt	7/9/2015	8/10/2015						
Education (126-149)	Professional Development for WV Educators (5500) Legislative Exempt	12/18/2015	1/19/2016						
Election Commission (146-3)	Regulation of Campaign Finance Legislative	5/20/2015	6/19/2015		7/31/2015	Modified w/certain amendments and approved 11/19/2015 Filed 11/30/2015 2nd Filed 12/22/2015	SB 207		
Election Commission (146-5)	WV Supreme Court of Appeals Campaign Financing Program Legislative	5/20/2015	6/19/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 11/30/2015 2nd Filed 12/22/2015	SB 208		
Ethics Commission (158-21)	Public Use of Names or Likeness Legislative	5/12/2015	6/12/2015	5/12/2015 Effective 6/23/2015	6/30/2015	Approved w/certain amendments 11/19/2015	SB 210		
Fire Commission (87-1)	Fire Code Legislative	5/1/2015	5/29/2015 Written Comments 6/1/2015		6/29/2015	Approved 11/19/2015	SB211		
Fire Commission (87-4)	State Building Code Legislative	5/1/2015	6/1/2015		6/29/2015	Modified & Approved 11/19/2015 Filed 12/10/2015	SB 212		
Fire Commission (87-7)	Standards for the Certification and Continuing Education of Municipal, County, and Other Public Sector Building Code Officials, Inspectors and Plans Examiners Legislative	5/1/2015	6/1/2015		6/29/2015	Modified & Approved 11/19/2015 Filed 12/10/2015	SB 213		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health (64-48)	Emergency Medical Services Legislative	6/25/2015	7/25/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 12/8/2015	SB 186 BUNDLED SB 195		
Health (64-51)	Fees for Service Legislative	6/25/2015	7/25/2015		7/27/2015	Approved 10/22/2015	SB 187 BUNDLED SB 195		
Health (64-56)	Infectious Medical Waste Legislative	6/25/2015	7/25/2015		7/27/2015	Modified & Approved 9/16/2015 Filed 9/23/2015	SB 188 BUNDLED SB 195		
Health (64-64)	Aids-Related Medical Testing and Confidentiality Legislative	6/25/2015	7/25/2015		7/27/2015	Approved 9/16/2015	SB189 BUNDLED SB 195		
Health (64-76)	Tuberculosis Testing, Control, Treatment and Commitment Legislative	6/25/2015	7/25/2015		7/27/2015	Approved 9/16/2015	SB 190 BUNDLED SB 195		
Health (64-102)	Farmers Market Vendors Legislative	6/25/2015	7/25/2015		7/27/2015	Modified & Approved 10/22/2015 Filed 10/23/2015	SB 191 BUNDLED SB 195		
Health (64-104)	Certification of Opioid Overdose Prevention and Treatment Training Programs Legislative	6/25/2015	7/25/2015		7/27/2015	Modified & Approved 9/16/2015 Filed 9/23/2015	SB 192 BUNDLED SB 195		
Health & Human Resources (69-8)	Chronic Pain Management Clinic Licensure Legislative	6/26/2015	7/26/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 12/8/2015	SB 193 BUNDLED SB 195		
Health & Human Resources (69-9)	Neonatal Abstinence Centers Legislative	6/25/2015	7/25/2015	6/25/2015 Approved 7/29/2015 Amendment 12/8/2015 Approved 12/15/2015	7/31/2015	Modified & Approved 11/19/2015 Filed 12/8/2015	SB 194 BUNDLED SB 195		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health & Human Resources (69-10)	WV Clearance for Access: Registry and Employment Screening Legislative	6/26/2015	7/26/2015	6/26/2014 Amendment 7/17/2015 Approved 7/29/2015 Amendment 10/23/2015 ERD by 12/4/2015	7/31/2015	Modified & Approved 10/22/2015 Filed 10/23/2015	SB 195 BUNDLED SB 195		
Higher Education Policy Comm. (133-19)	Guidelines for the Offering of Early Enrollment Courses for High School Students Procedural	11/24/2015	12/24/2015						
Higher Education Policy Comm. (133-26)	Underwood-Smith Teacher Scholarship Program Legislative	6/4/2015	7/4/2015			Approved 10/28/2015			
Higher Education Policy Comm. (133-58)	Nursing Scholarship Program Legislative	6/4/2015	7/4/2015			Approved 10/28/2015			
Highways (157-11)	State Transportation Infrastructure Fund Program Legislative	6/29/2015	7/29/2015		7/31/2015	Modified & Approved 9/15/2015 Filed 9/30/2015	SB 215		
Human Rights Commission (77-10)	Pregnant Workers' Fairness Act Legislative	6/29/2015	7/30/2015		7/31/2015	Modifed w/certain amendments & Approved 11/19/2015 Filed 12/8/2015	SB 216		
Human Services (78-1)	Child Care Center Licensing Requirements Legislative	6/25/2015	7/25/2015		7/31/2015	Approved 10/22/2015	SB 196 BUNDLED SB 195		
Human Services (78-18)	Family Child Care Facility Licensing Requirements Legislative	6/25/2015	7/25/2015		7/31/2015	Approved 10/22/2015	SB 197 BUNDLED SB 195		
Human Services (78-19)	Family Child Care Home Registration Requirements Legislative	6/25/2015	7/25/2015		7/31/2015	Modified & Approved 10/22/2015 Filed 10/28/2015	SB 198 BUNDLED SB 195		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Human Services (78-23)	W. Va. Works Program Sanctions Legislative	6/25/2015	7/25/2015	6/25/2015 Amendment 7/31/2015 Approved 9/4/2015	7/31/2015	Modified & Approved 10/22/2015 Filed 11/13/2015	SB 199 BUNDLED SB 195		
Human Services (78-24)	Qualifications for a Restricted Provisional License to Practice as a Social Worker Within the Dept. of Health & Human Resources Legislative	6/25/2015	7/25/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 12/8/2015	SB 200 BUNDLED SB 195		
Human Services (78-25)	Goals for Foster Children Legislative	6/26/2015	7/26/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 12/22/2015	SB 201 BUNDLED SB 195		
Labor (42-5)	Wage Payment and Collection Legislative	6/25/2015	7/25/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 12/9/2015	SB 217		
Labor (42-8)	Minimum Wages and Maximum Hours Standards Regulations Legislative	6/26/2015	7/27/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 12/9/2015	SB 218		
Labor (42-21)	Elevator Safety Act Legislative	6/26/2015	7/27/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 11/17/2015	SB 219		
Labor (42-21A)	Licensing of Elevator Mechanics and Technicians and Registration of Apprentices Legislative	6/26/2015	7/27/2015		7/31/2015	Approved 11/19/2015	SB 220		
Livestock Care Standards Bd (73-1)	Livestock Care Standards Legislative	1/11/2016	2/10/2016						
Medical Imaging & Radiation Therapy Tech. Bd. of Exam. (18-1)	Rules of the WV Medical Imaging & Radiation Therapy Tech Bd of Exam Legislative	3/6/2015	5/1/2015		6/8/2015	Approved 10/22/2015	SB 221		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Medicine (11-11)	Establishment and Regulation of Limited License to Practice Medicine and Surgery at Certain State Veterans Nursing Home Facilities Legislative	6/12/2015	7/13/2015	6/12/2015 Approved 6/30/2015	7/27/2015	Modified & Approved 10/22/2015 Filed 10/23/2015	SB 223		
Miners' Health, Safety and Training (56-19)	Substance Abuse Screening, Standards and Procedures Legislative	6/26/2015	7/27/2015	6/26/2015 Effective 8/7/2015	7/30/2015	Approved 10/22/2015	SB 224		
Mining and Reclamation (38-2)	WV Surface Mining Reclamation Legislative	6/23/2015	7/24/2015		7/27/2015	Approved 11/19/2015	SB 182		
Natural Resources (58-47)	Prohibition When Hunting and Trapping Legislative	6/23/2015	7/22/2015		7/30/2015	Modified & Approved 9/15/2015 Filed 10/8/2015	SB 202		
Natural Resources (58-49)	General Hunting Legislative	6/23/2015	7/22/2015		7/30/2015	Approved 9/15/2015	SB 203		
Natural Resources (58-50)	Deer Hunting Rule Legislative	6/23/2015	7/22/2015		7/30/2015	Approved 9/15/2015	SB 204		
Natural Resources (58-52)	Wild Boar Hunting Rule Legislative	6/23/2015	7/22/2015		7/30/2015	Approved 9/15/2015	SB 205		
Natural Resources (58-60)	Fishing Regulations Legislative Exempt							12/16/2015	1/1/2016
Natural Resources (58-74)	Elk Restoration and Management Rule Legislative	6/23/2015	7/22/2015		7/30/2015	Modified & Approved 10/22/2015 Filed 10/29/2015	SB 206		
Nursing Home Administrators Licensing Bd. (21-1)	Nursing Home Administrators Legislative	6/9/2015	7/10/2015		7/17/2015	Modified & Approved 10/22/2015 Filed 11/2/2015	SB 225		
Oil and Gas (35-08)	Horizontal Well Development Legislative	7/24/2015	Hearing 7/23/2015 Written 7/27/2015		7/31/2015	Modified & Approved 11/19/2015 Filed 11/23/2015	SB 179		
Personnel (143-1)	Administrative Rule of the WV Div. of Personnel Legislative	5/19/2015	6/30/2015		7/21/2015	Approved 11/19/2015	SB 226		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Pharmacy (15-1)	Licensure and Practice of Pharmacy Legislative	5/22/2015	6/24/2015		7/16/2015	Modified & Approved 10/22/2015 Filed 12/17/2015	SB 227		
Pharmacy (15-2)	Rules of the Bd. Of Pharmacy for the Uniform Controlled Substances Act Legislative	5/22/2015	6/24/2015		7/16/2015	Modified & Approved 11/19/2015 Filed 12/17/2015	SB 228		
Pharmacy (15-4)	Record Keeping and Automated Data Processing Systems Legislative	5/22/2015	6/24/2015		7/16/2015	Modified & Approved 10/22/2015 Filed 12/17/2015	SB 229		
Pharmacy (15-5)	Licensure of Wholesale Drug Distributors, Third-Party Logistics Providers and Manufacturers Legislative	5/22/2015	6/24/2015		7/16/2015	Modified & Approved 10/22/2015 Filed 12/17/2015	SB 230		
Professional Engineers (7-1)	Examination, Licensure and Practice of Professional Engineers Legislative	4/3/2015	5/4/2015	4/3/2015 Withdrawn 5/11/2015 5/11/2015 Approved 6/2/2015	5/11/2015	Modified & Approved 9/16/2015 Filed 9/22/2015	SB 206		
Property Valuation Training & Procedures Commission (189-5)	Tax Map Sales Legislative	6/11/2015	7/13/2015		7/29/2015	Modified & Approved 10/22/2015 Filed 10/27/2015	SB 231		
Public Transit (225-1)	Rail Fixed Guideway Systems State Safety Oversight Legislative	7/1/2015	7/30/2015		7/31/2015	Modified & Approved 9/15/2015 Filed 9/30/2015	SB 243		
Racing Commission (178-1)	Thoroughbred Racing Legislative	6/11/2015	7/13/2015		7/22/2015	Approved 11/19/2015	SB 232		
Racing Commission (178-5)	Pari-Mutuel Wagering Legislative	6/11/2015	7/13/2015		7/22/2015	Approved 11/19/2015	SB 233		
Secretary of State (153-3)	(Repeal of) Registration Forms and Receipts Legislative	5/27/2015	6/30/2015		6/30/2015	Approved 11/19/2015	SB 235		

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Secretary of State (153-9)	(Repeal of) Elimination of Precinct Registration Books Legislative	5/27/2015	6/30/2015		7/1/2015	Approved 11/19/2015	SB 236		
Secretary of State (153-23)	(Repeal of) Absentee Voting by Military Voters Who Are Members of Reserve Units Called to Active Duty Legislative	5/27/2015	6/30/2015		6/30/2015	Approved 11/19/2015	SB 237		
Secretary of State (153-52)	Freedom of Information Act Database Legislative	5/18/2015	6/19/2015	7/1/2015 Effective 8/12/2015	6/30/2015	Modified & Approved 11/19/2015 Filed 11/30/2015 2nd Filed 12/22/2015	SB 238		
Senior Services (76-3)	WV State Plan for Aging – Title V Interpretive	10/17/2014	11/17/2014						
Social Work, WV Bd of (25-1)	Qualifications for the Profession of Social Work Legislative	6/9/2015	7/10/2015	5/26/2015 Approved 6/9/2015	7/21/2015	Modified & Approved 11/19/2015 Filed 12/4/2015	SB 234		
Speech-Language Pathology & Audiology (29-1)	Licensure of Speech-Pathology and Audiology Legislative	4/22/2015	6/5/2015		6/8/2015	Modified & Approved 11/19/2015	SB 239		
Speech-Language Pathology & Audiology (29-2)	Rule Governing Speech-Language Pathology and Audiology Assistants Legislative	4/22/2015	6/5/2015		6/8/2015	Modified w/certain amendments & Approved 11/19/2015	SB 240		
Tax Department (110-10D)	Use and Acceptance of Electronic Records Procedural	11/9/2015	12/10/2015					12/23/2015	1/25/2016
Tax Department (110-10F)	Payment of Taxes by Electronic Funds Transfer Legislative	6/11/2015	7/13/2015		7/29/2015	Modified & Approved 9/16/2015 Filed 9/18/2015	SB 241		
Tax Department (110-10L)	Claiming Tax Refund or Credit Procedural	11/9/2015	12/10/2015					12/23/2015	1/25/2016
Tax Department (110-14C)	Motor Fuel Excise Tax Interpretive	11/5/2015	12/4/2015						

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Tax Department (110-50H)	Exchange of Info Agreement Between the Comm of the Tax Div of the Dept of Rev and the Sec of the Dept of Commerce, the Sec of the Dept of Environmental Protection, the Dir of the Div of Forestry of the Dept of Commerce and the Comm of the PSC Legislative	6/11/2015	7/13/2015		7/29/2015	Approved 9/16/2015	SB 242		
Veterans' Assistance (86-2)	State Home for Veterans-Fiscal Legislative	5/29/2014	6/28/2014	5/28/2014 Approved 6/2/2014 Expired 9/2/2015	8/1/2014	Approved 9/16/2015	SB 244		
Veterans' Assistance (86-4)	VA Headstones or Markers Legislative	5/28/2014	6/28/2014		8/1/2014	Approved 9/16/2015	SB 245		
Water Resources, Div. of Water & Waste Mgmt. (47-2)	Requirements Governing Water Quality Standards Legislative	6/15/2015	Hearing 7/21/2015 Written Comments 7/31/2015	6/29/2015 Effective 8/10/2015 Amendment 9/21/2015 Approved 10/22/2015	7/31/2015	Modified & Approved 11/19/2015 Filed 11/24/2015	SB 180		
Water Resources, Div. of Water & Waste Mgmt. (47-30B)	Administrative Proceedings and Civil Penalty Assessment Legislative	6/23/2015	7/24/2015		7/27/2015	Approved 11/19/2015	SB 183		
Water Resources, Div. of Water & Waste Mgmt. (47-63)	Aboveground Storage Tanks Legislative	6/25/2015	7/30/2015		7/31/2015	Modified & Approved 11/19/2015	SB 181		
Water Resources, Div. of Water & Waste Mgmt. (47-64)	Aboveground Storage Tank Administrative Proceedings and Civil Penalty Assessment Legislative	6/25/2015	7/30/2015		7/31/2015	Approved 11/19/2015	SB 184		
Water Resources, Div. of Water & Waste Mgmt. (47-65)	Aboveground Storage Tank Fee Assessments Legislative	6/25/2015	7/30/2015		7/31/2015	Approved 1/26/2016	SB 185		
WorkForce West Virginia (96-4)	WV Prevailing Wage Act Legislative	9/22/2015	10/22/2015	8/28/2015 ERD by 10/9/2015	11/6/2015	Modified & Approved 11/19/2015 Filed 12/4/2015	SB 222		

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OFFICE WEST VIRGINIA SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Legislative Rule-Making Review Committee

Senator Mark Maynard, Co-Chair
Delegate Kelli Sobonya, Co-Chair

Debra A. Graham, Chief Counsel
Jared Wyrick, Analyst

January 26, 2016

NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

To: Natalie E. Tennant, Secretary of State, State Register

To: Joe Sizemore
DEP - Water and Waste Management
601 57th Street, SE
Charleston, WV 25304

From: Legislative Rule-Making Review Committee 47-65

Proposed Rule: Aboveground Storage Tank Administrative Proceedings and Civil Penalty Assessment,

The Legislative Rule-Making Review Committee Recommends that the West Virginia Legislature

1. Authorize the agency to promulgate the Legislative rule:

   (A) as originally filed X

   (B) as modified by the agency ____

2. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. ____

3. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. ____

4. Recommends that the Legislature rule be withdrawn; a statement of reasons for the recommendation is attached. ____

Building 1, Room MB-49 1900 Kanawha Boulevard, East Charleston, WV 25305
Phone: (304) 347-4840 Fax: (304) 347-4901 email: debra.graham@wvlegislature.gov : jared.wyrick@wvsenate.gov

Orders Report

Docket Number	Agency	Respondent	Date Rendered
2015-DB-0008H	Dentistry, WV Board of	Brooke Barmore, RDH	1/22/2016
2015-DB-0048H	Dentistry, WV Board of	Christy Dawn Wheeler, RDH	1/22/2016
2015-DB-0047D	Dentistry, WV Board of	William H. Mason, DDS	1/22/2016
2015-DB-0040D	Dentistry, WV Board of	Melissa Warnick DDS	1/22/2016
2015-DB-0043D	Dentistry, WV Board of	John Maroulis DDS	1/22/2016
2014-DB-0020D	Dentistry, WV Board of	John E. Brock DDS	1/22/2016
15-9-10677-X	Health Care Authority	WO Holdings LLC	1/21/2016
15-MC-THP-02000	Insurance Commission	Atlantic Specialty Insurance Company	1/20/2016
15-AP-PRLC-02048	Insurance Commission	Grace Smith	1/12/2016
15-AP-PRLC-02037	Insurance Commission	Robert Draper II	1/12/2016
15-AP-PRLC-02040	Insurance Commission	Katelyn Dee Gregory	1/11/2016
15-AP-PRLC-02043	Insurance Commission	Edward Alan Abel	1/12/2016
15-AP-PRLC-02045	Insurance Commission	Antonio Paige	1/12/2016
15-AP-PRLC-02042	Insurance Commission	Kenneth Alan Rice	1/12/2016
15-AP-PRLC-02049	Insurance Commission	Scott Shreve	1/12/2016
N/A	Medicine, West Virginia Board Of	Kevin Michael Clarke MD	1/20/2016
C-16-020	Real Estate Commission	Jessica Jones	1/27/2016
1015A	Veterinary Medicine	Daniel Cain	1/16/2016

OFFICE OF TAX APPEAL DECISIONS		
NO.	**SYNOPOSIS**	**DATE ISSUED**
12-366 X-M	Petitioner argues that the Tax Commissioner has imposed too harsh a penalty with regard to the master tobacco tax settlement agreement. The penalty is substantial and the Tax Commissioner is afforded great discretion in this authority. OTA felt a penalty was more than warranted, but felt the one imposed was excessive. OTA found for the petitioner in reducing the penalty, but for the Commissioner in that the penalty was not reduced to the extent requested by petitioner.	8/18/2014
14-044-RPDS-C	Petitioner is the former spouse of a retired federal law enforcement officer. She argued that her retirement income should be excluded from West Virginia personal income tax pursuant to the holding in Dodson v. Palmer, Civil Action No. 00-C-AP. Because of the former spouse qualifications under this rule, the former spouse also benefits from the same as an extension. The Office of Tax Appeals ruled that that it should be so excluded.	10/29/2014
12-453 P-M	Personal income tax cases related to alternative fuel infrastructure tax credits. The cases all surround the use of solar panels and the seeking of alternative fuel credits in such use. OTA did not see that the law provided the credit in that broad sense. However, we did feel that a certain amount of credit could be afforded petitioners where systems were installed for the purpose of charging and maintaining alternative fuel vehicles.	12/9/2014
12-491 P-W	Personal income tax cases related to alternative fuel infrastructure tax credits. The cases all surround the use of solar panels and the seeking of alternative fuel credits in such use. OTA did not see that the law provided the credit in that broad sense. However, we did feel that a certain amount of credit could be afforded petitioners where systems were installed for the purpose of charging and maintaining alternative fuel vehicles.	12/9/2014
12-490 P-M	Personal income tax cases related to alternative fuel infrastructure tax credits. The cases all surround the use of solar panels and the seeking of alternative fuel credits in such use. OTA did not see that the law provided the credit in that broad sense. However, we did feel that a certain amount of credit could be afforded petitioners where systems were installed for the purpose of charging and maintaining alternative fuel vehicles.	12/9/2014
12-488 P-M	Personal income tax cases related to alternative fuel infrastructure tax credits. The cases all surround the use of solar panels and the seeking of alternative fuel credits in such use. OTA did not see that the law provided the credit in that broad sense. However, we did feel that a certain amount of credit could be afforded petitioners where systems were installed for the purpose of charging and maintaining alternative fuel vehicles.	12/9/2104
12-502 RP-M	Personal income tax cases related to alternative fuel infrastructure tax credits. The cases all surround the use of solar panels and the seeking of alternative fuel credits in such use. OTA did not see that the law provided the credit in that broad sense. However, we did feel that a certain amount of credit could be afforded petitioners where systems were installed for the purpose of charging and maintaining alternative fuel vehicles.	12/9/2014
12-443 P-M	Personal income tax cases related to alternative fuel infrastructure tax credits. The cases all surround the use of solar panels and the seeking of alternative fuel credits in such use. OTA did not see that the law provided the credit in that broad sense. However, we did feel that a certain amount of credit could be afforded petitioners where systems were installed for the purpose of charging and maintaining alternative fuel vehicles.	12/9/2014

OFFICE OF TAX APPEAL DECISIONS		
NO.	**SYNOPOSIS**	**DATE ISSUED**
12-489 P-M	Personal income tax cases related to alternative fuel infrastructure tax credits. The cases all surround the use of solar panels and the seeking of alternative fuel credits in such use. OTA did not see that the law provided the credit in that broad sense. However, we did feel that a certain amount of credit could be afforded petitioners where systems were installed for the purpose of charging and maintaining alternative fuel vehicles.	12/9/2014
12-452 P-M	Personal income tax cases related to alternative fuel infrastructure tax credits. The cases all surround the use of solar panels and the seeking of alternative fuel credits in such use. OTA did not see that the law provided the credit in that broad sense. However, we did feel that a certain amount of credit could be afforded petitioners where systems were installed for the purpose of charging and maintaining alternative fuel vehicles.	12/9/2014
14-152 RPD	This is a decision based on the *Dodson vs. Palmer Ruling* (Monongalia County Civil Action Number 00-C-AP-10). The petitioner in this matter served as a D.C Metropolitan Police Officer whereby its retirement systems are administered by the Federal Department of the Treasury. Based on the Dodson ruling, petitioner was granted relief in that his pension is not subject to state income taxes.	1/22/2015
12-432 U, 12-433 CU, 12-434 C, 12-435 NFN	Ruling was for the State Tax Department with regard to petitioner assessments on sales and service tax and sales tax. In this case, petitioner uses contractors to sell or provide its snow plowing or gardening services to customers in 20 states, including West Virginia. Sufficient case law and statutes dictate that even though the company never sets foot in the state, the use of independent contractors to sell their services is paramount to the success of its business. Further, this means that the petitioner is responsible for collecting sales taxes and sales and service taxes for the selling of its services.	1/30/2015
13-360 RMFE-M	In this matter, petitioner filed a petition for refund after being denied an application for refund of the motor fuel taxes credit. The denials were based on timeliness in that the filings had to occur by or before the 31st day of August for all purchases that had occurred in the preceding fiscal year that ended on June 30. The petitioner could not carry the burden of proof in that their filing requests were several days late. In the Supreme Court decision Helton v. Reed, 219 W. Va. 557, 563 638 S.E.2d 160, 166 (2006), it makes the timeliness issue crystal clear as to the specifics. Under no circumstances can a tribunal extend a deadline whatsoever. As a result, the Office of Tax Appeals lacked jurisdiction to find in any way for the petitioner. Petitioner relief was denied.	1/27/2015
13-438 RP	Petitioner filed a petition for refund in a quest to recoup monies that were originally assessed against his 1998 tax return. His Federal taxes changed significantly for that year as the IRS agreed to accept his return in a different manner now providing a greater benefit to petitioner. When the original assessment was issued in 2003, petitioner did not pay the assessment, nor did he file a petition for reassessment with OTA. He later experienced having liens put in place and levies on bank accounts. Once the assessment with penalties and interest were eventually paid off, the liens were released. Because petitioner did not file an appeal and/or pay the assessment within the prescribed time period of 60 days, he is not entitled to recoup these monies at a later time. Relief denied petitioner in this case.	1/29/2015

OFFICE OF TAX APPEAL DECISIONS		
NO.	**SYNOPOSIS**	**DATE ISSUED**
12-477 RMFE, 13-278 M	This matter relates to both a 1) petition for refund and 2) petition for reassessment; both of which were filed by the petitioner relative to the denial of refund by the state tax commissioner's office for a credit related to motor fuel used within the state of WV. Specifically, the matter centers around the Tax Division's denial of credit for fuel use by a commercial motor carrier based on how much fuel the carrier used in other states. OTA found primarily for the petitioner stating they did deserve the credit. Despite the fact the Tax department required the petitioner to prove their use in other states; OTA ruled that the law in WV does not require motor fuel carriers to prove their use in other states.	1/23/2015

Grievances Report

Docket Number	Grievants Name	Respondents Name	Date Decision
2016-0419-DHHR	Tara Lockwood	Health And Human Resources	12/18/2015
		Welch Community Hospital	12/18/2015
2015-1551-CONS	Beverly Bailey, et al.	Mingo County Board Of Education	1/8/2016
2014-1008-DHHR	Joseph T. Johnson	Health And Human Resources	1/8/2016
2016-0324-RalED	David Jerome McClure	Raleigh County Board Of Education	1/11/2016
2015-0697-DHHR	Ruth Ann Belcher	Health And Human Resources	1/13/2016
		Bureau Of Child Support Enforcement	1/13/2016
		Personnel	1/13/2016
2015-1004-CONS	Richard Spencer	Kanawha County Board Of Education	1/14/2016
2016-0129-HarED	Connie Yoders	Harrison County Board Of Education	1/15/2016

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

A PROCLAMATION

By the Governor

WHEREAS, by virtue of the authority vested in me as Governor of the State of West Virginia, I declared on the twentieth day of January, Two Thousand Sixteen, a State of Preparedness in all fifty-five counties of West Virginia in anticipation of a major winter storm event expected to cause, among other things, significant snowfall; dangerous driving conditions; power outages and downed electrical lines; and the toppling of trees; and

WHEREAS, State personnel and resources have shifted from preparing and mobilizing for the imminent winter storm event to responding to emergency circumstances and rendering aid to ensure the safety and welfare of the inhabitants of this State.

NOW, THEREFORE, I, EARL RAY TOMBLIN, by virtue of the authority vested in me as Governor of the State of West Virginia, and in view of the foregoing, do hereby **FIND AND DECLARE** that a State of Emergency exists in all fifty-five counties of West Virginia, said State of Emergency to remain in effect for thirty days unless terminated by subsequent Proclamation. I further **FIND AND DECLARE** that the State of Preparedness I proclaimed on the twentieth day of January, Two Thousand Sixteen, is hereby **TERMINATED** and **SUPERCEDED** by the instant Proclamation; however, the emergency powers invoked pursuant to the State of Preparedness shall remain in force and effect throughout the duration of the State of Emergency. Finally, I hereby **ORDER** that it is unlawful for any person, business, or other entity to sell any food items, essential consumer items, emergency supplies, or home heating oil in a manner that violates the provisions of section three, article six-j, chapter forty-six-a of the Code of West Virginia.

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 the twenty-second day of January, in the year of our Lord, Two Thousand Sixteen, in the One Hundred Fifty-Third year of the State.

Earl Ray Tomblin

GOVERNOR

By the State

Natalie E. Tennant

SECRETARY OF STATE

DRAFT

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SECRETARY OF STATE

OTHER

July 1, 2016 – June 30, 2017

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

February 2016

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1. INTRODUCTION

The *Safe Drinking Water Act* (SDWA) amendments of 1996 authorized a Drinking Water State Revolving Fund (DWSRF) program to assist public water systems to finance 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 2017 (FFY 2016) Capitalization Grant funds *estimated* to be $9,000,000. The total federal grant amount requested is $9,000,000 and will require a 20% state match of $1,800,000. The available State Program Cash Match (1:1) is $647,500. The West Virginia Infrastructure and Jobs Development Council (Infrastructure Council) will commit the funds for the required 20% match at one of its 2016 meetings when the final federal allotment for West Virginia is established.

From the FFY 2016 Capitalization Grant, $6,265,000 (along with the state match, projected earned interest and loan repayments) 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. In-Kind Services are also being requested for the 15% set-aside.

2. 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. One hundred percent (100%) of this year's 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.

As each water system submits an application through the Infrastructure Council it:

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, it submits 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 has been submitted, etc.) are given top priority when giving out 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 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.

Also, prior to putting the PPL out for public comment, water systems that have been on the prior PPL, but have not received a funding commitment, will be contacted about the status of their project(s) and if they still potentially wish to be funded by the DWTRF.

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 their readiness to proceed status.

OTHER

Projects expecting to receive assistance from the FFY 2016 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 for their project. 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. OEHS 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. All emergency projects must be reviewed at the Infrastructure Council and approved by it.

E. Loan Terms and Fees

Eligible public water systems 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 $8,065,000 ($6,265,000 of federal funds and $1,800,000 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 annual water user rates is set at 1.5% of Median Household Income (MHI) for 4,000 gallon monthly usage as defined by the Infrastructure Council rules or 1.25% for 3,400 gallons if approved by Infrastructure Council after September 20, 2014. Projects previously reviewed by Infrastructure Council will be 'grandfathered' for up to three years from the date of the change at Infrastructure Council. The DWTRF program will use the same data and criteria for medium household income and typical residential usage rates as the Infrastructure Council to achieve consistency in affordability and financial evaluations by state funding agencies. 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 funding at a 0.5% loan for disadvantaged public water systems. Principal forgiveness may be provided to water systems for a design loan or for construction if special circumstances occur for the project. Non-disadvantaged water systems will be eligible for 2.5 % 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.

Administrative Fees

The OEHS administrative fee for projects is 0.5% 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 and Jobs Development Council or principal forgiveness, if eligible and necessary. Design loan payback will begin within 9 months following the design 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 debts are paid in full. Then, the water system will make accelerated DWTRF payments 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 but 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 who indicated they still desired to be considered for funding were kept on the list and any other project recently submitting an

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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 20% of assistance provided is in the form of additional subsidies (principal forgiveness). OEHS has the authority to offer principal forgiveness loans in an amount up to 100% 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 four projects that are eligible to receive $1,800,000 in subsidization for disadvantaged water systems. The 20% amount of the capitalization grant funds is $1,800,000 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 or state prevailing wages (whichever is higher) for all construction contracts. All loan recipients must also follow all federal 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 system 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 0.25%. Conversely, those systems who had an approved AMP but have not maintained the AMP, they will be assessed an additional 0.25% above their eligible loan rate. 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.

3. 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 repayment stream from loans exceeding $6 million per year. The Administrative fee from loans has an annual income exceeding $600,000 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 2016 and shows the projected disbursed and obligated amounts through 2015.

TABLE 1. FUNDS AWARDED PRIOR TO STATE FISCAL YEAR 2015 (Construction & Set-Asides)

U.S. Environmental Protection Agency (Total from 1998 through and including 2015)*	$185,703,782
WV State Match – Infrastructure Council (Total from 1998 through and including 2015)	$33,227,157
WVDHHR: 10% Set-Aside State Match (Total from 1998 through and including 2015)	$12,081,600
SUB-TOTAL	$231,012,539
Loan Repayments as of 12/31/15	$53,621,463
Admin. Fee plus Fee Investment Interest as of 12/31/15	$5,042,705
Interest on Loans as of 12/31/15	$1,143,037
Interest Earnings WV DWTRF as of 12/31/15	$3,617,013
TOTAL	$294,436,757

* Table 1 does not include the in-kind services for the following grants:
FS-99390003 - $10,000 for Northbridge Environmental Program Manager Support (4%)
FS-99390006 - $134,176 for AWOP/PBT Contractor Support (10%)
2F-99390009 - $250,000 for Admin Support of ARRA Projects (4%)
FS-99390010-1 - $250,000 for Admin Support of Projects (4%)
FS-99390010-1 - $200,000 for Compliance/Enforcement Contractor Support (10%)
FS-99390011 - $150,000 for Administration Support of Projects (4%)
FS-99390011 - $74,458 for Compliance/Enforcement Contractor Support (4%)
FS-99390011 - $25,542 for Compliance/Enforcement Contractor Support (10%)
FS-99390011 - $100,000 for AWOP/PBT Contractor 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%)

TABLE 2. FUNDS AWARDED DURING STATE FISCAL YEAR 2016 (Construction & Set-Asides)

U.S. Environmental Protection Agency (FS-99390015) (Grant)	$8,787,000
WV State Match - Infrastructure Council (FS-993900015)	$1,757,400
WVDHHR: 10% Set-Aside State Match (FS-993900015) (Approp)	$439,350
TOTAL	$10,983,750

Table 2 includes the following in-kind services:
FS-99390015 - $300,000 for Source Water Protection (15%)
FS-99390015 - $200,000 for Capacity and Development (15%)

TABLE 3. FUNDS REQUESTED DURING STATE FISCAL YEAR 2017 (Construction & Set-Asides)

U.S. Environmental Protection Agency (FS-99390016) (Grant)	$9,000,000
WV State Match - Infrastructure Council (FS-993900016)	$1,800,000
WVDHHR: 10% Set-Aside State Match (FS-993900016) (Approp)	$647,500
TOTAL	$11,447,500

Table 3 includes the following in-kind services:
FS-99390016 - $300,000 for Source Water Protection (15%)
FS-99390016 - $200,000 for Capacity and Development (15%)

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TABLE 4. SET-ASIDE FUNDS DISBURSED OR PROJECTED THROUGH STATE FISCAL YEAR 2015 & CONSTRUCTION LOANS AND COMMITMENTS THROUGH JUNE 2016 (Construction & Set-Asides)

Set-Aside Funds	Grant Funds Received Thru FFY 2015*	Additional Funds From FS-99390016*	Minus In-Kind Services	Total Incoming Funds	Funds Disbursed as of 12/31/15	Funds Remaining
Administration (4%)	$6,263,376	$250,000	$1,013,137	$5,500,239	$4,912,398	$587,841
Small Systems Technical Assistance (2%)	$3,130,491	$235,000		$3,365,491	$2,912,044	$453,447
Program Management Federal (10%)	$13,868,152	$900,000	$359,718	$14,408,434	$12,927,087	$1,481,347
Program Management State Match (10%)	$12,081,600	$647,500		$12,729,100	$11,190,412	$1,538,688
Total Program Management	$25,949,752	$1,547,500	$359,718	$27,137,534	$24,117,500	$3,020,034
Local Assistance (15%)	$21,826,330	$1,350,000	$1,711,300	$21,465,030	$19,337,666	$2,127,364
Total Set-Aside Funds	$57,169,949	$3,382,500	$3,084,155	$57,468,294	$51,279,608	$6,188,686
Construction Assistance Funds	$140,615,433	$6,265,000		$146,880,433		
20% State Match	$33,227,157	$1,800,000		$35,027,157		
Loan Repayments as of 12/31/15	$43,776,140	$9,845,322		$53,621,463		
Interest On Loans as of 12/31/15	$1,120,127	$22,910		$1,143,037		
Interest Earnings as of 12/31/15	$3,601,085	$15,928		$3,617,013		
Total Funds For Loans	$222,339,943	$17,949,161		$240,289,103		
Closed Loans					$206,128,625	
Letters of Commitment					$4,970,700	
Planned Future Letters of Commitment					$29,189,778	
Total Committed/Planned Funds					$240,289,103	
Funds Remaining To Be Committed						$0
Fees on DWTRF Assistance (Including Interest Earnings)	$4,568,804	$473,901		$5,042,705	$0	$5,042,705
Total Program Funds	$284,078,695	$21,805,562	$3,084,155	$302,800,102	$291,568,711	$11,231,391

*Table 4 "Funds Received" includes the in-kind services for the following capitalization grants:
FS-99390003 - $10,000 for Northbridge Environmental Program Manager Support (4%)
FS-99390006 - $134,176 for AWOP/PBT Contractor Support (10%)
2F-99390009 - $250,000 for Admin Support of ARRA Projects (4%)
FS-99390010-1 - $250,000 for Admin Support of Projects (4%)
FS-99390010-1 - $200,000 for Compliance/Enforcement Contractor Support (10%)
FS-99390011 - $150,000 for Administration Support of Projects (4%)
FS-99390011 - $74,458 for Compliance/Enforcement Contractor Support (4%)
FS-99390011 - $25,542 for Compliance/Enforcement Contractor Support (10%)
FS-99390011 - $100,000 for AWOP/PBT Contractor 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 (15%)
FS-99390015 - $300,000 for Source Water Protection (15%)
FS-99390015 - $200,000 for Capacity and Development (15%)
FS-99390016 - $300,000 for Source Water Protection (15%)
FS-99390016 - $200,000 for Capacity and Development (15%)

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	$250,000	$0	$0	$0	$0	$0	$250,000
Technical Assistance	$235,000	$0	$0	$0	$0	$0	$235,000
State Program Management	$900,000	$0	$647,500	$0	$0	$0	$1,547,500
Local Assistance	$1,350,000	$0	$0	$0	$0	$0	$1,350,000
Construction	$6,265,000	$1,800,000	$0	$0	$0	$0	$8,065,000
Total	$9,000,000	$1,800,000	$647,500	$0	$0	$0	$11,447,500

Notes: Administrative Fees, Interest Earnings, and Loan Repayments are included in the grant application.
The Local Assistance set-aside includes $500,000 of in-kind services. The State Program Management match includes $252,500 from the PWSS Overmatch "'Gift".
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 five 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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4. 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) Provide operator continuing education hours and certification training using the Mobile Training Unit (MTU). The MTU should be used for 12 hours total (four 3 hour courses within 2 days) in each of the five (5) OEHS district office areas (60 hours or 10 days total).

3) Enact "Summary of OEHS Action Items" based on comments by the US EPA for the SFY 2016 Site Review. There were no actions identified in the last EPA review.

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 private customers whose water currently does not comply with the SDWA. 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 2017 fund utilization goal of 97%.

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. Long term funding will be achieved as follows:

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 final development of an automated data collection system for private laboratories to forward results of total organic compounds.

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.

5. 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.

A. Administration ($250,000)

The SDWA authorizes the State to use 4% of the Capitalization Grant for administration of the DWTRF program. Only $250,000 of the 4% is being requested for this activity reserving the right to use the remaining $110,000 in future SRF Grants. The State plans to use 4% of the Capitalization Grant solely for administration costs 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.

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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 fully utilize the WDA, which already administers state-funded construction loans to public wastewater and water systems.

B. State Program Management ($900,000 – Federal; $647,500 - State Match Cash; $252,500 State Gift Non-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. It will support the water systems needing to improve their facilities and security through source water grants. This year all of the federal funds are being requested. These funds require a dollar-for-dollar match and this match is made through state appropriations and the "Gift That Keeps on Giving".

C. Technical Assistance ($235,000 which includes $180,000 from this grant plus a reduction of the 2% reserve account in the amount of $55,000)

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 plus $55,000 from reserves of from previous SRF Grants for this activity. 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 to water system operators to meet their certification and training requirements. A contractor, meeting the state requirements, will coordinate the technical assistance program.

D. Local Assistance and Other State Activities ($1,350,000; includes $500,000 In-Kind Services Request)

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. The full amount of the available funds is being requested for this set-aside which includes the in-kind services. 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 mobile training unit, to support the River Alert Information Network (RAIN), an internet website for GIS support, and a stream gauge program 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. This set-aside requests

$300,000 for in-kind services to support the Source Water Assessment activity and $200,000 for support of the Capacity Development activities.

6. 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:_____

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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 particular 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 in order to receive DWTRF assistance.
- Projects that address a problem where a system has significant microbiological violations. The project must ensure compliance in order 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.

(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 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

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(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.
Rates based on 4,000 gallons if approved by IJDC prior to September 20, 2014 or 3,400 gallons if approved by IJDC after September 20, 2014.

Public Health	
Compliance	
Affordability	
Total Points	

Tie Breaker:
In the event that 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

ATTACHMENT 2

Project Priority List/Comprehensive List

WEST VIRGINIA 16DWTRFA PROJECT PRIORITY LIST (PPL) COMPREHENSIVE LIST

RANKING	SYSTEM	COUNTY	PROJECT NAME	PROJECT DESCRIPTION	LIDC NUMBER	1¼ PERCENT MHI	3400*/4000 CURRENT	3400*/4000 PROPOSED	AFFORD-ABILITY	DISADVAN-TAGED	DWTRF TERMS	NEW POPU-LATION	POINTS	HEALTH	COMPLIANCE	AFFORD-ABILITY	DWTRF FUNDING REQUESTED	TOTAL COST	BYPASS RATIONALE
1	Elkins Road PSD	Upshur	Phase 3 - Water System Extension and Improvements	This project will make improvements to the Elkins Road PSD's existing water distribution system and extend potable water to Beech Run, Hawkins Road, Upper Childers Run, Jackson Road/Whitney Road, Wolfe Ridge Road, Fortney/Snyder Road, Austin Road/Brushlock Lane, Radabaugh Ridge/Sandy Camp Road, Kadron Road and Osborne Run Road.	2014W-1497	$28.56	$36.20	$48.87	2.14	Yes	0.5%, 0.5% Admin., 30 yrs, Principal Forgiveness	2,765	70	30	10	30	$2,650,000	$6,488,000	Project is dependent upon receiving SCBO. Will fund if SCBO is awarded.
2	Cameron, City of	Marshall	Water System Improvements	This project is to replace deteriorated water line within the City of Cameron and to extend water service to 52 new customers along County Route 23 to the Pennsylvania border. The project will consist of approximately 3.3 miles of water line (5,800 LF of 2" 18,000 LF of 6" and 1,700 LF of 8" water line), 16 fire hydrants, painting of the existing 500,000 gallon water storage tank, new radio read system and all necessary valves and appurtenances. The extension would provide the new customers, currently served by private water wells, with not only a safe and reliable source of potable water, but also provide them with fire protection.	2013W-1448	$26.17	$29.00	$33.70	1.61	Yes	0.5%, 0.5% Admin., 30 yrs	1,164	60	30	10	20	$404,361	$1,710,951	Project design has not started & is not ready for construction, waiting for a SCBO
3	Greenbrier County PSD #2	Greenbrier	Sam Black Chruch Waterline Extension	This project will upgrade the Greenbrier County PSD #2 WTP to 700 GPM and to serve 406 new customers in the Sam Black Church area. It will consist of approx. 17 miles of waterline, 38 fire hydrants, one 125,000 gallon storage tank. It will also include an interconnection with the Town of Rupert.	2014W-1533	$28.59	$51.64	$64.74	2.83	Yes	0.5%, 0.5% Admin., 30 yrs	2,167	25	20	5	30	$6,000,000	$10,886,000	Project design has started but still needs the SCBO funding to proceed.
4	Salt Rock PSD	Cabell	Miscellaneous Waterline Extension Projects	This project will extend water to 84 new customers in the Upper Teen's Creek, Big Cobell Creek, Lower Heath Creek, Raccoon Creek, and the Dale Woodson/Jack Chapman areas. Project will consist of approx. 8 miles of waterline, 23 fire hydrants and all necessary valves and appurtenances.	2014W-1492	$30.30	$48.93	$48.93	2.02	Yes	0.5%, 0.5% Admin., 30 yrs, Principal Forgiveness	9,062	50	20	0	30	$1,088,600	$2,271,800	Project design has not started and is not ready for construction.
5	*River Road PSD	Monongalia	Water System Improvements and Upgrades Project	This proposed project will consist of demolishing the existing Harmony Grove Tank (late 1950's) and replace it with a new 152,000 gallon tank on the same site including a new foundation and new valve vault and reuse the telemetry system from old tank; upgrade the existing booster pump station, install control system to improve the operation of the Hibbetsand Tank, replace approximately 4.7 miles (25,000 LF) of waterline with 6-inch and 4-inch water main including any valves, hydrants, service tie-ins, and other necessary appurtenances.	2015W-1565	$40.80	$52.52	$43.43	1.33	Yes	0.5%, 0.5% Admin., 30 yrs	1,500	45	20	10	15	$2,546,000	$2,546,000	Plan to fund this project
6	Richwood, City of	Nicholas	City of Richwood - Hinkle Mountain/Laurel Creek Water Expansion	This project will extend water service to approx. 152 residents of Hinkle Mountain and Little Laurel Creek. To do this, the Richwood WTP and distribution will need to expand and/or refurbished. Project will consist of replacement of settling tubes, flocculators and filter media at the WTP. All storage tanks will be inspected including telemetry. Tanks will be painted and fenced. Installation of approx. 10 miles of waterline, one booster station, and an 100,000 gallon elevated storage tank.	2014W-1529	$22.52	$27.68	$36.02	2.00	Yes	0.5%, 0.5% Admin., 30 yrs, Principal Forgiveness	3,070	45	20	0	25	$3,364,500	$6,464,500	Project design has started. Still needs SCBO. Will fund if SCBO is awarded.
7	Chapmanville Municipal Water Works	Logan	Phase 2 - Distribution Line Improvements	The project will replace 3 miles of deteriorated leaking water mains, install fire hydrants and any necessary valves and appurtenances in an effort to improve the system's high unaccounted for water losses and increase the reliability of providing clean drinking water to customers.	2013W-1440	$28.85	$27.58	$31.72	1.65	Yes	0.5%, 0.5% Admin., 30 yrs	2,331	30	10	0	20	$984,000	$2,529,000	
8	*Preston County PSD #4	Preston	Hudson to Stateline Waterline Extension	This proposed project will construct approximately 62 miles of new waterline (39,735 LF of 2", 8,872 LF of 4", 177,668 LF of 6" and 60,245 LF of 8"), four (4) water storage tanks, three (3) 225 GPM booster stations and 70 fire hydrants.	2015W-1586	$42.45	$25.74	$27.03	0.80	No	2.5%, 0.5% Admin., 20 yrs	5,110	28	20	3	5	$1,934,884	$19,141,878	
9	*City of Weirton	Hancock	Water Systems Improvement Project - Phase II	This proposed project will consist of water treatment plant and line improvements to prevent loss of water service due to main line disruption.	2015W-1580	$41.35	$24.96	$25.31	0.77	No	2.5%, 0.5% Admin., 20 yrs	22,694	25	10	10	5	$4,000,000	$6,900,000	

The projects denoted with an asterisk (*) indicate that they were evaluated on 3,400 gallons of monthly usage. All remaining projects were evaluated using 4,000 gallons of monthly usage.

OTHER

ATTACHMENT 3

Funding List Detailed Description With

- Green Project Reserve
- Additional Subsidization

2016 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
1	Elkins Road PSD	This project will make improvements to the Elkins Road PSD's existing water distribution system and extend potable water to Beech Run, Hawkins Road, Upper Childers Run, Jackson Road/Wintery Road, Wolfe Ridge Road, Fortney/Snyder Road, Audra Road/Braddock Lane, Radabaugh Ridge/Handy Camp Road, Kedron Road and Osborner Run Road.	0.5%, 0.5% Admin., 30 yrs, Principal Forgiveness	2,765	June-17	N/A	$0	$750,000	$2,450,000	$6,488,000
3	Greenbrier County PSD #2	This project will upgrade the Greenbrier County PSD #2 WTP to 700 GPM and to serve 405 new customers in the Sam Black Church area. It will consist of apporx. 17 miles of waterline, 58 fire hydrants, one 125, 000 gallon storage tank. It will also include an interconnection with the Town of Rupert	0.5%, 0.5% Admin., 30 yrs	2,167	June-17	N/A	$0	$500,000	$2,069,000	$10,086,000
5	River Road PSD	This proposed project will consist of demolishing the existing Harmony Grove Tank (late 1950's) and replace it with a new 132,000 gallon tank on the same site including a new foundation and new valve vault and reuse the telemetry system from old tank, upgrade the existing booster pump station, install control system to improve the operation of the Hildebrand Tank, replace approximately 4.7 miles (25,000 LF) of waterline with 6-inch and 4-inch water main including any valves, hydrants, service tie-ins, and other necessary appurtenances.	0.5%, 0.5% Admin., 30 yrs	1,500	July-16	N/A	$0	$0	$2,546,000	$2,546,000
6	Richwood, City of	This project will extend water service to approx. 152 residents of Hinkle Mountain and Little Laurel Creek. To do this, the Richwood WTP and distribution will need to repaired and/or refurbished. Project will consist of replacement of settling tubes, flocculators and filter media at the WTP. All storage tanks will be inspected including telemetry. Tanks will be painted and fenced. Installation of approx. 10 miles of waterline, one booster station, and on 100,000 gallon elevated storage tank.	0.5%, 0.5% Admin., 30 yrs, Principal Forgiveness	3,070	March-18	N/A	$0	$550,000	$1,000,000	$6,464,500
Total							**$0**	**$1,800,000**	**$8,065,000**	**$25,584,500**

2016 Capitalization Grant Amount: $9,000,000

$0	**$1,800,000**	**$8,065,000**
Green Project Reserve Required	**20% Principal Forgiveness Required**	**Total Amount of Grant Construction Funds Available**

OTHER

ATTACHMENT 4

Public Comment Process/Response

JULY 1, 2016 – JUNE 30, 2017

***DRAFT* INTENDED USE PLAN**

PUBLIC COMMENT PROCESS

The public comment for this IUP will be during the period of February 5, 2016 through March 9, 2016. 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 February 5, 2016 concerning the web posting and public comment period. A public meeting will be held on February 25, 2016 in the OEHS central office to receive public comments.

OTHER

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

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2016 JAN 26 P 2:19
OFFICE WEST VIRGINIA
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January 25, 2016

LEGAL NOTICE

James L. Pitrolo, Jr., Chairman, West Virginia Health Care Authority, announces the following Certificate of Need activities for the week ending **January 22, 2016**.

EXPEDITED APPLICATION RECEIVED

January 22, 2016 – Seneca Health Services, Inc., Ronceverte, Greenbrier County, CON File #16-4-10719-P, for the provision of primary care services on the Seneca campus in Maxwelton, Greenbrier County; capital expenditure: $30,000.

HEARING NOTICE

The Administrative Hearing have been CANCELED in the following matter:

January 21, 2016 – Ohio Valley Medical Center, Wheeling, Ohio County, CON File #15-10-10414-P, for the development of an ambulatory health care facility in Moundsville, Marshall County.

CERTIFICATE OF NEED APPROVAL ISSUED

January 21, 2016 – WO Holdings, LLC, Charles Town, Jefferson County, CON File #15-9-10677-X, for the acquisition of 100% of the outstanding membership interests in Blue Ridge Nursing, LLC (Blue Ridge), the licensed operator of Willow Tree Manor, a 104 bed nursing home facility located in Jefferson County, situated entirely on property owned by PV Realty – Willow Tree, LLC (PV Realty). Blue Ridge will remain the licensed operator of the facility following the acquisition of its membership interests by WOH, and PV Realty will remain the owner of the real property; capital expenditure: $2,000,000.

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

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ADMINISTRATIVE NOTICE 2016-01

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR THE DETERMINATION OF ROYALTY RATES FOR PRODUCING COAL AND OTHER NATURAL RESOURCES FOR AD VALOREM PROPERTY TAX PURPOSES FOR TAX YEAR 2016, PURSUANT TO §§110 CSR 1I-4.1.6 AND 1K-4.1.6

On August 27, 2015, the State Tax Department filed valuation variables to be used in conjunction with legislative regulations for the appraisal of natural resource properties. (See: §§ 110 CSR 1-H, 1-I, 1-J and 1-K) This notice will address one of the variables, royalty rate(s), setting forth the procedures used in developing the rate(s) for producing coal and other natural resources exclusive of oil and natural gas for Tax Year 2016.

DISCUSSION

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

The Department's review of coal industry leasing patterns during the previous eight (8) years reveals that leases for surface mining operations (6.50%) are typically higher than for deep mining operations (5.80%). Review of sales prices reported in *Coal Week*, the Tax Year 2015 returns and other sources, further reveal a difference in typical selling prices of steam coal ($60.35 per ton) and metallurgical coal ($103.35 per ton).

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

Steam Coal/Deep Mine	$ 60.35 per ton	X	5.80%	=	$3.50 per ton
Metallurgical Coal/Deep Mine	$103.35 per ton	X	5.80%	=	$5.99 per ton
Steam Coal/Surface Mine	$ 60.35 per ton	X	6.50%	=	$3.92 per ton
Metallurgical Coal/ Surface Mine	$103.35 per ton	X	6.50%	=	$6.71 per ton

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

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

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

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

Issued: January 27, 2016

Mark W. Matkovich
State Tax Commissioner

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

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

STATE OF WEST VIRGINIA
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ADMINISTRATIVE NOTICE 2016-02

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

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

DISCUSSION

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

COST APPROACH

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

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

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

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

MARKET APPROACH

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

INCOME APPROACH

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

OTHER

APPLICATION

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

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

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

Issued: January 27, 2016

Mark W. Matkovich
State Tax Commissioner

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STATE OF WEST VIRGINIA
Department of Revenue
State Tax Department

Earl Ray Tomblin
Governor

Mark W. Matkovich
State Tax Commissioner

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2016 JAN 27 P 2:31
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ADMINISTRATIVE NOTICE 2016-03

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

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

DISCUSSION

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

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

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

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

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

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

Similar calculations for other mined minerals yield the following results:

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

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

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

Issued: January 27, 2016

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ADMINISTRATIVE NOTICE 2016-04

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

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

DISCUSSION

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

COST APPROACH

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

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

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

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

INCOME APPROACH

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

MARKET APPROACH

The market approach to value is based upon the assumption that the recent selling price of comparable properties, if properly analyzed and adjusted, will yield a reasonable estimate of current market value. Consistent with the above referenced Legislative Rule, the State Tax Department developed a market comparable approach for reserve other mineral properties. The Department has reviewed sales during at least the five (5) calendar years prior to the July 1st appraisal date of 2015 in various fashions and has constructed measures of central tendency concerning sales transacted during the aforementioned period of time. These sales have been analyzed according to methods established in § 110 CSR 1K-4.2 for reserve other natural resource properties. The Department published and filed final variables on August 27, 2015.

OTHER

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

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

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

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

Issued: January 27, 2016

Mark W. Matkovich
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STATE OF WEST VIRGINIA
Department of Revenue
State Tax Department

Earl Ray Tomblin
Governor

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State Tax Commissioner

OTHER

ADMINISTRATIVE NOTICE 2016-05

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

FILED
2016 JAN 27 P 2: 31
OFFICE WEST VIRGINIA
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On May 1, 2006, the Legislative Rule filed by the State Tax Department relating to the appraisal of producing and reserve coal properties (see §§ 110 CSR 1I-1, *et seq.*) became effective. This notice will address valuation of reserve coal properties conducted by the State Tax Department pursuant to § 110 CSR 1I-4.2.

DISCUSSION

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

RESERVE COAL VALUATION MODEL (RCVM)

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

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

* See USGS Circular 891.

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

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

Issued: January 27, 2016

Mark W. Matkovich
State Tax Commissioner

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STATE OF WEST VIRGINIA
Department of Revenue
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State Tax Commissioner

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ADMINISTRATIVE NOTICE 2016-06

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR THE DETERMINATION OF THE CAPITALIZATION RATES FOR PRODUCING AND RESERVE COAL, OIL AND GAS AND OTHER MINED MINERALS FOR PROPERTY TAX PURPOSES FOR TAX YEAR 2016, PURSUANT TO §§ 110 CSR 1I-4.1.7, 1J-4.5 AND 1K-4.1.7

On August 27, 2015, the State Tax Department filed valuation variables to be used in conjunction with legislative rules for the appraisal of producing natural resource properties. (See: §§ 110 CSR 1-I, 1-J and 1-K) This notice will address one of the variables, the capitalization rate, setting forth the generally accepted appraisal procedures used in developing the respective rates and in applying the rates to income streams generated by natural resource properties. To this end, this notice will discuss development of industry capitalization rates for properties containing coal, and/or oil and gas, and/or other mined minerals.

DISCUSSION

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

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

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DISCOUNT COMPONENT

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

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

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

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

RECAPTURE COMPONENT

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

PROPERTY TAX COMPONENT

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

APPLICATION

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

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

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

Issued: January 27, 2016

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ADMINISTRATIVE NOTICE 2016-07

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR THE DETERMINATION OF PRODUCTION DECLINE RATES FOR PRODUCING OIL AND GAS PROPERTIES FOR PROPERTY TAX PURPOSES FOR TAX YEAR 2016, PURSUANT TO § 110 CSR 1J-4.4

On August 27, 2015, the State Tax Department filed valuation variables to be used in conjunction with the legislative rule for the appraisal of oil and gas properties. (See: §§ 110 CSR 1J-1, *et seq.*) This notice will address one of the variables, the production decline rate(s), setting forth the procedures used in developing the rate(s) for Tax Year 2016.

DISCUSSION

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

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

The Survey has divided the State into ten (10) regions that contain similar oil and gas geological characteristics. A map of the State depicting each of the ten (10) regions and a complete list of the oil and gas decline rates can be found in the above referenced variables filed on August 27, 2015.

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

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

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

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

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ADMINISTRATIVE NOTICE 2016-08

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PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR THE DETERMINATION OF OIL AND GAS OPERATING EXPENSES FOR PROPERTY TAX PURPOSES FOR TAX YEAR 2016
PURSUANT TO § 110 CSR 1J-4.3

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

DISCUSSION

In 2014, the Tax Department received responses from over 16,000 producing wells. This information involved the average annual operating expenses for a "typical" West Virginia well under present economic conditions. The Tax Department has developed the following criteria for the direct ordinary operating expenses as a result of this research activity. Direct ordinary operating expenses will be estimated to be 30% of the gross receipts derived from gas production, not to exceed $5,000, 35% of gross receipts derived from oil production, not to exceed $5,750, and 35% of the gross receipts derived from enhanced recovery oil wells, not to exceed $9,000. In 2014, the Tax Department also received responses from a survey specifically for Marcellus and horizontal wells other than Marcellus. Utilizing that information, the Tax Department developed the following criteria for Marcellus wells and horizontal other than Marcellus wells. For Marcellus vertical wells, the maximum operating expenses allowed is 30% of the gross receipts derived from gas production, not to exceed $30,000. For Marcellus horizontal wells the maximum operating expense allowed is 20% of the gross receipts derived from gas production, not to exceed $150,000. For horizontal, other than Marcellus, the maximum operating expenses allowed is 30% not to exceed $20,000. As required in the amended Rule, the Tax Department will review such rates every five years.

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In instances where the well is producing both oil and gas, the allotted maximum ordinary operating expense will vary between $5,000 and $5,750 depending on the percentage of gas versus oil receipts involved. For Marcellus vertical wells the allotted maximum operating expense will vary between $5,750 and $30,000 depending upon the percentage of gas versus oil receipts involved. For Marcellus horizontal wells the allotted maximum operating expense will vary between $5,750 and $150,000 depending upon the percentage of gas versus oil receipts involved. For horizontal, other than Marcellus, the allotted maximum operating expense will vary between $5,750 and $20,000 depending upon the percentage of gas versus oil receipts involved.

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

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ADMINISTRATIVE NOTICE 2016-09

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

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

DISCUSSION

The Legislative Rule requires the use of the United States Department of Agriculture Natural Resource Conservation Service (NRCS) Soil Survey Geographic Database (SSURGO) data or the best information available if these data are not available. For the 2016 Tax Year, the Department has used the below referenced soil survey data.

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

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

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ADMINISTRATIVE NOTICE 2016-10

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
CONCERNING PRIMARY RELIANCE ON THE INCOME APPROACH FOR
APPRAISING RESERVE OIL AND GAS PROPERTY PURSUANT TO § 110 CSR 1J-4

On June 1, 2005, the State Legislature amended Legislative Rule §§ 110 CSR 1J-1, *et seq.* (for the appraisal of producing and reserve oil and gas properties) became effective. This notice will address this rule's primary reliance on the income approach to value when appraising reserve oil and gas properties for property tax purposes.

DISCUSSION

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

COST APPROACH

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

Original cost less depreciation is the cost of acquisition of a property less a loss in value due to physical deterioration, functional obsolescence and economic obsolescence. This approach is widely employed in the appraisal of "cost-based" regulated utilities, however it has a limited

application when appraising reserve oil and gas properties, as many of these types of properties were acquired years ago at substantially less than current market value.

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

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

MARKET APPROACH

The market approach to value is based upon the assumption that the recent selling price of comparable properties, if properly analyzed and adjusted, will yield a reasonable estimate of current market value. While sales of reserve oil and gas properties do occur within the State, the sales are infrequent and quite often oil and gas interests represent only a portion of the property acquisition thus diluting the purity of the market transaction. Because of these drawbacks the Legislative Rule does not contemplate the development of a market comparable approach to value for reserve oil and gas properties.

INCOME APPROACH

The income approach to value is based upon the assumption that a property is worth the future income, discounted to present worth, that it will generate for the prospective buyer. In the oil and gas industry, a common business practice of negotiating advance payments ("delay rentals") for the right to, at some future date, produce oil and gas has developed. By analyzing the amount and duration, typically, of delay rentals and by discounting the resulting income series to present worth an estimate of the probable selling price of reserve oil and gas properties can be developed. This procedure contained in § 110 CSR 1J-4.7 is the method used by the Department to develop, on a county and district basis, the per acre market value of reserve (non-producing acreage) oil and gas properties. The resultant per acre values were developed and published, in finalized form, in the State Register on August 27, 2015.

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For more information concerning the appraisal of reserve oil and gas properties consult § 110 CSR 1J-1 et seq. or contact the State Tax Department at telephone number (304) 558-3940.

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ADMINISTRATIVE NOTICE 2016-11

PROPERTY TAX
STATE TAX COMMISSIONER'S STATEMENT
FOR THE DETERMINATION OF THE CAPITALIZATION
RATES FOR MANAGED TIMBERLAND FOR PROPERTY
TAX PURPOSES FOR TAX YEAR 2016, PURSUANT TO § 110 CSR 1H-12

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

DISCUSSION

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

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

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

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DISCOUNT COMPONENT

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

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

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

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

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

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

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

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RECAPTURE COMPONENT

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

PROPERTY TAX COMPONENT

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

APPLICATION

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

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

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

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ADMINISTRATIVE NOTICE 2016-12

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

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

DISCUSSION

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

MARKET APPROACH

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

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INCOME APPROACH

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

COST APPROACH

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

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

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

This process is as follows:

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

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

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

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

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ADMINISTRATIVE NOTICE 2016-13

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

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

DISCUSSION

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

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

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

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

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

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

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

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

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Department of Revenue
State Tax Department

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ADMINISTRATIVE NOTICE 2016-14

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

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

DISCUSSION

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

COMPONENT METHOD

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

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

SUBSTITUTION METHOD

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

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

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

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ADMINISTRATIVE NOTICE 2016-15

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

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

DISCUSSION

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

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

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

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

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

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

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

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

OTHER

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

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

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