

TITLE 153
LEGISLATIVE RULES
SECRETARY OF STATE
SERIES 6

STANDARD SIZE AND FORMAT FOR RULES AND PROCEDURES FOR PUBLICATION
OF THE STATE REGISTER OR PARTS OF THE STATE REGISTER

§153-6-1. General.

1.1. Scope. -- This legislative rule establishes the standard size and format for rules and related documents filed in the Secretary of State's office and procedures for publication of documents from the State Register.

1.2. Authority. -- WV Code §§29A-2-6(c) and 29A-2-7(1)

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of former rule. -- This legislative rule repeals and replaces WV 153CSR6 "Standard Size and Format for Rules and Related Documents Filed in the Secretary of State's Office" filed April 15, 1986 and effective April 15, 1986.

§153-6-2. Standard size of rules and related documents.

2.1. All rules and related documents shall be typed on white 8 1/2 inch by 11 inch paper, single spaced and on one (1) side only unless specifically exempted by these rules.

2.2. All rules shall have at least 1/2 inch on the left; right, top and bottom surrounding the text unless specifically exempted by these rules.

§153-6-3. Numbering and indentation.

3.1. All agencies shall have a Title Number assigned by the Secretary of State.

3.2. All rules of an agency shall have a Series Number assigned by the Secretary of State.

3.3. Text breakdowns shall be found in Table 153-6A at the end of this regulation. All rules shall follow

this breakdown.

3.4. Section headings shall contain the title number, series number, section number and name of section (Example: §153-6-3. Numbering and indentation.)

3.5. Subsections shall contain the section number and subsection number. (Example 3.5 or 3.6 etc.)

3.6. Breakdowns below the subsection level shall contain only the number or letter for the appropriate level as directed by subsection 3.3.

3.7. Each breakdown shall be indented from the preceding level on the first line, but shall be carried back to the left margin for the second and succeeding lines of text.

§153-6-4. Underling, strike-throughs and capitalization.

4.1. There shall be no underlining of text except to indicate new language to be added to an existing series.

4.2. Underlining shall indicate language to be added to a rule.

4.3. Strike-throughs shall indicate language to be deleted from a rule.

a. If an agency wishes to delete an entire section or sections, subsection or subsections of text which involve numerous pages, the agency may state within the proposed rule at the beginning of the section or sections to be deleted which section or sections are to be deleted. This will allow the agency to avoid retyping pages of text with strike-throughs. The agency shall indicate clearly and accurately which section or sections are to be deleted.

4.4. There shall be no capitalization except for

proper names, first word in a sentence or abbreviations which are routinely capitalized. When in doubt, do not capitalize. Do not capitalize for emphasis.

§153-6-5. Repeal and replacement.

5.1. When an agency is proposing major changes to an existing rule where it involves the majority of sections, the agency may wish to repeal the existing rule in its entirety and replace the rule as a new rule. In this case the agency shall file the proposed rule without underlining and strike-throughs, if the agency includes in the general section a repealer clause.

5.2. The repealer clause shall be in the general section. It shall state that the prior rule is to be repealed and replaced. It shall state the rule to be repealed by its codification citation, name, filing date and effective date. Refer to subsection 1.5 of this rule for an example of a repealer clause.

5.3. If the agency does not include a repealer clause, then the agency shall include underlining and strike-throughs to indicate language changes.

5.4. The procedure and format for filing a repealed and replaced rule shall be the same as those for a new series rule in §153-6-8.

§153-6-6. Incorporation by reference.

6.1. Documents incorporated by reference shall be filed at the time the proposed rule is filed.

6.2. When incorporating by reference, identify the document by the proper title, proper citation, date and any other information needed to clearly identify the document to be incorporated.

6.3. If the document is less than twenty (20) pages, it must be set out in the regulation and not incorporated by reference.

6.4. It is not necessary to file the following documents when incorporated by reference:

- a. United States Code
- b. West Virginia Code
- c. Code of Federal Regulations
- d. Federal Register

e. West Virginia Code of State Rules

f. Supreme Court decisions (Federal or State)

§153-6-7. Filing proposed amendments to an existing series.

7.1. Filing for public hearing or comment period.

a. The agency shall file only those sections or subsections to be amended or added to the existing rule series.

b. All language to be deleted shall be stricken through, but clearly legible. All the language to be added shall be underlined.

c. Amendments shall not change the series number of the existing rule unless such change has been approved by the Secretary of State.

7.2. Filing of agency approved legislative rules following public hearing or comment period.

a. If no change has been made to the rule filed for public hearing or comment period, the agency shall file the notice of agency approval or agency adopted, as the case may be.

b. If changes have been made, the agency shall include those changes and refile the entire proposed changes with underlining and strike-throughs, as if the previous filing had not occurred.

7.3. Filing agency adopted rules following public hearing or comment period.

a. For those procedural or interpretive rules filed as agency adopted rules following a public hearing or comment period when no change has been made to the rule filed for public hearing or comment period the agency shall only file a notice of agency adoption.

b. If changes have been made, the agency shall include those changes and refile the entire proposed changes with underlining and strike-throughs as if the previous filing had not occurred.

c. For those agencies exempt from the Administrative Procedures Act and whose filing of an agency adopted rule represents the first and only filing of changes to an existing series, the agency shall include all necessary underlining and strike-throughs to indi-

cate language to be deleted and language to be added

7.4. Filing of modifications to legislative rules due to LRMRC objections.

a. The agency shall include those modifications and refile the entire proposal with underlining and strike-throughs, as if the previous filing had not occurred.

b. This filing shall be no later than the first day of the legislative session in which the proposed amendments are to be introduced for authorization.

7.5. Final filing of legislative rules authorized by the Legislature.

a. The agency shall only file the proper notice. The Secretary of State shall produce the final rule from the last filing, with underlinings and strike-throughs, and any legislative amendments within the enrolled bill of authorization.

b. The final rule as produced by the Secretary of State shall be sent to the agency for review and proofing. The agency may have up to ten (10) working days to review the final rule and return any corrections or a statement of confirmation.

c. Following confirmation or corrections, as the case may be, the Secretary of State shall final file the proposed rule and include it in the official West Virginia Code of State Rules.

d. The official rule shall be the rule authorized by the Legislature, produced by the Secretary of State, confirmed by the agency and filed in the West Virginia Code of State Rules.

§153-6-8. Filing of a proposed new series rule.

8.1. This section applies to an agency proposing an entirely new series rule which is not an amendment to an existing rule and which requires the assignment of a new series number.

8.2. The proposed new series rule shall be designated as either a "legislative rule", "procedural rule" or "interpretive rule".

8.3. All proposed new series shall contain a section one "General" which shall include the following subsections -- Scope, Authority, Filing Date, Effective Date. During the time the rule is proposed, the filing date and effective date shall be blank.

8.4. Filing for public hearing or comment period. The agency shall file the entire proposed new series rule. There will, of course, be no strike-throughs or underlining. The proper notice shall be attached.

4.5. Filing agency adopted, interpretive and procedural rules.

a. If no changes have been made to the rule filed for public hearing or comment period, the agency shall only file the notice of agency adoption.

b. If changes have been made, the agency shall include those changes and refile the entire rule with proper notice.

c. If the agency or rule to be adopted is exempt from the Administrative Procedure Act and this filing represents the first and only filing of a new series rule, the agency shall file the entire rule with proper notice.

4.6. Filing of an agency approved legislative rule following public hearing or comment period.

a. If no changes have been made to the rule filed for public hearing or comment period, the agency shall only file the proper notice.

b. If changes have been made to the rule, such changes shall be designated by strike-throughs and underlining and filed with the proper notice.

4.7. Filing of modification to legislative rules due to LRMRC objections.

a. The agency shall include those modifications and refile the entire proposal with underlining and strike-throughs, as if the previous filing had not occurred.

b. This filing shall be no later than the first day of the legislative session in which the proposed new series rule is to be introduced for authorization.

4.8. Final filing of legislative rules authorized by the Legislature.

a. The agency shall only file the proper notice. The Secretary of State shall produce the final rule from the last filing, with underlining and strike-throughs required, and any legislative amendments within the enrolled bill of authorization.

b. The final rule as produced by the Secretary

of State shall be sent to the agency for review and proofing. The agency may have up to ten (10) working days to review the final rule and return any corrections or a statement of confirmation.

c. Following confirmation or corrections, as the case may be, the Secretary of State shall final file the proposed rule and include in in the official West Virginia Code of State Rules.

d. The official rule shall be the rule authorized by the Legislature, produced by the Secretary of State, confirmed by the agency and filed in the West Virginia Code of State Rules.

§153-6-9. Publication of materials from the State Register.

9.1. The State Register shall be established and maintained by the Administrative Law Division of the Secretary of State. 9.2. The State Register shall consist of the following parts:

- a. The West Virginia Code of State Rules
- b. The West Virginia Register
- c. The open meeting file
- d. The orders file
- e. Other agency action file
- f. Obsolete file

9.3. The West Virginia Code of State Rules.

a. The WVCSR shall be the official compilation of state agency regulations currently in effect, excluding emergency rules.

b. The WVCSR shall be supplemented monthly with any changes to the current rules filed during the previous month. The full text of the particular series, whether new or amended, shall be sent to those subscribers of the WVCSR. Emergency rules shall be cited as being filed, but the text of emergency rules shall not be a part of the monthly supplement.

c. The Secretary of State may contract for publication and maintenance of the WVCSR, or parts thereof, but the Secretary of State shall be responsible for the codification and validity of all state agency regulations filed by state agencies for inclusion in the WVCSR.

d. The Secretary of State may offer parts of the WVCSR with a supplement service.

e. The WVCSR shall be a looseleaf publication available at a cost established by the Secretary of State to defray the expense of publication and maintenance.

f. Parts of the WVCSR may be available through duplication or other means at a cost to defray the expense to the Secretary of State.

9.4. The West Virginia Register.

a. The WVR shall be a weekly publication of notices and other announcements filed relating to rule-making, open meetings, orders and other actions by state agencies.

b. The WVR shall be distributed by annual subscription at a cost established by the Secretary of State to defray the expense of production and delivery.

9.5. The Open Meetings file.

a. The OMF shall consist of notices filed by agencies for open governmental proceedings under section nine (a), chapter six of the West Virginia Code.

b. Notices which are filed and found to be in violation of the notice requirements of article nine (a), chapter six of the West Virginia Code shall be published, but shall indicate noncompliance. A copy of this finding and the reasons for noncompliance shall be sent to the agency affected.

12.6. The Orders filed.

a. The OF shall consist of Orders issued by state agencies following contested case hearings and required to be filed pursuant to article nine, section two, chapter twenty-nine (a) of the West Virginia Code.

b. The Secretary of State may amend these rules to establish a standard form, format and procedure for filing orders.

12.7. Other agency action file.

OAAF shall consist of all other information required to be filed by statute, rule or agency directive or practice. Notice of such filings shall be included in the WVR.

b. The Secretary of State may require by amendment to these rules other filings of agency actions in the State Register.

a. The OF shall consist of obsolete rules of state agencies. The Secretary of State shall be responsible for certifying the time period during which obsolete rules were in effect.

12.8. Obsolete file.

TABLE 153-6 A

TEXT BREAKDOWN

153CSR	Title
153CSR6	Series
153CSR6.1	Section
153CSR6.1.a.	Subsection
153CSR6.1.a.1.	Paragraph
153CSR6.1.a.1.A.	Subparagraph
153CSR6.1.a.1.A.i.	Part
153CSR6.1.a.1.A.i.	Subpart
153CSR6.1.a.1.A.1.(a)	Item
153CSR6.1.a.1.A.1.(a)(1)	Subitem