

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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JUL 1 4 15 PM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: SECRETARY OF STATE TITLE NUMBER: 153

RULE TYPE: LEGISLATIVE; CITE AUTHORITY W. VA. CODE §39-5-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 31

TITLE OF RULE BEING PROPOSED: USE OF DIGITAL SIGNATURES, STATE
STATE CERTIFICATION AUTHORITY AND STATE REPOSITORY

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON JULY 31, 1998 AT 12:00 P.M.. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

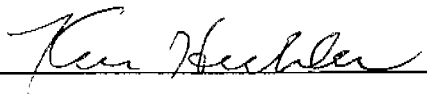
MARY RATLIFF

SECRETARY OF STATE

BLDG. 1, ROOM 157-K

CHARLESTON, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$4.60

Statement of Purpose

The purpose of this rule is to establish procedures and requirements for a state certification authority and state repository for maintaining digital signatures for subscribers, to establish requirements for subscribers to digital signature certificates.

Statement of Circumstances

The Legislature has authorized the acceptance of electronic signatures by state agencies. The type of electronic signature with the highest level of security is the digital signature, which is verified electronically upon each use by a certification authority, much as a credit card is verified by the issuing company. The Legislature provided that the Secretary of State shall serve as the certification authority, and authorized the Secretary to contract with a private vendor for those services.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Use of digital signatures, state certification authority and state repository

Type of Rule: Legislative Interpretive Procedural

Agency Secretary of State

Address Bldg. 1, Room 157-K

Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEHEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ 30,000	\$	\$ 10,000	\$ 30,000	\$ 30,000
PERSONAL SERVICES					
CURRENT EXPENSE	30,000		10,000	30,000	30,000
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

Cost of digital signature certificates and related software for subscribers in all state agencies will involve ongoing costs, but those costs should be offset by other savings.

3. Objectives of these rules:

To promote electronic exchange of documents between state agencies and between the general public and state agencies.

Rule Title: Use of digital signatures, state certification authority and state repository

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Longterm savings by replacing expensive manual transactions with electronic transactions.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

Costs to local government will be voluntary, depending on desire to use; use should promote economic development.

C. Economic Impact on Citizens/Public at Large.

Same as B.

Date: July 1, 1998

Signature of Agency Head or Authorized Representative

FILED

TITLE 153
LEGISLATIVE RULES
SECRETARY OF STATE

JUL 1 4 15 PM '98

SERIES 31

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Use of Digital Signatures, State Certification Authority and State Repository

§153-31-1. General.

1.1. Scope. -- This legislative rule establishes the requirements for use of digital signatures in lieu of manual signatures and establishes requirements for a certification authority.

1.2. Authority. -- W. Va. Code §§ 39-5-4.

1.3. Filing Date. --

1.4. Effective Date. --

§153-31-2. Definitions

2.1. "Agency" includes any state, county or municipal office, department, division, bureau, board, commission, public corporation or other governmental entity created by the State Constitution, statute, rule or executive order.

2.2. "Authorized officer" means the elected or appointed official, or a designee, who has authority to act on behalf of the agency.

2.3. "Electronic signature" means any identifier or authentication technique attached to or logically associated with an electronic record that is intended by the person using it to have the same force and effect as a manual signature.

2.4. "Digital signature" means an electronically approved message transformed

using an asymmetric cryptosystem so that a person having the initial message and the signer's public key can accurately determine whether the message was created using the corresponding private key, and whether the message has been altered.

2.5. "Certificate" or "digital signature certificate" means a computer-based record that:

2.5.1. Identifies the certification authority issuing it;

2.5.2. Names or identifies its subscriber;

2.5.3. Contains the subscriber's public key; and

2.5.4. Is digitally signed by the certification authority issuing it.

2.6. "State certification authority" means an entity with which the State of West Virginia contracts to issue certificates.

2.7. "Key pair" means a set of corresponding public and private digital keys in an asymmetric cryptosystem, in which:

2.7.1. "Private key" means the key of a key pair used to create a digital signature;

2.7.2. "Public key" means the key of a key pair used to verify a digital signature;

2.8. "Corresponding" means to belong to the same key pair in which both keys are required for identification and verification of a digital signature.

2.9. "Certification practice statement" means a declaration of the practices that a certification authority employs in issuing certificates generally, or employs in issuing a material certificate.

2.10. "Repository" means a system for storing and retrieving certificates and other information relevant to digital signatures.

2.11. "Subscriber" means a person who:

2.11.1. Is the subject listed in a certificate;

2.11.2. Accepts the certificate; and

2.11.3. Holds a private key that corresponds to a public key listed in that certificate.

§153-31-3. Selection of State Certification Authority; Eligibility Requirements for Certification Authority.

3.1. The Secretary of State shall initiate a procurement process to obtain a contract with one or more private vendors, at the discretion of the state, to serve as a state certification authority.

3.2. The Secretary of State shall initiate a procurement process to obtain a contract with one or more private vendors, at the discretion of the state, to serve as a state repository.

3.3. The Secretary of State is authorized to contract with a vendor for services as both

state certification authority and state repository.

3.4. The state certification authority shall be authorized to issue a certificate that binds a public key to any authorized person for the purpose of using a digital signature on a record in his or her capacity as an agent of the state or any agency in West Virginia, as defined by subsection 2.1. of this rule.

3.5. The state certification authority shall be authorized to issue a certificate to any person for the purpose of using a digital signature on a record filed with any agency, as defined by subsection 2.1. of this rule.

3.6. For the duration of the contract, the state certification authority and/or state repository shall comply with the provisions of these rules.

3.7. To be qualified for selection as the state certification authority and/or state repository, a vendor must:

3.7.1. Maintain a system of internal electronic security clearances in which personnel with access authority to secure data are persons who have demonstrated knowledge and proficiency in following the requirements of this chapter, and have never been convicted of a felony or of any other crime involving fraud or misrepresentation;

3.7.2. File with the secretary of state a corporate surety bond or letter of credit for a term of at least five years, in the amount of fifty thousand dollars (\$50,000);

3.7.3. Use a trustworthy system, including a secure means for limiting access to its private key;

3.7.4. Be licensed to do business in the state and registered as a vendor for the state; and

3.7.5. Meet any other requirements specified in the request for proposal.

§153-31-4. Requirements for State Certification Authority Practice.

4.1. The state certification authority shall provide the Secretary of State at least annually, or upon any significant change in procedures, a practice statement detailing the security and procedural steps utilized in the issuance of certificates and operation of the system of verification of documents containing digital signatures.

4.2. The state certification authority shall use only a trustworthy system:

4.2.1. To issue, suspend, or revoke a certificate;

4.2.2. To publish or give notice of the issuance, suspension, or revocation of a certificate; or

4.2.3. To create a private key.

4.3. Upon a written, signed and reasonably specific inquiry from an identified person, the state certification authority must disclose any material certification practice statement, and any fact material to either the reliability of a certificate that is has issued or its ability to perform its services. The certification authority may require payment of

reasonable compensation before making this disclosure.

§153-31-5. Requirements for State Repository Practice.

5.1. The state repository shall provide the Secretary of State at least annually, or upon any significant change in procedures, a practice statement detailing the security and procedural steps utilized in the system of verification of documents containing digital signatures.

5.2. The state repository shall use only a trustworthy system to store the key combination and process the verification transactions required for each subscriber.

5.3. Upon a written, signed and reasonably specific inquiry from an identified person, the state repository must disclose any material certification practice statement, and any fact material to either the reliability of a specific verification transaction or its ability to perform its services. The state repository may require payment of reasonable compensation before making this disclosure.

§153-31-6. Requirements for Issuance of Certificates.

6.1. The state certification authority may issue a certificate to a subscriber only after all of the following conditions are satisfied:

6.1.1. The certification authority has received a request for issuance signed by the prospective subscriber, and if the subscriber is acting in an official capacity, signed by the appropriate officer; and

6.1.2. The certification authority has confirmed that:

6.1.2.1. The prospective subscriber is the person to be listed in the certificate to be issued;

6.1.2.2. The information in the certificate to be issued is accurate;

6.1.2.3. The prospective subscriber rightfully holds the private key corresponding to the public key to be listed in the certificate;

6.1.2.4. The public key to be listed in the certificate can be used to verify a digital signature affixed by the private key held by the prospective subscriber; and

6.1.2.5. The certificate provides information sufficient to locate or identify the repository in which notification of the revocation or suspension of the certificate will be listed if the certificate is suspended or revoked.

6.2. The state certification authority may issue a separate certificate to a subscriber as the agent for another officer or authorized person.

6.2.1. The certificate may be issued only upon evidence that:

6.2.1.1. The officer or other authorized person has the authority to designate the prospective subscriber as an the agent to act on his or her behalf; and

6.2.1.2. The officer or other authorized person files with the state certification authority a statement appointing

the prospective subscriber as agent, designating any limitations on his or her authority to act in the official capacity of the officer or appointing person, and requesting issuance of the certificate listing the corresponding public key; and

6.2.1.3. The subscriber agrees in writing to use the certificate only when acting as agent for the officer or other authorized person.

6.2.2. The state certification authority shall clearly identify the subscriber as the holder of the private key corresponding to the public key to be listed in the certificate for the specific purpose of acting on behalf of the officer or authorized person.

6.3. The requirements of subsection 5.1. of this rule may not be waived or disclaimed by either the certification authority, the subscriber, or both.

6.4. In obtaining information of the subscriber material to issuance of a certificate, the certification authority may require the subscriber to certify the accuracy of relevant information under oath or affirmation of truthfulness and under penalty of perjury.

6.5. If the subscriber accepts the issued certificate, the state certification authority must publish a signed copy of the certificate in the state repository.

6.6. If the subscriber does not accept the certificate, the state certification authority may not publish it, or shall cancel its publication if the certificate has already been published.

§153-31-7. Subscribers; duties upon acceptance of certificate.

7.1. By accepting a certificate issued by the state certification authority, the subscriber listed in the certificate certifies to all who reasonably rely on the information contained in the certificate that:

7.1.1. The subscriber legally holds the private key corresponding to the public key listed in the certificate;

7.1.2. All representations made by the subscriber to the certification authority and material to the information listed in the certificate are true; and

7.1.3. All material representations made by the subscriber to a certification authority or made in the certificate and not confirmed by the certification authority in issuing the certificate are true.

7.2. By accepting a certificate and using a digital signature, a subscriber recognizes that the provisions of West Virginia Code §61-3C-10 prescribe the penalties for the unauthorized disclosure of confidential security information, including the private key.

7.3. A subscriber to whom a certificate is issued in his or her capacity to act on behalf of an agency shall request the revocation of the certificate immediately upon separation from the agency.

§153-31-8. Suspension of Certificate

8.1. The state certification authority issuing a certificate shall suspend the certificate for a period not to exceed ninety-six hours:

8.1.1. Upon request by a person whom the certification authority reasonably believes to be:

8.1.1.1. The subscriber named in the certificate, or the officer or other authorized person who originally appointed the subscriber to act as agent;

8.1.1.2. a person duly authorized to act for that subscriber; or

8.1.1.3. a person acting on behalf of the unavailable subscriber; or

8.1.2. By order of the Secretary of State.

8.2. The certification authority shall require the name, address, telephone number, of the person requesting suspension, and other evidence of his or her identity.

8.3. Immediately upon suspension of a certificate by the state certification authority, the authority shall give notice of the suspension to the state repository.

8.4. The state certification authority may remove the suspension upon reasonable determination that the suspension was not warranted.

§153-31-9. Revocation of Certificate

9.1. The state certification authority shall revoke a certificate it has issued within twenty-four hours after receiving:

9.1.1. Confirmation that it was not issued as required by this rule;

9.1.2. A written request for revocation by the subscriber of that certificate or the officer or authorized person originally appointing the subscriber as agent, subject to confirmation of the identity and authority of the person making the request; or

9.1.3. A certified copy of the subscriber's death certificate, or upon confirming the subscriber's death by other evidence.

9.2. The certification authority shall revoke a certificate it has issued upon presentation of documents effecting a dissolution, termination or revocation of the subscriber, or upon other reliable evidence that the subscriber has ceased to exist.

9.3. The certification authority may revoke one or more certificates that it issued if the certificates become unreliable, regardless of whether the subscriber consents to the revocation.

9.4. Immediately upon revocation of a certificate by the certification authority, the authority shall give notice of the revocation and shall publish the notice in the state repository.

§153-31-9. Expiration of Certificate

9.1. The term of the certificate shall be subject to the contract with the state certification authority as provided in section three of this rule.

9.2. The certificate shall be valid for the duration of the term, unless previously revoked, beginning on the date of issuance.

9.3. A certificate shall indicate the date on which it was issued and on which it expires.

9.4. Upon expiration of a certificate, the certification authority is discharged of its duties, except those duties related to the retention of records relating to the certifications.

§153-31-10. Form of Certificates

10.1. Certificates issued by the state certification authority shall follow the Basic Certificate Field Standards specified in standard X.509, Ver. 3.

10.2. If certificate extension fields are used, usage must conform to the required guidelines referenced in X.509 section 4.1.2.1., section 4.2, and may be displayed on the certificate.

§153-31-11. Record keeping and Retention.

11.1. The state certification authority shall maintain a data file containing the record of each subscriber, including at least:

11.1.1. The name, address, and social security number or other national identification number of the subscriber, and the name of the agency, if the subscriber holds the digital signature certificate as an agency representative;

11.1.2. The name, address, and title of the officer or authorized person on whose behalf the subscriber will act, if the certificate is issued to the subscriber as an agent;

11.1.3. The date of the issuance and the expiration of the certificate, and certificate number.

11.2. The state repository shall maintain a data file containing every time-stamp issued by the certification authority, with sufficient information to identify the subscriber and the document.

11.3. The state certification authority shall maintain such records as are necessary to assure compliance with the provisions of Chapter 39, Article 5 of the West Virginia Code and this rule, as they pertain to digital signatures and the certificate authority.

11.4. Except for the names and addresses of subscribers, and the dates of issuance and expiration of their respective certificates, the records of the state certification authority pertaining to subscribers and are not subject to public inspection. All records shall be indexed, stored, preserved and reproduced so as to be accurate, complete and accessible to an auditor.

§153-31-12. Compliance Audits.

12.1. The state certification authority may be subject to an annual compliance audit conducted by a reliable certified public accountant in conjunction with a reliable authority on computer security.

12.2. Following an audit, the Secretary of State may require reports as needed to assure problems identified in the audit are corrected.

§153-31-13. Procedure on Discontinuance of Business of State Certification Authority or State Repository.

13.1. If a state certification authority or state repository goes out of business or otherwise discontinues providing the services specified in the contract, the certification authority or repository shall:

13.1.1. Notify the Secretary of State at least one hundred twenty days before discontinuing services;

13.1.2. Notify all subscribers listed in valid certificates issued by the certification authority at least thirty days before discontinuing services;

13.1.3. Minimize disruption to the subscribers of valid certificates and relying parties;

13.1.4. Refund, on a pro rata basis, fees paid in advance by subscribers for any certificate period in excess of one month from the date of discontinuation; and

13.1.5. Make reasonable arrangements for the preservation of the certification authority's records.

13.2. The corporate surety bond or letter of credit filed with the application may not be released until the expiration of the term specified in the bond or letter of credit.

13.3. The Secretary of State may specify a process by which he or she may, in any combination, receive, administer, or disburse the records of a licensed certification authority or recognized repository that discontinues providing services, for the purpose of maintaining access to the records and revoking any previously issued valid certificates in a manner that minimizes disruption to subscribers and relying parties.

13.4. The state may recover the costs of the state incurred in conjunction with the early termination of the contract and the process of obtaining alternative services.

§153-31-14. Fees for Issuance of Certificates.

14.1. The state certification authority may charge the fee for issuance of a certificate which is set by the terms of the state contract in effect at the time of the application by the subscriber.

14.2. The fee for a certificate shall be paid by the subscriber, or in the case of an agency employee, by the agency on whose behalf the subscriber will use the digital signature certificate.