

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #3

FILED  
REC'D AUG -9 11 2:54  
OFFICE OF THE SECRETARY OF STATE

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

AGENCY: Division of Public Safety TITLE NUMBER: 81

CITE AUTHORITY West Virginia Code §15-2-5

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: III

TITLE OF RULE BEING AMENDED: (Repeals and Replaces)

General Order Number Eight - Promotion Evaluation Board

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: N/A

TITLE OF RULE BEING PROPOSED: West Virginia State Police - Career

Progression System

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

*C.R. Bedwell*

State of West Virginia  
OFFICE OF THE SECRETARY  
Department of Public Safety  
State Capitol Building  
Box 2930  
1900 Kanawha Boulevard  
Charleston, West Virginia 25305-0001

Secretary of  
Department of Public Safety and  
Commission on Drunk Driving Prevention  
Department of Corrections  
Adjutant General's Department  
Office of Emergency Services and  
Emergency Services Advisory Council  
Veterans Board  
Military Awards Board  
Sheriff's Bureau  
Fire Commission & State Fire Admin  
Regional Jail and Prison Authority  
Board of Probation and Parole

Joseph J. Skaff  
SECRETARY  
(304) 348-2930

May 29, 1990

TO: COL J. R. Buckalew, Superintendent,  
WV State Police

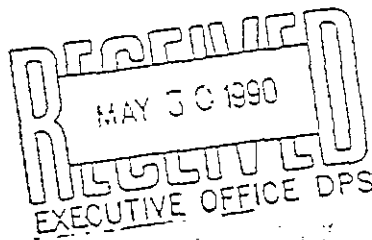
FROM: MG Joseph J. Skaff, Secretary

SUBJECT: Emergency Filing of Legislative Rule for the  
Career Progression System

*JJS 5/29/90*

I have reviewed the new legislative rule for the Career Progression System and approve its submission for filing:

S/b



APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: West Virginia State Police - Career Progression System

Type of Rule: X - Legislative \_\_\_\_\_ Interpretive \_\_\_\_\_ Procedural \_\_\_\_\_

Agency: Division of Public Safety Address: 725 Jefferson Road,

South Charleston, WV 25309

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense	NOT APPLICABLE. SEE #3 BELOW.				
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

See #3 Below.

3. Objectives of these rules:

These rules are implemented in accordance with Chapter 15, Article 2, Section 5 and are intended to ensure consistency, predictability and independent review of the Career Progression System. It should be noted that the rules themselves will not result in any significant additional cost to the West Virginia State Police. The Career Progression System, as approved by the West Virginia Legislature, however, will cost approximately \$3,200,000.00 for fiscal year 1990-91.

4. Explanation of Overall Economic Impact of Proposed Rule

- A. Economic Impact on State Government. The rules themselves have no impact. However, it should be noted that the \$1,000,000.00 cost of the Career Progression System is being funded by billing the Division of Motor Vehicles for services provided by the West Virginia State Police. Funds for payment of the services were appropriated by the Legislature and are payable from the State Road Fund.
- B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

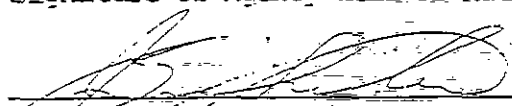
The rules themselves have no impact.

- C. Economic Impact on Citizens/Public at Large.

The rules themselves have no impact.

Date: May 31, 1990

Signature of Agency Head or Authorized Representative

  
\_\_\_\_\_  
COLONEL J.R. BUCKALEW  
SUPERINTENDENT

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Colonel J.R. Buckalew, Superintendent, West Virginia State Police

LEGISLATIVE RULE TITLE: West Virginia State Police - Career Progression System

1. Authorizing statute(s) citation West Virginia State Code §15-2-5

2. a. Date filed in State Register with Notice of Hearing:

May 31, 1990

b. What other notice, including advertising, did you give of the ~~hearing~~? comment period?

Each member of the Department was notified via Department Memorandum Number 90-6 and by three separate teletypes numbered and dated as follows: BX-6969. 5-31-90; BX-8510. 7-3-90; and BX-9079. 7-16-90.

c. Date of ~~hearing~~ (s): May 31, 1990  
comment period

July 31, 1990

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached   X   No comments received           

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:  
(be exact)

August 9, 1990

f. Name and phone number of agency person to contact for additional information:

Colonel J. R. Buckalew, Superintendent

725 Jefferson Road

South Charleston, West Virginia 25309

(304)746-2222

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

WEST VIRGINIA LEGISLATIVE RULE  
DEPARTMENT OF PUBLIC SAFETY  
DIVISION OF PUBLIC SAFETY  
CHAPTER 15-2  
SERIES III  
FILING

Title: West Virginia State Police - Career Progression System

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Section 1. **General**

1.1 Scope - This rule governs the process by which all permanent promotions, all nonsupervisory reclassifications, all criminalist reclassifications and all administrative support reclassifications shall be achieved.

1.2 Authority and Related Code Citation - W.Va. Code 15-2-5, effective July 1, 1990, and W.Va. Code 15-2-25.

1.3 Filing Date -

1.4 Effective Date -

1.5 Repeal of Former Rule - This legislative rule repeals and replaces West Virginia legislative rule, Department of Public Safety, Chapter 15-2, Series I, Section 8, filed July 10, 1984.

Section 2. **Career Progression System - Introduction**

2.1 This rule is promulgated for the purpose of ensuring consistency, predictability and review of the West Virginia State Police Career Progression System as authorized by West Virginia Code, Section 5, Article 2, Chapter 15, as amended.

2.2 The Superintendent shall establish a system for Career Progression and shall provide to each member a written manual governing specific procedures for the evaluation and testing of members for promotion or reclassification.

2.3 The Superintendent shall solicit from the Supervisory Field Promotional System Selection and Review Board a written review of the West Virginia State Police Career Progression System to be completed once every twelve months. Such review shall identify specific problems with the system's procedures and shall include recommendations for remedial action.

2.4 The Superintendent shall appoint a member to the position of Promotional Standards Officer who shall have the authority and responsibility for administering the Career Progression System.

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Section 3. Physical Fitness

3.1 The Superintendent shall adopt a comprehensive Physical Fitness Program to establish minimum levels of physical fitness performance.

3.2 A member must meet or exceed the minimum levels established for and applicable to him in order to be eligible for promotion or reclassification within the Career Progression System.

3.3 Until such time as compliance with this section has been established, all members, otherwise eligible, will be deemed to have met the physical fitness standards as required by any section of the Career Progression System.

Section 4. Disciplinary Action

4.1 For the purpose of the Career Progression System only, the following limitations will apply:

a. Reprimands will be considered only when the reprimand is issued by the Superintendent.

b. Demotions will be considered as any reduction in rank or classification within the member's permanent system.

c. Suspensions will be considered as any ordered absence from duty that results from a violation of any rule of conduct as verified through a department investigation. An ordered absence prior to a department investigation shall only be considered as a valid suspension if the investigation sustains the allegation.

4.2 The Superintendent shall cause to be established a disciplinary file containing disciplinary action applicable under the provisions of the Career Progression System.

Such disciplinary file will be purged by the following schedule:

a. A reprimand shall be purged upon expiration of twelve calendar months from the date of issue.

b. A demotion or suspension shall be purged upon expiration of twenty-four calendar months from the effective date of such demotion or suspension.

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4.3 A valid letter of reprimand, as identified by this section, shall eliminate a member's promotional or reclassification eligibility when such reprimand is issued for a violation of the Department Rules of Conduct as identified under 81-1-10 of the West Virginia Code of State Rules, except when issued for violations of the following sections of 81-1:

10.2	10.14	10.21
10.3	10.15a	10.22
10.5	10.15b	10.23
10.8a	10.15c	10.24
10.8b	10.15d	10.26a
10.8c	10.18	10.26b
10.10	10.19b	10.26d
10.12	10.19c	

4.4 A valid demotion or suspension, as identified by this section, shall eliminate a member's promotional or reclassification eligibility when such demotion or suspension results from a violation of Department Rules of Conduct as identified under 81-1-10 of the West Virginia Code of State Rules, except when resulting from a violation of the following sections of 81-1:

10.15c  
10.15d

4.5 In all cases, a letter of reprimand, demotion or suspension, as identified by this section, will result in the reduction of a member's composite promotional score according to the following schedule:

- a. Any written reprimand issued as a result of a department motor vehicle accident - one point
- b. All other written reprimands - three points
- c. Any suspension or demotion - five points

4.6 When a disciplinary action results in the temporary elimination of reclassification eligibility, the member so affected shall not be adversely affected for future reclassification, thus a member so affected shall not suffer a reduction in eligibility longevity or tenure and may request elevation to any reclassification level to which the member meets the longevity requirement provided the member has occupied each preceding classification level for a minimum period of twelve consecutive calendar months.

Section 5. Permanent Rank Promotions

5.1 All members who have achieved and hold a current permanent rank of Senior Trooper or greater and who do not hold the permanent rank of 1/Lieutenant shall be eligible for participation in the Supervisory Field Promotional System of the West Virginia State Police Career Progression System, hereinafter promotional system, provided no member may enter the promotional system at a rank above Sergeant, and the member must receive permanent promotions to each higher rank in order, excepting any 1/Sergeant who shall be eligible for and may receive a permanent rank promotion to either 2/Lieutenant or 1/Lieutenant, and further provided that a member must receive a minimum score of 75% on the most recent General Knowledge Examination as required by Section 6.4b and all members of a non-supervisory rank classification must obtain a minimum score of .75 on productivity evaluations completed for the twelve month period preceding the initiation of a promotional cycle or must submit a petition of justification if a score of .75 is not achieved or the member is not assigned to the field operations force.

5.2 Members who participate in the promotional system shall be rank ordered on a promotional list according to the member's composite score as determined by a competitive process, the member's level of achievement in department tenure and education and the recommendation or evaluation by the member's supervisors.

5.3 The maximum attainable composite score shall be 99.98 points with the determination of points made as follows:

- a. Evaluation Board - The member may receive up to 35 points for his performance before the Evaluation Board.
- b. Promotional Examination - The member will receive 1 point for each whole percentile achieved over 75 percent on the written examination.
- c. Supervisory Evaluation or Recommendation - Members who hold the rank of Sergeant, 1/Sergeant or 2/Lieutenant and who serve in supervisory positions will receive 1.5 points for each evaluation point awarded over 22 on the supervision section of the member's most recent semi-annual evaluation report. Members who hold the rank of Senior Trooper, Trooper First Class, or Corporal will receive a maximum total of 15 points for the recommendations of first, second and third level supervisors.

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d. **Longevity** - The member will receive 1 point for each year of service from six to twenty years, inclusive.

e. **Education** - The member will receive .075 point, not to exceed 9.98 points, for each certified college semester hour or each five cumulative days of successfully completed department authorized or sanctioned schools.

5.4 A Selection and Review Board shall meet upon order of the Superintendent when development of a promotional list is required due to an insufficient number of candidates remaining on a current promotional list to fill department vacancies or a number of members, equal to or greater than 10% of those remaining on the current list, reach a department tenure requirement that could permit those members to participate in the promotional system who were previously ineligible or when the current promotional list has been active for at least twelve calendar months.

a. The Selection and Review Board shall consist of six voting members, a non-voting recorder and a chairman who shall only vote in cases of tie.

b. All actions of the board shall be by majority decision.

c. The voting members shall be two members of the non-supervisory rank classification system and one member of each of the supervisory ranks of Sergeant, 1/Sergeant, and 2/Lieutenant, all of which shall be drawn by blind lot by the Superintendent or a member of the Senior Staff from a list of members as determined by the Superintendent who are eligible to participate in the promotional system of the applicable classification or supervisory rank and a member of the 1/Lieutenant rank who shall be drawn from a list of all 1/Lieutenants in the department.

d. A member who is selected for inclusion on this board may not vote on any issue of his personal promotion, and any member so affected shall be recused from any deliberations concerning such issue.

e. The board chairman shall be appointed by the Superintendent from the senior staff, and a recorder shall be selected at the direction of the Superintendent to record the actions of the Board.

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f. The voting members of this board shall serve a minimum term of twelve consecutive months unless the member is unable to serve due to illness, injury, promotion, demotion, suspension or other cause.

g. In instances where a member cannot fulfill the original term of the board, the Superintendent shall appoint another member of equal rank or classification to fulfill the term.

h. The board shall have responsibility for selecting three members of each Evaluation Board, reviewing the eligibility of applicants for promotion, determining individual promotional category scores, reviewing applicant petitions for eligibility retention, reviewing all supervisory recommendations and non-recommendations and determining individual positions of applicants on the rank ordered promotional list.

i. The board shall communicate with the Reclassification Boards within the Career Progression System and shall present, each twelve months, to the Superintendent a review of the Career Progression System listing identified problems with suggestions for corrective action.

j. Prior to assuming the duties of the board, each member shall be administered the following oath by the Superintendent:

"I, \_\_\_\_\_, do solemnly swear  
(or affirm) that I will, without  
prejudice or partiality, perform the  
duties hereby imposed upon me as a  
member of this Board."

k. The Director of the Personnel Division and the Department Inspector, or those persons designated by the Superintendent, shall appear before the board, upon request of said board, for the purpose of providing specific information concerning individual member's personnel and disciplinary records necessary for determining promotional scores or eligibility.

l. The board shall evaluate applicant members according to the eligibility and other standards for supervisory rank promotions and will individually transmit to every affected member the results of their individual eligibility reviews as specified within this section. Such transmittals shall be made following the review of eligibility requirements with a second transmittal following the completion of the competitive testing procedures.

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m. The board will submit to the Superintendent a rank ordered promotional listing of members eligible and qualified for supervisory promotion following notification from the Supervisory Field Promotions Appellate Board that any and all appeals have been completed.

Such rank ordered promotional list shall be affirmed as follows:

"The Selection and Review Board, acting under oath and having considered the individual qualifications and accomplishments of all applicants, finds, by majority decision, the member(s) named on the attached rank ordered promotional list are qualified to assume the duties and responsibilities of the rank as indicated and recommend said member(s) be considered for promotion to the indicated rank."

Such rank ordered promotional list shall be filed by the Superintendent and shall be maintained until such time as the list expires or a new list is created as provided in this rule.

5.5 The Superintendent shall determine the number of required Evaluation Boards and such Evaluation Boards shall meet at the direction of the Selection and Review Board.

- a. Each Evaluation Board shall consist of five members.
- b. Each member shall individually and independently score each eligible candidate appearing before the board.
- c. Two members shall be appointed by the Superintendent and shall hold the permanent rank of 1/Lieutenant or the appointed rank of Captain or greater.
- d. One member shall be selected by the Selection and Review Board and shall be equal in rank to the position under consideration and must be an eligible member as determined by the Superintendent under the provisions of the Supervisory Field Promotional System.
- e. One member shall be selected by the Selection and Review Board and shall be recruited from a State Police or Highway Patrol agency exclusive of West Virginia, and such member shall hold a supervisory rank equal to or greater than that under consideration.

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f. One member shall be selected by the Selection and Review Board and shall be recruited from a non-law enforcement profession.

g. Each Evaluation Board shall serve a term as determined by the Selection and Review Board.

h. No Evaluation Board member may serve for consecutive promotional cycles for any single rank.

5.6 In order to be promoted, a member must be available for any assignment anywhere in the State that the Superintendent determines will be in the best interest of the department.

5.7 Promotions within the West Virginia State Police shall only be made by the Superintendent, when positions become vacant, and shall be made from among those members on the rank ordered promotional list as certified by the Selection and Review Board and whose final composite score is equal to or higher than the final composite score of the third highest ranking member who is willing and available to accept such promotion.

5.8 Should a member not elect to accept a promotion when offered, the member shall be continued on the promotional list and will be eligible for subsequent promotions without penalty for the duration of the promotional list.

#### Section 6. Non-Supervisory Rank Reclassification

6.1 All members permanently assigned to the field operations force and who have completed the basic State Police entry-level training program shall be eligible for participation in the Non-Supervisory Rank Classification System and will be classified as Troopers following receipt of a field assignment.

6.2 Members who participate within the Non-Supervisory Rank Classification System and who meet or exceed the minimum established reclassification and tenure requirements will be reclassified.

6.3 A member will be considered for reclassification following completion of the following years cumulative service to the department.

- a. Senior Trooper - 3 years
- b. Trooper First Class - 8 years
- c. Corporal - 14 years

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6.4 Minimum eligibility requirements shall include productivity evaluation, a general knowledge examination and compliance with physical fitness and discipline standards.

a. A member must receive a minimum score of .75 on completed productivity evaluations for the twelve-month period preceding reclassification consideration to retain eligibility, provided that any member receiving a score of less than .75 and any member who is not assigned to the field operations force may submit a petition of justification to the Reclassification Board for review. All such petitions must be reviewed by the applicable supervisory levels and a written recommendation or non-recommendation for eligibility retention will be attached at each level.

b. A member must receive a minimum score of 75% on the general knowledge examination to retain eligibility.

c. A member requesting reclassification must meet the requirements of the department physical fitness and disciplinary guidelines controlling career progression.

6.5 A Non-Supervisory Rank Reclassification Board shall meet, at the direction of the Superintendent.

a. The Reclassification Board shall consist of five members - two members of the senior staff as selected by the Superintendent, with the highest ranking or most senior serving as chairman; the Director of Personnel; and two members and two alternates to serve a twelve-month term, drawn by blind lot by the Superintendent, with one member and one alternate drawn from the commissioned ranks and one member and one alternate drawn from the non-commissioned officer ranks. Those members selected by the Superintendent will serve a minimum of twelve months. Should the Director of Personnel be unavailable to serve or if the position of Director of Personnel should be vacant or eliminated, the Superintendent shall select a member to occupy that board position.

b. Each board member shall have equal voting privileges and all actions of the Reclassification Board shall be by majority decision.

c. The Reclassification Board will verify a member's eligibility in the areas of longevity, productivity evaluation, general knowledge examination, physical fitness and discipline.

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- d. The Reçlassification Board will review all applicant petitions for eligibility retention.
- e. The Reçlassification Board shall individually transmit to every affected member the results of individual eligibility and petition reviews.
- f. A recorder shall be selected by the Superintendent to document any actions of the Reçlassification Board.
- g. The alternate shall fulfill the term in all instances where a member cannot fulfill the original term of the board.
- h. The Reçlassification Board shall have responsibility for identifying deficiencies in the Non-Supervisory Rank Classification System and for communicating these deficiencies with suggestions for remedial action to the Selection and Review Board of the Supervisory Field Promotional System.
- i. Prior to assuming the duties of the Reçlassification Board, each member shall be administered the following oath by the Superintendent.
- "I, \_\_\_\_\_, do solemnly swear  
(or affirm) that I will, without prejudice  
or partiality, perform the duties hereby  
imposed upon me as a member of this Board."
- j. The Inspector, or other person at the direction of the Superintendent, shall appear before the Reçlassification Board for the purpose of providing specific information concerning individual members' disciplinary records necessary for determining eligibility.
- k. Upon verifying a member's eligibility and following notification from the Non-Supervisory Rank Reçlassification Appellate Board that all appeals are complete, the Reçlassification Board will submit to the Superintendent a list of members eligible for reclassification.

Such reclassification recommendation list shall be affirmed as follows:

"The Reclassification Board, acting under oath and having considered the individual qualifications and accomplishments of all members submitted to this Board, finds, by majority decision, that the members named on the attached list have met or exceeded the minimum eligibility requirements for reclassification to the non-supervisory rank indicated and recommend said member be reclassified to the indicated non-supervisory rank."

Such list shall be filed by the Superintendent and shall be maintained for a minimum period of one year.

Section 7. Criminalist Reclassification

7.1 All members permanently assigned to the forensic laboratory shall be eligible for participation in the Criminalist Classification System, and all such members with less than one year service within the forensic laboratory shall be classified as Criminalist I.

7.2 Members who participate within the Criminalist Classification System and who meet or exceed the minimum established reclassification and tenure requirements will be reclassified.

7.3 A member may request reclassification following completion of the following years cumulative service within the forensic laboratory.

- a. Criminalist II - one
- b. Criminalist III - three
- c. Criminalist IV - five
- d. Criminalist V - eight
- e. Criminalist VI - ten

7.4 Minimum eligibility requirements shall include productivity evaluation, a general knowledge examination, supervisory recommendations, and compliance with physical fitness and discipline standards.

a. A member must receive a minimum score of .75 on completed productivity evaluations for the twelve-month period preceding reclassification consideration to retain eligibility, provided that any member receiving a score of less than .75 and any member who is not assigned to the forensic laboratory may submit a petition of justification to the Reclassification Board for review. All such petitions must be reviewed by the applicable supervisory levels and a written recommendation or non-recommendation for eligibility retention will be attached at each level.

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b. A member must receive a valid recommendation for reclassification from each applicable supervisory level as determined by the Reclassification Board.

c. A member must receive a minimum score of 75% on the general knowledge examination to retain eligibility.

d. A member requesting reclassification must meet the requirements of the department physical fitness and disciplinary guidelines controlling career progression.

7.5 The Criminalist Reclassification Board shall meet, at the direction of the Superintendent, following a reclassification request by a member of the Criminalist System.

a. The Reclassification Board shall consist of five members; including the Officer in Charge of Support Services who shall serve as Chairman, the Director of the Forensic Laboratory and the Director of Personnel as permanent members and two members and two alternates, to serve a twelve-month term, drawn by blind lot by the Superintendent from all members of the Criminalist System who will not become eligible for reclassification during the term of the board. Should the Director of the Forensic Laboratory and/or the Director of Personnel be unavailable to serve or if either or both positions should be vacant or eliminated, the Superintendent shall select a member or members to occupy any such vacancies.

b. Each board member shall have equal voting privileges and all actions of the Reclassification Board shall be by majority decision.

c. The Reclassification Board will verify a member's eligibility in the areas of criminalist tenure, productivity evaluation, general knowledge examination score, physical fitness, discipline and supervisory recommendations.

d. The Reclassification Board will review all applicant petitions for eligibility retention and will determine eligibility.

e. A recorder shall be selected by the Superintendent to document the actions of the Reclassification Board.

f. The alternate shall fulfill the term in instances where a member cannot fulfill the original term of the board.

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g. The Reclassification Board shall have responsibility for identifying deficiencies in the Criminalist Classification System and for communicating these deficiencies with suggestions for remedial action to the Selection and Review Board of the Supervisory Field Promotional System.

h. Prior to assuming the duties of the Reclassification Board, each member shall be administered the following oath by the Superintendent:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will, without prejudice or partiality, perform the duties hereby imposed upon me as a member of this Board."

i. The Inspector or other person at the direction of the Superintendent shall appear before the Reclassification Board with specific information concerning individual members' disciplinary records necessary for determining eligibility.

j. Upon verifying a member's eligibility and following notification from the Criminalist Reclassifications Appellate Board that all appeals are complete, the Reclassification Board will submit to the Superintendent a recommendation for reclassification.

Such reclassification recommendation shall be affirmed as follows:

"The Reclassification Board, acting under oath and having considered the individual qualifications and accomplishments of the member(s) requesting reclassification, finds, by majority decision, that the member(s) named on the attached recommendation have met or exceeded the minimum eligibility requirements for reclassification to the Criminalist Classification indicated and recommend said member(s) be reclassified to the indicated Criminalist Classification."

Such list shall be filed by the Superintendent and shall be maintained for a minimum period of one year.

#### Section 8. Administrative Support Specialist Reclassification

8.1 All members assigned to Support Specialist positions, shall be eligible for participation in the Administrative Support Specialist Classification System, provided such members have successfully completed a one-year probationary period within a specific support specialist position.

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8.2 A member shall not advance within the administrative support specialist classification system to a level that exceeds the maximum classification level established for that position.

8.3 A member may request reclassification to the next applicable classification level following each twelve months of continuous service as a support specialist.

8.4 A member requesting reclassification must submit a petition for reclassification to the Support Specialist Reclassification Board. Such petition shall take such form as required by the Superintendent.

8.5 A member requesting reclassification must meet the requirements of the department physical fitness and disciplinary guidelines controlling career progression and must have received a minimum score of 75% on the most recent general knowledge examination as required by Section 6.4b.

8.6 A member who is denied reclassification or promotional eligibility within the member's permanent career progression system shall not be eligible for reclassification within the Administrative Support Specialist Classification System until such time as the member achieves eligibility within the permanent system.

8.7 The Administrative Support Specialist Reclassification Board shall meet, at the direction of the Superintendent, following a reclassification request by a member of the Administrative Support Specialist System.

a. The Reclassification Board shall consist of five members, including three members of the senior staff as determined by the Superintendent with the highest ranking or most senior serving as chairman, the most senior ranking officer assigned to the Training Academy and the Director of the Personnel Division. Those members selected by the Superintendent shall serve a minimum term of twelve months.

b. Should the Director of Personnel submit a petition for reclassification or otherwise be unavailable to serve, or if the position of Director of Personnel should be vacant or eliminated, the Superintendent shall select a member to occupy that board position.

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c. Each board member shall have equal voting privileges and all actions of the Reclassification Board shall be by majority decision.

d. The Reclassification Board will verify a member's eligibility in the areas of support specialist tenure, physical fitness and discipline.

e. The Reclassification Board will review all petitions for reclassification and will determine eligibility.

f. A recorder shall be selected by the Superintendent to document any actions of the Reclassification Board.

g. In all instances where a board member cannot fulfill the original term of the board, the Superintendent shall appoint a member of the senior staff or a member of the Administrative Support Specialist Classification System to fulfill the term.

h. The Reclassification Board shall have responsibility for identifying deficiencies in the Administrative Support Specialist Classification System and for communicating these deficiencies, with suggestions for remedial action, to the Selection and Review Board of the Supervisory Field Promotional System.

i. Prior to assuming the duties of the Reclassification Board, each member shall be administered the following oath by the Superintendent:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will, without prejudice or partiality, perform the duties hereby imposed upon me as a member of this Board."

j. The Inspector, or other person at the direction of the Superintendent, shall appear before the Reclassification Board for the purpose of providing the board with specific information concerning individual member's disciplinary records necessary for determining eligibility.

k. Upon verifying a member's eligibility and following notification from the Administrative Support Specialist Reclassifications Appellate Board that all appeals are complete, the Reclassification Board will submit to the Superintendent a recommendation for reclassification.

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Such reclassification recommendation shall be affirmed as follows:

"The Reclassification Board, acting under oath and having considered the individual qualifications and accomplishments of the member(s) requesting reclassification, finds, by majority decision, that the member(s) named on the attached recommendation(s) have met the eligibility requirements for reclassification to the Support Specialist Classification indicated and recommend said member(s) be reclassified to the indicated Support Specialist classification."

Such list shall be filed by the Superintendent and shall be maintained for a minimum period of one year.

#### Section 9. Career Progression Appeals

9.1 Members shall have the right to review and appeal any adverse decision concerning their eligibility for promotion or reclassification within any section of the Career Progression System by appearing before or submitting written argument to the applicable appellate board.

9.2 Members who participate within any section of the Career Progression System that requires a written examination shall be permitted to review the examination answer key immediately following the scoring and recording of the examination. Such review shall be conducted by the test administrator or other person designated by the Superintendent.

9.3 Members who participate within the Supervisory Field Promotional System shall be entitled to review and appeal any numerical value presented by the Selection and Review Board as representation of the member's individual score for longevity, educational achievement, supervisory evaluation or recommendation, or Evaluation Board score.

9.4 A member shall be notified in writing of his individual numerical values for scores used for promotional consideration.

9.5 The member must petition, in writing, the applicable appellate board within 15 days following any decision issued by a Selection and Review or Reclassification Board, and the appellate board must render a decision within 5 days following the review of any appeal. Any such petition must include the member's standing for appeal.

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Series III

9.6 All decisions of an appellate board shall be final and not subject to appeal for judicial review.

9.7 Separate and distinct appellate boards shall be created to address member appeals generated within each section of the Career Progression System and such appellate boards shall be designated:

- a. Supervisory Field Promotions Appellate Board
- b. Non-Supervisory Rank Reclassifications Appellate Board
- c. Criminalist Reclassifications Appellate Board
- d. Administrative Support Specialist Reclassifications Appellate Board

9.8 The Supervisory Field Promotion Appellate Board and the Non-Supervisory Rank Reclassification Appellate Boards shall be comprised of five members. Each board shall be drawn by blind lot by the Superintendent or a member of the senior staff, with one member being drawn from each of the supervisory ranks of Sergeant, 1/Sergeant, 2/Lieutenant and 1/Lieutenant and one member being drawn from the non-supervisory ranks of Senior Trooper, Trooper First Class and Corporal, with one alternate drawn for each position, provided that members participating within the Criminalist Classification System shall not be eligible for selection to this board.

9.9 The Criminalist Reclassification Appellate Board shall be comprised of three members. The board and one alternate shall be drawn by blind lot by the Superintendent or a member of the senior staff from all members of the Criminalist System.

9.10 The Administrative Support Specialist Reclassification Appellate Board shall be comprised of five members. The board and two alternates shall be drawn by blind lot by the Superintendent or a member of the Senior Staff from the Administrative Support Specialist Classification System, provided that any member shall be withdrawn from such board and replaced by an alternate, if the member receives a transfer that results in the loss of support specialist designation.

9.11 Each appellate board shall select a member to serve as board chairman. Each board member shall have equal voting privileges and all actions of any board shall be by majority decision.

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9.12 The Superintendent shall appoint for each appellate board a non-board member or civilian employee of the department to serve as a non-voting recorder.

9.13 Prior to assuming the duties of any appellate board, created under the provisions of this section, the following oath shall be administered by a notary public:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will, without prejudice or partiality, perform the duties hereby imposed upon me as a member of this Appellate Board."

9.14 Any member submitting an appeal to any appellate board to which he has been selected shall be prohibited from participation on such board and will be replaced by an alternate for the duration of the board's term.

9.15 All members who are responsible for completing or reviewing any recommendation, evaluation, examination or other such issue that directly effects the eligibility for reclassification or promotion of any member submitting an appeal to any appellate board to which he has been selected shall be temporarily recused from the appellate board and replaced by the alternate for any board deliberations or other actions concerning that appeal.

9.16 In any instance where a board chairman is removed, recused or otherwise unable to serve for all or part of any appellate board term, the affected board shall select a member of the board to act as board chairman in such absence.

9.17 Should there be insufficient alternates available to comprise a complete appellate board, the Superintendent shall select the necessary alternates from the appropriate ranks or classifications.

9.18 Each appellate board shall have the authority to review all appeals submitted to it and to issue summary dismissal of any and all such appeals that are absent standing for appeal or are otherwise determined by the board to be invalid and without merit.

9.19 A written decision by the appellate board shall be issued following each review, and such decision shall specify one of three decisions as follows:

- a. The appeal has been summarily dismissed (in which case, the reason for dismissal shall be indicated).

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Series III

b. The decision of the Selection and Review Board or Reclassification Board, as appropriate, has been upheld (in which case, the member's eligibility status or promotional score will remain unchanged).

c. The decision of the Selection and Review Board or Reclassification Board, as appropriate, has been reversed (in which case, the member's eligibility is reinstated or promotional score is changed to reflect the findings of the Appellate Board).

COMMENTS RECEIVED AND AMENDMENTS MADE TO  
THE WEST VIRGINIA STATE POLICE  
CAREER PROGRESSION SYSTEM

The period during which written comments were to be filed regarding the West Virginia State Police Career Progression System expired at 1700 hours on Tuesday, July 31, 1990. At that time, the Department had received five letters containing fourteen (14) written comments. Ten (10) of those comments were directed at the proposed Legislative Rule while the remaining four (4) fell outside the scope of the rule.

Two (2) amendments were made to the Career Progression System as a result of received comments.

Nine (9) additional amendments were instituted by the Division as a result of a final review of the document.

In a letter received June 7, 1990, 1/Lieutenant R. S. White presented two comments that were outside the scope of the rule. The first was that a non-supervisory criminalist should be allowed to attain a classification level of Criminalist VII and a Section Head should be allowed to attain a level of Criminalist VIII. No amendment was made. Criminalist classification levels are set by Chapter 15, Article 2, Section 5 of the Code of West Virginia.

Lieutenant White's second comment was that the Officer in Charge, Support Services, should be elevated to the rank of Major and that the Laboratory Director should be elevated to the rank of Captain. No amendment was made. The appointment of members to the rank of Major and Captain in the West Virginia State Police is governed by Chapter 15, Article 2, Section 4 of the Code of West Virginia and is a discretionary power given to the Superintendent.

In a letter received June 19, 1990, Trooper First Class R. D. Gillespie commented that the education credit given to participants of the Supervisory Field Promotional System in section 5.3e is unfair because some members are unable to avail themselves of advanced education. No amendment was made. Educational credit was included in the Supervisory Field Promotional System in recognition of the importance of advanced education, both in general education areas and law enforcement studies, to the overall potential of a State Police supervisor.

A letter received on June 19, 1990 from Trooper First Class J. C. Johnson listed nine comments, one of which was outside the scope of the rule. The first comment was that section 5, Permanent Rank Promotions, should be entitled "Supervisory Rank Reclassifications". No amendment was made. The process by which a member achieves a rank promotion cannot be termed a "reclassification" in the sense that the term is used in the Career

Progression System. Reclassifications are not a competitive process, whereas, the task of selecting members to receive permanent rank promotions is a competitive process designed to identify those individuals who possess the qualifications and training to assume supervisory positions within the Field Operations Force.

The second comment, which was outside the scope of the rule, was that section 5.1 should define what ranks are supervisory. No amendment was made. Supervisory ranks of the West Virginia State Police are defined in Chapter 15, Article 2, Section 5 of the Code of West Virginia.

Trooper First Class Johnson's third comment stated that section 5.1 reads that a member holding the rank of Sergeant cannot participate in the Supervisory Field Promotion System. No amendment was made. This was a misinterpretation on Trooper First Class Johnson's part as section 5.1 allows any member holding the classification or rank of Senior Trooper through 2/Lieutenant, inclusive, to participate in the promotional process if the member meets the basic eligibility criteria.

The fourth comment was that Trooper First Class Johnson was unable to correctly calculate a member's point total for supervisory evaluations under section 5.3c for Sergeants, 1/Sergeants and 2/Lieutenants. An amendment was made to section 5.3c, clarifying that a member will be awarded 1.5 points for each evaluation point over 22 on the Supervision section of the member's most recent semi-annual evaluation report.

Trooper First Class Johnson's fifth comment was that section 5.3 should be placed in a section of its own where it would be used as the criteria for all Non-Supervisory, Criminalist, and Administrative reclassifications in addition to rank promotions. No amendment was made. The criteria governing permanent rank promotions was intentionally designed to be more rigorous than the criteria governing reclassifications due to the nature of the responsibilities that are inherent in a supervisory position. Reclassifications are used as rewards for performance over a period of time whereas a promotion is reflective of a member's leadership and supervisory capabilities.

The sixth comment was that a Criminalist's salary "caps out" four years before that of a field Trooper. No amendment was made. It is the intent of the Career Progression System to allow this differential in order to enable the Department to recruit and retain these highly trained professionals within the Forensic Laboratory and to better reflect the salary that a forensic analyst would receive in the private sector. Criminalist salaries are also set by Chapter 15, Article 2, Section 5 of the Code of West Virginia.

The seventh comment was that Administrative Support Specialists may be reclassified once a year with no cap at all under section 8. No amendment was made. Section 8.2 states that a member may not exceed the maximum classification level established for the position.

Trooper First Class Johnson's eighth comment was that Administrative Support Specialists move up in rank as well as pay when they are reclassified under section 8. No amendment was made. Members of the Department only obtain permanent rank through the Supervisory Field Promotional System as outlined by section 5 of the rule.

The final comment was that Administrative Support Specialists should have to pass the General Knowledge Examination and appear before a Reclassification Board in order to be reclassified under section 8. An amendment was made to section 8.5. Administrative Support Specialists are required to take the General Knowledge Examination under section 6.4b, but the requirement has been repeated in section 8.5 for clarification. No action was taken on the last part of this comment as section 8.5 requires Administrative Support Specialists to be reclassified by a Reclassification Board.

Written comments from Trooper First Class T. H. Johnson and Trooper First Class G. K. Farley were received on June 29, 1990 and July 16, 1990, respectively. Both comments were outside the scope of the rule and stated that members who held the rank of Trooper First Class before the implementation of the Career Progression System on July 1, 1990 should be "grandfathered" to the rank of Corporal under the Career Progression System. No amendment was made. The initial reclassification tenure for Troopers First Class was mandated by Chapter 15, Article 2, Section 5 of the Code of West Virginia.

Trooper First Class Farley's letter additionally commented that non-supervisory rank reclassifications under section 6 were supposed to be automatic and not at the discretion of a Reclassification Board. No amendment was made. Section 6.5 governing the Reclassification Board is intentionally designed to ensure that a member performs at a minimum acceptable level in order to be reclassified.

As of 5:00 p.m. on July 31, 1990, the Department had received no other comments regarding the proposed legislative rule.

The Division implemented nine (9) additional amendments to the proposed Legislative Rule for administrative and clarification purposes.

Section 2.4 was added, which created the position of Promotional Standards Officer who will be responsible for the

administration of the Career Progression System. Due to the size and complexity of the Career Progression System, a full-time administrator is needed to adequately supervise the system and to track individual member's eligibility and progression.

Section 5.1 was expanded to clarify that non-supervisory members must pass the General Knowledge Examination and added the qualification that non-supervisory members must achieve a .75 on specified Productivity Evaluations in order to be eligible for permanent rank promotions. Non-supervisory members are required to pass the General Knowledge Examination by section 6.4b and the requirement was added to this section for clarification. The productivity requirement was added to ensure that members who reach the top of the non-supervisory classification continue to be productive members in order to be eligible for permanent rank promotion.

Section 5.4h was expanded to place the responsibility for reviewing supervisory recommendations and non-recommendations for promotional suitability with the Selection and Review Board. This amendment institutes an impartial review of a supervisor's actions, thereby helping to insulate the promotional process from favoritism or unjustified punitive actions.

Section 5.4l was clarified by stating that members will be notified of the results of their individual eligibility reviews so as not to convey any intention to notify every member of all members reviews.

Section 6.4a was amended to allow members who are not assigned to the Field Operations Force to petition for eligibility retention, require that all such petitions be reviewed by the applicable supervisory levels and provide for the attachment of recommendations or non-recommendations to each petition by all supervisory reviewers. This action was taken to ensure the advancement eligibility of members who are governed by the Non-Supervisory Rank Reclassification System, but who are not assigned to Field Operations, and to ensure the supervisory review of all such petitions.

Section 7.4a was amended to allow members who are governed by the Criminalist Reclassification System to petition for eligibility retention, require that all such petitions be reviewed by the applicable supervisory levels and provide for the attachment of recommendations or non-recommendations to each petition by all supervisory reviewers. This action was taken to ensure the advancement eligibility of members who are governed by the Criminalist System, but who are not assigned to the Forensic Laboratory, and to ensure supervisory review of all such petitions.

A new section 7.4b was created and requires a Criminalist to receive a valid recommendation for reclassification from all

applicable supervisory levels. This procedure was included to ensure compliance with the intentions of the Committee recommendations made during development of the Career Progression System.

Sections 7.4b and c were amended to read 7.4c and d due to the addition of a new section 7.4b.

Section 9.6 was amended to clarify the rule's intent to eliminate any automatic right to appeal an Appellate Board decision. Some legal standing must exist before a decision is subject to judicial review.

## SUMMARY OF RULE EFFECTS

The West Virginia State Police Career Progression System Legislative Rule was written in compliance with the provisions of Section 5, Article 2, Chapter 15 of the West Virginia Code, as amended during the 1990 session of the West Virginia Legislature, to ensure consistency, predictability and independent review of the Career Progression System.

Section 1 is a General section, identifying the rule's scope and the statutory authority under which the rule was developed.

Section 2, entitled Career Progression System - Introduction, specifies the purpose of the rule and requires the Superintendent to provide a procedural manual for the system to every member, to solicit an annual review of the system and to appoint a system administrator.

Section 3 defines the Physical Fitness standards for the Career Progression System and Section 4 defines Disciplinary Standards as used within the Career Progression System.

Section 5 sets general provisions for Permanent Rank Promotions, defines the Selection and Review Board and sets procedures for making promotions from a rank ordered list.

Section 6, controlling Non-Supervisory Rank Reclassifications, sets tenure, general and specific eligibility requirements and defines the Non-Supervisory Rank Reclassification Board.

Section 7 deals with Criminalist Reclassifications and establishes tenure, general and specific eligibility requirements and defines the Criminalist Reclassification Board.

Section 8 establishes reclassification criteria for Administrative Support Specialist Reclassifications and Section 9 outlines Career Progression Appeals.

The West Virginia State Police Career Progression System Legislative Rule is a general guideline under which specific procedures for the promotion and reclassification of West Virginia State Police officers are to be administered. This rule effects only sworn members of the Division of Public Safety and has no applicability for the division's civilian employees or any other employees of the Department of Public Safety.

STATE OF WEST VIRGINIA

Bill Title: West Virginia State Police Career Progression System

Type of Rule:  Legislative  Interpretive  Procedural

Agency/Division of Public Safety Address: 135 Jefferson Road,

South Charleston, WV - 25309

1. Effect of Proposed Rule:	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense	NOT APPLICABLE. SEE #3 BELOW.				
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

See #3 Below.

3. Objectives of these rules:

These rules are implemented in accordance with Chapter 15, Article 2, Section 5 and are intended to ensure consistency, predictability and independent review of the Career Progression System. It should be noted that the rules themselves will not result in any significant additional cost to the West Virginia State Police. The Career Progression System, as approved by the West Virginia Legislature, however, will cost approximately \$3,200,000.00 for fiscal year 1990-91.

4 Explain the impact of the rules on the following:

A. Interstate Impact - State and Federal. The rules themselves have no impact. However, it should be noted that the \$1,000,000 cost of the Green River System is being funded by bill of the Division of Motor Vehicle's for services provided by the West Virginia State Police. Funds for payment of the services were appropriated by the Legislature and are payable from the State Road Fund.

B. Economic Impact on Political Subdivisions, Specific Industries, or Specific groups of citizens.

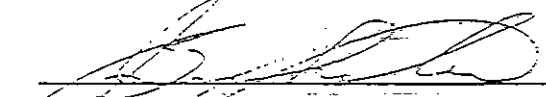
The rules themselves have no impact.

C. Economic Impact on Citizens/Public at Large.

The rules themselves have no impact.

Date: May 31, 1990

Signature of Agency Head or Authorized Representative



COLONEL J.R. BUCKALEW  
SUPERINTENDENT

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Colonel J.R. Buckalew, Superintendent, West Virginia State Police

LEGISLATIVE RULE TITLE: West Virginia State Police - Career Progression System

1. Authorizing statute(s) citation West Virginia State Code §15-2-5

2. a. Date filed in State Register with Notice of Hearing:

May 31, 1990

b. What other notice, including advertising, did you give of the ~~hearing~~ comment period?

Each member of the Department was notified via Department Memorandum

Number 90-6 and by three separate teletypes numbered and dated as

follows: BX-6969, 5-31-90; BX-8510, 7-3-90; and BX-9079, 7-16-90.

c. Date of ~~hearing~~ (s): May 31, 1990  
comment period

July 31, 1990

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached   X   No comments received   -  

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:  
(be exact)

August 9, 1990

f. Name and phone number of agency person to contact for additional information;

Colonel J. R. Buckalew, Superintendent

725 Jefferson Road

South Charleston, West Virginia 25309

(304)746-2222

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

---

b. Date of hearing: N/A

---

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

---

d. Attach findings and determinations and reasons:

Attached N/A

---

COMMENTS RECEIVED AND AMENDMENTS MADE TO  
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CAREER PROGRESSION SYSTEM

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State of West Virginia  
OFFICE OF THE SECRETARY  
Department of Public Safety  
State Capitol Building  
Box 2930

1900 Kanawha Boulevard  
Charleston, West Virginia 25305-0001

Secretary of  
Department of Public Safety and  
Commission on Drunk Driving Prevention  
Department of Corrections  
Adjutant General's Department  
Office of Emergency Services and  
Emergency Services Advisory Council  
Armory Board  
Military Awards Board  
Sheriffs' Bureau  
Fire Commission & State Fire Admin  
Regional Jail and Prison Authority  
Board of Probation and Parole

Joseph J. Skaff  
SECRETARY  
(304) 348-2930

May 29, 1990

TO: COL J. R. Buckalew, Superintendent  
WV State Police.

FROM: MG Joseph J. Skaff, Secretary

SUBJECT: Emergency Filing of Legislative Rule for the  
Career Progression System

*Handwritten signature and date: J. Skaff 5/29 May 90*

I have reviewed the new legislative rule for the Career Progression System and approve its submission for filing.

S/b

RECEIVED  
MAY 30 1990  
EXECUTIVE OFFICE DPS