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May 28, 1993

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HB 100 authorizing, **Title 47, Series 49, Revocation of Hunting & Fishing Licenses**, passed the Legislature on **May 26, 1993**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs HB 100, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office. Authorization for your legislative rule is cited in **HB 100** section **64-3-8(ddd)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, PLEASE SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division

TITLE 47
LEGISLATIVE RULES
DEPARTMENT OF COMMERCE, LABOR, AND ENVIRONMENTAL RESOURCES
DIVISION OF NATURAL RESOURCES

SERIES 49
REVOCATION OF HUNTING AND FISHING LICENSES

§47-49-1. General.

1.1. Scope -- This legislative rule establishes procedures to govern the revocation and restoration of hunting and fishing licenses and the assignment of points for violations of hunting or fishing laws and regulations.

1.2. Authority. -- West Virginia Code §20-1-7(30).

1.3. Filing Date.

1.4. Effective Date. -- August 1, 1993.

1.5 This legislative rule amends the Point System for the Revocation of Hunting and Fishing Licenses (47 C.S.R. 49) that was filed on March 29, 1990 and became effective May 1, 1990.

§47-49-2. Definitions.

2.1. "Division" means the West Virginia Division of Natural Resources.

2.2. "Director" means the director of the West Virginia Division of Natural Resources.

2.3. "License" means a hunting or fishing license, and any associated tags or stamps, issued by the Division in accordance with provisions of W. Va. Code §20-2-1 et seq or 20-2B-1 et seq.

2.4. "Lifetime License" means a Class A-L, Class AB-L, Class B-L, or Class O-L license issued by the Division in accordance with the provisions of W. Va. Code §20-2B-1 et seq.

§47-49-3. Revocation of Licenses.

3.1. A license or licenses shall be revoked by the Division for the following causes:

3.1.1. Negligent Shooting. Except as provided in Section 5.1.1 of these regulations, the hunting licenses of any person convicted of negligent shooting under the provisions of W. Va. Code §20-2-57 shall be revoked and license privileges shall be suspended for a period of five (5) years. The suspension period will begin on the date of conviction.

3.1.2. Amassed Points. The hunting or fishing licenses of

any person who amasses ten (10) or more points in any two-year period shall be revoked and license privileges shall be suspended for a period of two (2) years. The suspension period will begin on the date on which the ten-point total was reached.

3.1.3. False Application. The hunting or fishing licenses of any person who obtained the licenses under false pretenses or otherwise in violation of the provisions of W. Va. Code §20-2-30 shall be revoked and license privileges shall be suspended for a period of one (1) year. The suspension period will begin on the date of License revocation.

3.1.4. Illegal Bear Kill. The hunting and fishing licenses of any person convicted of killing a bear in violation of the provisions of W. Va. Code §20-2-22a shall be revoked and license privileges shall be suspended for a period of one (1) year. The suspension period will begin on the date of conviction.

3.1.5. Failure to Pay Fines. The hunting or fishing licenses of any person who fails to pay the costs, fines, forfeitures, or penalties imposed by a magistrate court under the provisions of W. Va. Code §50-3-2a for a violation of the State's hunting or fishing laws or regulations shall be revoked and license privileges shall be suspended until such time that the costs, fines, forfeitures, or penalties are paid in full.

3.2. Should any person be convicted of violating State hunting or fishing statutes or regulations during the period when his license privileges have been suspended, the suspension period shall be extended for an additional two (2) years from the date of conviction for the latest offense.

3.3. Upon revoking the license of any person, the Division shall immediately send written notification of the revocation to the licensee by certified mail, return receipt requested, to the address given by the licensee on his license application.

§47-49-4. Surrender of Licenses.

4.1. A person must surrender his or her license to the Division or the clerk of any county commission within ten (10) days after receiving notification that the license has been revoked.

4.1.1. A clerk of a county commission, upon receiving a surrendered license, shall immediately transmit the license to the Division.

4.2. A person must surrender his or her license to the Division prior to requesting an opportunity for a hearing before the Division under the provisions of Section 8 of these regulations.

§47-49-5. Restoration of License Privileges.

5.1. Except as provided in Subdivisions 5.1.1, 5.1.2, and 5.1.3 of these regulations, any person whose license has been revoked may again purchase such license upon the expiration of the period of suspension set forth in Section 3 of these regulations.

5.1.1. Any person convicted of an offense under W. Va. Code §20-2-57, other than a negligent shooting which has resulted in the killing of a human being, may, after the expiration of two (2) years from the date of conviction, submit a written petition to the director seeking the restoration of all hunting license privileges. If the director, upon a hearing and full investigation, finds that the petitioner has paid and satisfied all claims against him or her and the circumstances at the time and the nature of the offense indicate that he or she is not likely again to commit a like or similar offense and that the public good does not require that the petitioner's license privileges remain suspended, the director may enter an order restoring full license privileges to the petitioner.

5.1.2. Any person whose license privileges have been suspended for failure to pay the costs, fines, forfeitures, or penalties imposed by a magistrate court under the provisions of W. Va. Code §50-3-2a must, upon the expiration of the period of suspension, pay a reinstatement fee of fifty dollars (\$50) to the Division in order to regain license privileges.

5.1.2.a. If the license for which privileges were suspended was a lifetime license, the Division will return the original license to the licensee upon the receipt of the reinstatement fee.

5.1.2.b. If the license for which privileges were suspended would otherwise continue in effect after the expiration of the period of suspension, the Division will return the original license to the licensee upon the receipt of the reinstatement fee.

5.1.2.c. If the license for which privileges were suspended would otherwise have expired prior to the expiration of the period of suspension, the licensee must pay the reinstatement fee to the Division prior to again purchasing the license that had been revoked.

5.1.3. The Division will return a lifetime license revoked in accordance with the provisions of Subdivisions 3.1.1, 3.1.2, or 3.1.4 of these regulations to the licensee upon the expiration of the period of license suspension.

§47-49-6. Assignment of Points.

6.1. Except as provided in Subsections 6.2, 6.3 and 6.4 of these regulations, the Division will assign four (4) points to a person for any violation of hunting or fishing laws or regulations.

6.2. The Division will assign ten (10) points to any person

found guilty of violating W. Va. Code §20-2-5(3) -- using any artificial light in hunting, locating, attracting, taking, trapping, or killing any wild bird or wild animal (except opossum, raccoon, or skunk), or to attempt to do so, while having in his or her possession or subject to his or her control, or for any person accompanying him or her to have in his possession or subject to his or her control, any firearm, bow, or other implement or device suitable for taking, killing or trapping a wild bird or animal.

6.3. The Division will assign ten (10) points to any person found guilty of violating W. Va. Code §20-2-5(20) -- using dynamite or any like explosive or poisonous mixture placed in any waters of the State for the purpose of killing or taking fish.

6.4. The Division will assign six (6) points to any person found guilty of violating any of the following:

6.4.1. West Virginia Code §20-2-4: Illegal possession of wildlife or any part thereof. The Division will not assign points to any person possessing wildlife or any part thereof that was legally taken during the respective open season.

6.4.2. West Virginia Code §20-2-11: Illegal sale of wildlife.

6.4.3. West Virginia Code §20-2-5(28): Illegally killing deer, boar or turkey.

§47-49-7. Removal of Points.

7.1. The Division will remove points on their second anniversary or upon the restoration of license privileges.

§47-49-8. Hearing and Appeal Procedures.

8.1. Request for Hearing. Upon receipt of a notice of revocation, the licensee may request an opportunity for a hearing before the Division. Such request must be made in writing to the director within thirty (30) days after the receipt of the revocation notice.

8.2. Hearings. A hearing will be held by the Division within thirty (30) days after the receipt of a written request from the licensee, conditional upon the receipt of his or her surrendered license in accordance with the provisions of Subsection 4.2 of these regulations. The hearing may be conducted in the county in which the licensee resides or any other county designated by the director. A duly authorized agent of the director shall act as the hearings officer. Within thirty (30) days after the hearing, the hearings officer shall issue a finding, and the reasons therefor, that either upholds or rescinds the revocation. The Division shall immediately send written notification of the finding to the licensee.

8.3. Appeals. The finding of the hearings officer constitutes a final order appealable under the provisions of W. Va. Code §29A-5-4.

§47-49-9. License Fee Refunds.

9.1. No person whose license has been revoked under the provisions of these regulations is eligible for a license fee refund.

9.2. When more than one license of the same class has been purchased for a person in a given year, that person is eligible for a refund for the additional licenses upon the presentation of proof of purchase.

SENATE BILL NO. 159

(By **Senator Manchin**)

[Introduced March 1, 1993; referred to the
Committee on Natural Resources; and then to the
Committee on the Judiciary.]

8

9

10 A BILL to amend and reenact section eight, article three, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 division of natural resources to promulgate legislative rules
14 relating to the revocation of hunting and fishing licenses.

15 Be it enacted by the Legislature of West Virginia:

16 That section eight, article three, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 **ARTICLE 3. AUTHORIZATION FOR DEPARTMENT OF COMMERCE, LABOR AND**
20 **ENVIRONMENTAL RESOURCES TO PROMULGATE LEGISLATIVE RULES.**

21 **§64-3-8. Division of natural resources.**

22 (a) The legislative rules filed in the state register on the
23 eighth day of December, one thousand nine hundred eighty-three,

1 relating to the department of natural resources (surface mining),
2 are authorized with the amendments set forth below:

3 Page 3-4, §3E.01 by adding after the word "engineer" the
4 words "or licensed land surveyor."

5 Page 3-5, §3E.02, subsection (a), by adding after the word
6 "mining" the words "or civil."

7 And,

8 Page 3-5, §3E.02, subsection (b), by adding after the first
9 sentence -- "Those persons who have been approved to date need
10 not make said demonstration."

11 (b) The legislative rules filed in the state register on the
12 twentieth day of January, one thousand nine hundred eighty-four,
13 relating to the department of natural resources (solid waste
14 management), are authorized with the amendments set forth below:

15 Page 9, section 4.04, line five, add the following paragraph:

16 "Upon request of any applicant, the division shall meet with
17 the applicant for prefiling review of the application. The
18 division, with the cooperation of the solid waste authority,
19 shall assist the applicant in preparing a complete and proper
20 application which would not be rejected as incomplete."

21 On page 15, section 6.03(c)(1) in the first full sentence,
22 after the word "cease", strike the remainder of the sentence and
23 insert in lieu thereof the words "within fifteen (15) days of
24 receipt of an order of suspension" and in the second sentence
25 strike the word "recommence" and insert the words "continue

1 beyond fifteen (15) days"; (c)(2) in the first full sentence,
2 after the word "cease" by striking out the remainder of the
3 sentence and insert in lieu thereof the words "immediately upon
4 receipt of an order of revocation."

5 (c) The legislative rules filed in the state register on the
6 twenty-sixth day of September, one thousand nine hundred
7 eighty-four, relating to the department of natural resources
8 (public use of state parks, forests, hunting and fishing areas),
9 are authorized.

10 (d) The legislative rules filed in the state register on the
11 seventh day of November, one thousand nine hundred eighty-four,
12 relating to the department of natural resources (surface mining
13 reclamation), are authorized.

14 (e) The legislative rules filed in the state register on the
15 seventh day of November, one thousand nine hundred eighty-four,
16 relating to the department of natural resources (coal refuse
17 disposal), are authorized.

18 (f) The legislative rules filed in the state register on the
19 ninth day of November, one thousand nine hundred eighty-four,
20 relating to the department of natural resources (transfer of the
21 state national pollutant discharge elimination system program),
22 are authorized with the amendment set forth below:

23 Page 10-5, by striking §10B.19 and inserting in lieu thereof
24 a new §10B.19, to read as follows: "'Effluent limitations
25 guidelines' means a regulation published by the Administrator

1 under Section 304(b) or Section 301(b)(1)(B) of the CWA to adopt
2 or revise effluent limitations or levels of effluent quality
3 attainable through the application of secondary or equivalent
4 treatment. For the coal industry these regulations are published
5 at 40 C.F.R. Parts 434 and 133. (See: Appendix G and H)."

6 (g) The legislative rules filed in the state register on the
7 twenty-eighth day of August, one thousand nine hundred
8 eighty-four, relating to the department of natural resources
9 (small arms hunting), are authorized.

10 (h) The legislative rules filed in the state register on the
11 sixth day of January, one thousand nine hundred eighty-four,
12 relating to the department of natural resources (hazardous waste
13 management), are authorized.

14 (i) The legislative rules filed in the state register on the
15 third day of December, one thousand nine hundred eighty-four,
16 modified by the department of natural resources to meet the
17 objections of the legislative rule-making review committee and
18 refiled in the state register on the thirteenth day of February,
19 one thousand nine hundred eighty-five, relating to the department
20 of natural resources (hazardous waste management), are
21 authorized.

22 (j) The legislative rules filed in the state register on the
23 tenth day of October, one thousand nine hundred eighty-five,
24 relating to the department of natural resources (hazardous waste
25 management: Small quantity generators and waste minimization

1 certification), are authorized with the amendment set forth
2 below:

3 On page 1, §3.1.4b, delete the word "or" in the reference to
4 "paragraph (g) or (j)" and insert in lieu thereof the words "and,
5 if applicable."

6 (k) The legislative rules filed in the state register on the
7 ninth day of September, one thousand nine hundred eighty-five,
8 relating to the department of natural resources (WV/NPDES
9 regulations for the coal mining point source category and related
10 sewage facilities), are authorized.

11 (l) The legislative rules filed in the state register on the
12 eleventh day of December, one thousand nine hundred eighty-five,
13 modified by the department of natural resources to meet the
14 objections of the legislative rule-making review committee and
15 refiled in the state register on the twentieth day of February,
16 one thousand nine hundred eighty-six, relating to the department
17 of natural resources (hazardous waste management), are
18 authorized.

19 (m) The legislative rules filed in the state register on the
20 twenty-sixth day of September, one thousand nine hundred
21 eighty-six, modified by the department of natural resources to
22 meet the objections of the legislative rule-making review
23 committee and refiled in the state register on the ninth day of
24 December, one thousand nine hundred eighty-six, relating to the

1 department of natural resources (hazardous waste management
2 regulations), are authorized.

3 (n) The legislative rules filed in the state register on the
4 seventh day of August, one thousand nine hundred eighty-six,
5 relating to the director of the department of natural resources
6 (procedures for transporting and dealing in furbearing animals),
7 are authorized.

8 (o) The legislative rules filed in the state register on the
9 thirtieth day of December, one thousand nine hundred eighty-six,
10 relating to the department of natural resources (WV/NPDES program
11 for coal mines and preparation plants, and the refuse and waste
12 therefrom), are authorized with the amendments set forth below:

13 On page four, §1.9.1.a by inserting the words "five thousand
14 dollars or" after the words "'significant portion of income'
15 means."

16 And,

17 On page four, §1.9.1.a by inserting the words "whichever is
18 less," after the words "ten percent or more of gross personal
19 income for a calendar year."

20 (p) The legislative rules filed in the state register on the
21 fifth day of March, one thousand nine hundred eighty-six,
22 relating to the department of natural resources (hazardous waste
23 management), are authorized.

24 (q) The legislative rules filed in the state register on the
25 twelfth day of August, one thousand nine hundred eighty-seven,

1 relating to the department of natural resources (WV/NPDES
2 regulations for coal mining facilities), are authorized.

3 (r) The legislative rules filed in the state register on the
4 tenth day of June, one thousand nine hundred eighty-seven,
5 relating to the director of the department of natural resources
6 (outfitters and guides), are authorized.

7 (s) The legislative rules filed in the state register on the
8 ninth day of January, one thousand nine hundred eighty-seven,
9 relating to the department of natural resources (hazardous waste
10 management regulations), are authorized.

11 (t) The legislative rules filed in the state register on the
12 fifth day of March, one thousand nine hundred eighty-seven,
13 relating to the department of natural resources (hazardous waste
14 management regulations, series 35), are authorized.

15 (u) The legislative rules filed in the state register on the
16 seventh day of December, one thousand nine hundred eighty-seven,
17 relating to the department of natural resources (hazardous waste
18 management regulations, series 35), are authorized.

19 (v) The legislative rules filed in the state register on the
20 sixteenth day of December, one thousand nine hundred
21 eighty-seven, modified by the department of natural resources to
22 meet the objections of the legislative rule-making review
23 committee and refiled in the state register on the fourteenth day
24 of January, one thousand nine hundred eighty-eight, relating to

1 the department of natural resources (solid waste management), are
2 authorized.

3 (w) The legislative rules filed in the state register on the
4 twenty-eighth day of July, one thousand nine hundred
5 eighty-seven, modified by the director of the department of
6 natural resources to meet the objections of the legislative
7 rule-making review committee and refiled in the state register on
8 the seventh day of August, one thousand nine hundred
9 eighty-seven, relating to the director of the department of
10 natural resources (boating regulations), are authorized with the
11 amendment set forth below:

12 On page 16, section 6.2, line 3 by inserting following the
13 period "This regulation does not apply to licensed outfitters
14 and guides." These rules were proposed by the director of the
15 department of natural resources pursuant to section seven,
16 article one and section twenty-two, article seven, chapter twenty
17 of this code.

18 (x) The legislative rules filed in the state register on the
19 second day of September, one thousand nine hundred eighty-eight,
20 modified by the department of natural resources to meet the
21 objections of the legislative rule-making review committee and
22 refiled in the state register on the seventeenth day of October,
23 one thousand nine hundred eighty-eight, relating to the
24 department of natural resources (hazardous waste management), are
25 authorized.

1 (y) The legislative rules filed in the state register on the
2 thirty-first day of August, one thousand nine hundred
3 eighty-eight, relating to the director of the department of
4 natural resources (boating), are authorized.

5 (z) The legislative rules filed in the state register on the
6 eighth day of March, one thousand nine hundred eighty-eight,
7 modified by the director of the department of natural resources
8 to meet the objections of the legislative rule-making review
9 committee and refiled in the state register on the thirtieth day
10 of August, one thousand nine hundred eighty-eight, relating to
11 the director of the department of natural resources (commercial
12 sale of wildlife), are authorized.

13 (aa) The legislative rules filed in the state register on the
14 twenty-seventh day of January, one thousand nine hundred
15 eighty-eight, relating to the director of the department of
16 natural resources (catching and selling bait fish), are
17 authorized.

18 (bb) The legislative rules filed in the state register on the
19 twenty-fifth day of March, one thousand nine hundred
20 eighty-eight, relating to the director of the department of
21 natural resources (West Virginia public hunting and fishing
22 areas), are authorized with the following amendment:

23 On page three, section 3.8.4, by inserting after the word
24 "vehicle" the following: ", all terrain vehicle (ATV)."

1 (cc) The legislative rules filed in the state register on the
2 seventeenth day of March, one thousand nine hundred eighty-nine,
3 modified by the division of natural resources to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the sixteenth day of January,
6 one thousand nine hundred ninety, relating to the division of
7 natural resources (solid waste management), are authorized with
8 the amendments set forth below:

9 On page 13, Section 3.2.6, by deleting the current language
10 and inserting in lieu thereof the following:

11 "3.2.6. Within two hundred (200) feet of faults that have
12 had displacement in Holocene time (i.e., during the last eleven
13 thousand years);"

14 On page 64, Section 3.14.25, by deleting the current language
15 and inserting in lieu thereof the following language:

16 "3.14.25. **Environmental Compliance History.** The chief or
17 the director may refuse to grant any permit if he has reasonable
18 cause to believe, as indicated by documented evidence, that the
19 applicant, or any officer, director or manager, thereof, or
20 shareholder owning twenty percent (20%) or more of its capital
21 stock, beneficial or otherwise, or other person conducting or
22 managing the affairs of the applicant or of the proposed
23 permitted premises, in whole or part, has exhibited a pattern of
24 violation of the environmental statutes or regulations of this
25 State, any other state, or the federal government."

1 On page 104, section 4.5.4.a, by inserting after the words
2 "at that landfill" the following:

3 "Nothing within these regulations shall be construed to allow
4 the installations of any liner or system on areas not lined as of
5 November 30, 1989, that is not in conformance with section
6 4.5.4.a.E or 4.5.4.a.G of these regulations. Landfills that do
7 have an article 5f permit and a liner installed as of November
8 30, 1989, may install a liner as approved by the chief."

9 And,

10 On pages 147 through 151, sections 4.11.5 and 4.11.6, by
11 deleting the current language and inserting in lieu thereof the
12 following:

13 **"4.11.5. Corrective Action Program.**

14 Whenever a statistically significant increase is found in a
15 Phase II or Phase III monitoring parameter, or when groundwater
16 contamination is otherwise identified by the Chief at sites
17 without monitoring programs, which is determined by the Chief to
18 have resulted in a significant adverse effect on an aquifer, and
19 which is attributable to a solid waste facility, the Chief may
20 require appropriate corrective or remedial action pursuant to W.
21 Va. Code Chapter 20, article 5A, and Chapter 20, article 5F to
22 abate, remediate or correct such pollution. Any such corrective
23 or remedial action order shall take into account any applicable
24 groundwater quality protection standards, the existing use of

1 such waters, the reasonable uses of such waters, background water
2 quality, and the protection of human health and the environment."

3 (dd) The legislative rules filed in the state register on the
4 seventeenth day of February, one thousand nine hundred
5 eighty-nine, relating to the director of the department of
6 natural resources (underground storage tanks), are authorized.

7 (ee) The legislative rules filed in the state register on the
8 twenty-seventh day of January, one thousand nine hundred
9 eighty-nine, relating to the director of the department of
10 natural resources (transporting and selling wildlife pelts), are
11 authorized.

12 (ff) The legislative rules filed in the state register on the
13 seventeenth day of February, one thousand nine hundred
14 eighty-nine, modified by the director of the department of
15 natural resources to meet the objections of the legislative
16 rule-making review committee and refiled in the state register on
17 the ninth day of August, one thousand nine hundred eighty-nine,
18 relating to the director of the department of natural resources
19 (underground storage tank fee assessments), are authorized.

20 (gg) The legislative rules filed in the state register on the
21 twenty-fourth day of April, one thousand nine hundred
22 eighty-nine, modified by the director of the department of
23 natural resources to meet the objections of the legislative
24 rule-making review committee and refiled in the state register on
25 the twenty-second day of May, one thousand nine hundred

1 eighty-nine, relating to the director of the department of
2 natural resources (public hunting and fishing areas), are
3 authorized.

4 (hh) The legislative rules filed in the state register on the
5 first day of December, one thousand nine hundred eighty-nine,
6 relating to the department of natural resources (water pollution
7 control permit fee schedules), are authorized with the amendments
8 set forth below:

9 On page five, section 3.3, by deleting the following:
10 "Submitted fees are not refundable."

11 On page two, after section 2.6, by inserting the following:

12 "Customer" means any person that purchases waste disposal
13 services from a facility permitted under article five-a, chapter
14 twenty of the code of West Virginia, one thousand nine hundred
15 thirty-one, as amended. For the purposes of these regulations,
16 commercial and other non-single family dwelling customers shall
17 be translated into customer equivalents by dividing the total
18 daily estimated volume of waste water by three hundred and fifty
19 gallons per day." and renumbering the remaining subsections.

20 On page nine, section 7.2, by striking out the words "seven
21 hundred fifty dollars (\$750)." and inserting in lieu thereof the
22 following:

23 "determined using Table D, but in no case shall be less than
24 two hundred fifty dollars (\$250)."

25 And,

1 On page thirteen, by striking out all of Table D, Schedule of
2 Annual Permit Fees, and inserting in lieu thereof a new Table D,
3 designated "Schedule of Annual Permit Fees", to read as follows:

4 "TABLE D

5 SCHEDULE OF ANNUAL PERMIT FEES

6 SEWAGE FACILITIES

7 Number of Customers	Annual Permit Fee
8 less than 1000	\$ 250
9 1000 to 1499	\$ 500
10 1500 to 1999	\$ 750
11 2000 to 2499	\$ 1000
12 2500 to 2999	\$ 1250
13 3000 to 3499	\$ 1500
14 3500 to 3999	\$ 1750
15 4000 to 4499	\$ 2000
16 4500 to 4999	\$ 2250
17 greater than 5000	\$ 2500

18 INDUSTRIAL OR OTHER WASTE FACILITIES

19 Average Discharge Volume	Annual Permit Fee
20 (gallons per day)	
21 less than 1,000	\$ 50
22 1,001 to 10,000	\$ 500
23 10,001 to 50,000	\$ 1000
24 greater than 50,000	\$ 2500"

1 (ii) The legislative rules filed in the state register on the
2 twenty-fifth day of July, one thousand nine hundred eighty-nine,
3 modified by the director of the department of natural resources
4 to meet the objections of the legislative rule-making review
5 committee and refiled in the state register on the fifteenth day
6 of September, one thousand nine hundred eighty-nine, relating to
7 the director of the department of natural resources (revocation
8 of hunting and fishing licenses), are authorized.

9 (jj) The legislative rules filed in the state register on the
10 twentieth day of December, one thousand nine hundred eighty-nine,
11 modified by the division of natural resources to meet the
12 objections of the legislative rule-making review committee and
13 refiled in the state register on the twenty-fourth day of
14 January, one thousand nine hundred ninety, relating to the
15 division of natural resources (state water pollution control
16 revolving fund program), are authorized.

17 (kk) The legislative rules filed in the state register on the
18 twenty-ninth day of March, one thousand nine hundred ninety,
19 modified by the division of natural resources to meet the
20 objections of the legislative rule-making review committee and
21 refiled in the state register on the thirtieth day of August, one
22 thousand nine hundred ninety, relating to the division of natural
23 resources (assessment of civil administrative penalties), are
24 authorized.

1 (ll) The legislative rules filed in the state register on the
2 sixth day of August, one thousand nine hundred ninety, relating
3 to the division of natural resources (water pollution control
4 permit fee schedules), are authorized.

5 (mm) The legislative rules filed in the state register on the
6 fifteenth day of June, one thousand nine hundred ninety, modified
7 by the division of natural resources to meet the objections of
8 the legislative rule-making review committee and refiled in the
9 state register on the twenty-second day of August, one thousand
10 nine hundred ninety, relating to the division of natural
11 resources (underground storage tank insurance trust fund), are
12 authorized with the amendment set forth below:

13 On page four, after subsection 5.1, by inserting a new
14 subdivision 5.1.1 to read as follows:

15 "5.1.1 The fee shall be one hundred dollars per tank per
16 year (\$100/tank/year) for a period of not less than one (1) year
17 and not more than three (3) years. Second and third year
18 capitalization fees may be levied if there is an inadequate
19 surplus of funds, as determined by the Board of Risk and
20 Insurance Management, the Division of Natural Resources and the
21 Underground Storage Tank Advisory Committee pursuant to W. Va.
22 Code, §20-5H-7."

23 (nn) The legislative rules filed in the state register on the
24 thirteenth day of August, one thousand nine hundred ninety,
25 modified by the division of natural resources to meet the

1 objections of the legislative rule-making review committee and
2 refiled in the state register on the second day of October, one
3 thousand nine hundred ninety, relating to the division of natural
4 resources (underground storage tanks), are authorized with the
5 amendment set forth below:

6 On page four, section five, subsection 5.1, after the word
7 "requirements" by striking out the remainder of the subsection
8 and inserting in lieu thereof, the following:

9 "of Title 47, Series 37 (Underground Storage Tank Fee
10 Assessments); Title 47, Series 36, Section 4 (Notification
11 Requirements); and Title 47, Series 37A, Section 5
12 (Capitalization Fees) of the Code of State Regulations and the
13 owner or operator presents proof of the certification to the
14 carrier."

15 (oo) The legislative rules filed in the state register on the
16 thirteenth day of August, one thousand nine hundred ninety,
17 relating to the division of natural resources (dam safety), are
18 authorized.

19 (pp) The legislative rules filed in the state register on the
20 thirteenth day of August, one thousand nine hundred ninety,
21 modified by the division of natural resources to meet the
22 objections of the legislative rule-making review committee and
23 refiled in the state register on the twenty-eighth day of
24 November, one thousand nine hundred ninety, relating to the

1 division of natural resources (hazardous waste management), are
2 authorized.

3 (qq) The legislative rules filed in the state register on the
4 first day of July, one thousand nine hundred ninety-one, modified
5 by the division of natural resources to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the nineteenth day of September, one thousand
8 nine hundred ninety-one, relating to the division of natural
9 resources (special motorboating regulations), are authorized.

10 (rr) The legislative rules filed in the state register on the
11 first day of May, one thousand nine hundred ninety-one, modified
12 by the division of natural resources to meet the objections of
13 the legislative rule-making review committee and refiled in the
14 state register on the twenty-second day of July, one thousand
15 nine hundred ninety-one, relating to the division of natural
16 resources (special fishing regulations), are authorized with the
17 amendment set forth below:

18 On page one, by striking out subsection 2.1 and inserting in
19 lieu thereof, a new subsection 2.1, to read as follows:

20 "2.1 "Daylight hours" means the time period between sixty
21 minutes before sunrise and sixty minutes after sunset."

22 (ss) The legislative rules filed in the state register on the
23 first day of July, one thousand nine hundred ninety-one, modified
24 by the division of natural resources to meet the objections of
25 the legislative rule-making review committee and refiled in the

1 state register on the twenty-first day of November, one thousand
2 nine hundred ninety-one, relating to the division of natural
3 resources (boating regulations), are authorized.

4 (tt) The Legislature hereby authorizes and directs the
5 division of natural resources to promulgate the legislative rule
6 relating to water pollution control permit fee schedules, 47 CSR
7 26, effective the twenty-second day of April, one thousand nine
8 hundred ninety-one, with the amendment set forth below:

9 On page eight, subdivision 7.4.1, at the end of the
10 subdivision by striking the period and adding the following:

11 ": Provided, That if the chief determines that a facility is
12 in substantial compliance with its existing permit, the fee is
13 one thousand two hundred fifty dollars (\$1,250.00)."

14 (uu) The legislative rules filed in the state register on the
15 twenty-first day of April, one thousand nine hundred ninety-two,
16 modified by the division of natural resources to meet the
17 objections of the legislative rule-making review committee and
18 refiled in the state register on the sixteenth day of December,
19 one thousand nine hundred ninety-two, relating to the division of
20 natural resources (revocation of hunting and fishing licenses),
21 are authorized.

22

23 NOTE: The purpose of this bill is to authorize the Division
24 of Natural Resources to promulgate legislative rules relating to
25 the revocation of hunting and fishing licenses.

26

27 Strike-throughs indicate language that would be stricken from
28 the present law, and underscoring indicates new language that
29 would be added.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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FILED

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WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

TO: Bill Daniels

AGENCY: Div. of Natural Resources

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: July 26, 1993

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 49 TITLE: 47 Div. of Natural Resources

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Richard M. Hall

TITLE OF PERSON SIGNING: Chief

DATE: Richard M. Hall

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

JUL 30 1993

I.R.D.