

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

Form #4

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1997 SEP 23 PM 1:48  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: Secretary of State TITLE NUMBER: 153

CITE AUTHORITY  §§29A-2-6(c), 29A-2-7(i)

AMENDMENT TO AN EXISTING RULE: YES  NO

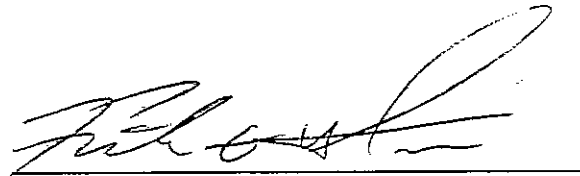
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

TITLE OF RULE BEING AMENDED: ~~Standard Size & Format for Rules~~  
~~& Procedures for Publication of the State Register.~~

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



TITLE 153  
LEGISLATIVE RULES  
SECRETARY OF STATE  
SERIES 6

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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. -- W.Va. Code §§29A-2-6(c) and 29A-2-7(i)

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 new series rules

and repealed and replaced rules shall follow this breakdown. When filing amendments to existing series, the agency may retype the entire series and utilize this breakdown if desired. This office encourages this practice when time and resources allows this to be done.

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. Underlining, 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.

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.

5.1.1. The agency shall also file a copy of the rule being repealed.

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 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 cause, 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 rule and not incorporated by reference.

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

- 6.4.1. United States Code
- 6.4.2. West Virginia Code
- 6.4.3. Code of Federal Regulations
- 6.4.4. Federal Register
- 6.4.5. West Virginia Code of State Rules

6.4.6. 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.

7.1.1. The agency shall file the entire existing rule series regardless of the amount of proposed changes.

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

7.1.3. 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.

7.2.1. If no change has been made to the rule filed for public hearing or comment period, the agency shall only file the notice of agency approval or agency adoption, as the case may be, with the secretary of state. The entire rule series shall be filed with the Legislative Rule-Making Review Committee (LRMRC), as well as a response to all comments. When several comments are of a similar nature, one response to such comments will suffice.

7.2.2. If changes have been made, the agency shall include those changes and refile the entire proposed series with changes underlined and struck-through, as if the previous filing had not occurred. The agency shall also file as a separate document a summary of changes made as a result of the public hearing, as well as a brief response to all comments. When several comments are of a similar nature, one response to such comments will suffice.

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

7.3.1. For those procedural or interpretive rules filed as agency adopted rules 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.

7.3.2. 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.

7.3.3. For those agencies or rules 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 indicate language to be deleted and language to be added.

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

7.4.1. The agency shall refile the entire series rule with the modifications included.

7.4.2. This filing shall be within ten (10) days of the date of the LRMRC meeting of which the modifications were approved.

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

7.5.1. 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.

7.5.2. 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.

7.5.3. 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.

7.5.4. 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 desig-

nated 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.

8.5. Filing agency adopted interpretive and procedural rules.

8.5.1. 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.

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

8.5.3. 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.

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

8.6.1. If no changes have been made to the rule filed for public hearing or comment period, the agency shall only file the proper notice with the secretary of state. The entire series shall be filed with the LRMRC.

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

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

8.7.1. The agency shall refile the entire series rule with the modifications included.

8.7.2. This filing shall be within ten (10) days of the date of the LRMRC meeting at which the modifications were approved.

8.8. Final filing of legislative rules authorized by

the Legislature.

8.8.1. 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, and any legislative amendments within the enrolled bill of authorization.

8.8.2. 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.

8.8.3. 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.

8.8.4. 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. Filing of emergency rules.**

9.1. Filing amendments to an existing series as an emergency rule.

9.1.1. The agency shall utilize strike-throughs and underlining to indicate amendments.

9.1.2. The agency shall attach the proper notice.

9.2. Filing a new series rule as an emergency rule

9.2.1. The agency shall file the entire rule with proper notice.

9.3. Filing of amendments to an emergency rule.

9.3.1. When amending an emergency rule which was initially filed as amendments to an existing series as in subsection 9.1, the agency shall include the new amendments and refile the entire proposal with underlining and strike-throughs, as if the previous filing had not occurred. This will not result in any added time to the lifespan of the initially filed emergency rule.

9.3.2. When amending an emergency rule which was initially filed as a new series rule, the agency shall include the amendments with underlining and strike-throughs and refile the entire proposal, as if

the previous filing had not occurred. This will not result in any additional time to the lifespan of the initially filed emergency rule.

#### **§153-6-10. Tables, charts, diagrams, etc.**

10.1. When an agency needs to include charts, tables, diagrams or other information which is not in a typical narrative format, the agency shall refer to the table, chart, diagram, etc. within the text at the location the table, chart, diagram, etc. is to be located, but the actual table, chart, diagram, etc. will be attached to the back of the proposal. An example of this can be found in this rule in subsection 3.3.

10.2. Tables, charts, diagrams, etc. shall be named as "Table", "Chart", "Diagram", etc. followed by the title number and series number of the rule in which they are located and a letter beginning with "A" for the first table, chart, diagram, etc.; "B" for the second table, chart, diagram, etc. and so on.

10.3. Exceptions may be made by the secretary of state for tables, charts, diagrams, etc. which can be reproduced and fit into the double column format.

#### **§153-6-11. Effective dates.**

11.1. The effective date of the series found in the general section shall be the date the rule was initially adopted or the date of the last change to the series, whichever is latest. After the effect date of this rule, the following procedure will be utilized.

11.1.1. The effective date of the general section shall remain unless the rule is repealed and replaced utilizing a repealer clause. In that case, the effective date in the general section shall be the date the replacement rule becomes effective.

11.1.2. Effective dates for amendments to sections of an existing rule shall be noted in parenthesis at the section heading of the section amended. This will allow the user to historically follow amendments to sections.

#### **§153-6-12. Publication of materials from the State Register.**

12.1. The State Register shall be established and maintained by the Administrative Law Division of the Secretary of State.

12.2. The State Register shall consist of the following parts:

12.2.1. 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

12.3. The West Virginia Code of State Rules (WVCSR)

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

12.3.2. 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.

12.3.3. 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.

12.3.4. The secretary of state may offer parts of the WVCSR with a supplement service.

12.3.5. 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.

12.3.6. Parts of the WVCSR may be available through duplication or other means at a cost to defray the expense to the secretary of state.

12.4. The West Virginia Register (WVR).

12.4.1. 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...

12.4.2. 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.

12.5. The Open Meetings File (OMF).

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

12.5.2. 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 File (OF).

12.6.1. 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.

12.6.2. 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)

12.7.1. 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.

12.7.2. The secretary of state may require by amendment to these rules other filings of agency actions in the State Register.

12.8. Obsolete File.

12.8.1. 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.

TABLE 153-6 A

TEXT BREAKDOWN

153CSR	Title
153CSR6	Series
153CSR6.1	Section
153CSR6.1.1.	Subsection
153CSR6.1.1.a.	Paragraph
153CSR6.1.1.a.A.	Subparagraph
153CSR6.1.1.a.A.(a)	Part
153CSR6.1.1.a.A.(a)(A)	Subpart
153CSR6.1.1.a.A.(a)(A)1.	Item
153CSR6.1.1.a.A.(a)(A)1.(1)	Subitem

TITLE 153  
SECRETARY OF STATE  
SERIES 6

MODIFICATIONS

4.3.1. Delete this subsection

5.1.1. The agency shall also file a copy of the rule being repealed

7.1.1. The agency shall file the entire existing rule series regardless of the amount of the proposed changes.

7.2.2. Add to the end of the second sentence "as well as a response to all comments. When several comments are of a similar nature, one response to such comments will suffice.

7.4.1. The agency shall refile the entire series rule with the modifications included.

7.4.2. This filing shall be within ten (10) days of the days of the date of the LRMRC meeting at which the modifications were approved.

8.7.1. The agency shall refile the entire series rule with the modifications included.

8.7.2. This filing shall be within ten (10) days of the date of the LRMRC meeting at which the modifications were approved.



WEST VIRGINIA LEGISLATURE  
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Room M-438, State Capitol  
Charleston, West Virginia 25305  
(304) 340-3286

*Senator Larry A. Tucker, Co-Chairman*  
*Delegate Thomas A. Knight, Co-Chairman*

September 3, 1987

*M. E. Mowery, Counsel*  
*Debra A. Graham, Associate Counsel*  
*Marie Nickerson, Receiving Clerk*

Mr. Rich O. Hartman,  
Administrative Law Division  
Secretary of State's Office  
State Capitol  
Charleston, WV 25305

Dear Rich:

RE: Standard size and Format for Rules and  
Procedures for Publication of the State Register  
or Parts of the State Register

The Legislative Rule-Making Review Committee will meet on Tuesday, September 15, 1987, at 11:00 a.m., in the Committee Meeting Room, House of Delegates, M-438, and will consider the above-captioned proposed rule and regulations.

Sincerely,

Debra A. Graham  
Associate Counsel

DAG:mgn



WEST VIRGINIA LEGISLATURE  
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Room M-438, State Capitol  
Charleston, West Virginia 25305  
(304) 340-3286

*Senator Larry A. Tucker, Co-Chairman*  
*Delegate Thomas A. Knight, Co-Chairman*

August 19, 1987

*M. E. Mowery, Counsel*  
*Debra A. Graham, Associate Counsel*  
*Marie Nickerson, Receiving Clerk*

Mr. Rich O. Hartman, Director  
Administrative Law Division  
Secretary of State's Office  
State Capitol  
Charleston, WV 25305

Dear Rich:

RE: Standard size and Format for Rules and  
Procedures for Publication of the State Register  
or Parts of the State Register

Enclosed is a copy of the analysis which I have prepared regarding the above-cited proposed rule and regulations. As you may have noted in the analysis, there are areas in the proposed rule which need to be discussed prior to its presentation to the Committee.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Debra A. Graham".

Debra A. Graham  
Associate Counsel

DAG:mgn

Enclosure

