

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #2

**FILED**

**JUN 26 4 14 PM '97**

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

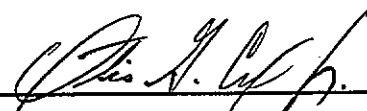
**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: WEST VIRGINIA STATE POLICE TITLE NUMBER: 81  
RULE TYPE: LEGISLATIVE; CITE AUTHORITY W. Va. Code 15-2-1 et seq.  
AMENDMENT TO AN EXISTING RULE: YES  NO   
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1  
TITLE OF RULE BEING AMENDED: ADMINISTRATIVE REGULATIONS  
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: N/A  
TITLE OF RULE BEING PROPOSED: N/A

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 28, 1997 AT 10:00 am. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

SUPERINTENDENT c/o S.W. Cogar  
725 Jefferson Rd.  
S. Charleston, WV 25309-1698  
- Contact number: (304)746-2112  
- FAX number: (304)746-2405

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

  
\_\_\_\_\_  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$4.00

**West Virginia State Police  
Title 81  
Series 1**

**Summary of Proposed Rule**

**The proposed rule essentially repeals former CSR §81-1-1 et seq., and covers policy and procedure, not in other State Police legislative rules or in the W. Va. Code, governing the administration of the West Virginia State Police.**

**West Virginia State Police  
Title 81  
Series 1**

## **Circumstances Requiring Repeal of Rule**

The following circumstances led to the proposed amendments to former CSR §81-1-1 et seq.:

1.) The current rule contains over thirteen pages of language covered in the West Virginia Code at §§15-2-2, 3, 4, 5, 9, 10, 12, 13, 18, 20, 21, 25 and in other legislative rules of the State Police. Therefore, it is unnecessary to have similar provisions in this legislative rule. To eliminate such extensive duplicity, the proposed rule seeks to repeal the former rule (for the foregoing reasons) and make the following amendments to the remainder of the rule:

(a) The legislature changed the name of the agency from the "Division of Public Safety" to the "West Virginia State Police." The proposed rule reflects this change.

(b) The current rule contains the "Rules of Conduct," which lists the "activities or conduct prohibited to Department members." The "Rules of Conduct" are not grouped according to the severity of the offenses and their respective discipline. This is contrary to the progressive discipline system contained in CSR §81-10-1 et seq. The proposed rule seeks to repeal the "Rules of Conduct" leaving prohibited activities and their respective discipline at the detailed CSR §81-10-1 et seq.

(c) The transfer language in the current rule contains an inordinate amount unnecessary detail. The proposed rule, without reducing the transfer power of the department, simplifies and condenses the transfer language.

(d) The current rule discusses the creation of a "Promotion Evaluation Board." However, promotions are fully discussed at CSR §81-3-1 et seq. Therefore, the proposed rule seeks to repeal this language, leaving promotional language primarily at CSR §81-3-1.

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

**Rule Title:** ADMINISTRATIVE RULES

**Type of Rule:** X Legislative      Interpretive      Procedural

**Agency** WEST VIRGINIA STATE POLICE

**Address** 725 Jefferson Rd.  
S. Charleston, WV 25309-1698

**1. Effect of Proposed Rule**

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THIRDEAPTER
<b>ESTIMATED TOTAL COST</b>	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
<b>PERSONAL SERVICES</b>					
<b>CURRENT EXPENSE</b>					
<b>REPAIRS &amp; ALTERNATIONS</b>					
<b>EQUIPMENT</b>					
<b>OTHER</b>					

**2. Explanation of above estimates:**

The proposed rules will have only nominal costs (if any at all) associated with them. Therefore, we have indicated that the proposed rules result in no costs to our agency.

**3. Objectives of these rules:**

To govern the administration of the West Virginia State Police.

Rule Title: ADMINISTRATIVE RULES

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

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

NONE

C. Economic Impact on Citizens/Public at Large.

NONE

Date:

6-26-97

Signature of Agency Head or Authorized Representative

St. Col. Gary D. Griffith

TITLE 81  
LEGISLATIVE RULES  
WEST VIRGINIA STATE POLICE

FILED

JUN 26 4 14 PM '97

SERIES 1  
ADMINISTRATIVE RULES

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§81-1-1. General.**

1.1. Scope. -- These rules govern the administration of the West Virginia State Police.

1.2. Authority. -- W. Va. Code §15-2 et seq.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of former rule - This legislative rule repeals and replaces CSR §81-1-1 et seq., "Administrative Regulations" filed July 25, 1984 and effective July 25, 1984.

**§81-1-2. Operation of the West Virginia State Police.**

2.1. Policy and procedure governing the internal management and operation of the department shall be contained within the department's Operational Policy and Procedure Manual.

2.2. Each member of the West Virginia State Police shall be issued a copy of the Operational Policy and Procedure Manual.

2.3. If any portion of the Operational Policy and Procedure Manual is amended, each member shall be issued a copy of the amendment.

2.4. Each member shall ensure that his/her Operational Policy and Procedure Manual contains all current operational policies and procedures.

2.5. To ensure the continued efficient operation of the organization, a department memorandum or other directive issued by authority of the Superintendent may temporarily amend or rescind any operational policy or procedure until a revised draft is issued.

2.6. The enlistment, permanent transfer, promotion, demotion, suspension or discharge of members of the West Virginia State Police shall be effected by department special order.

2.7. Information to members may be disseminated either by department memorandum or department notice.

**§81-1-3. Organizational Structure And Duties.**

3.1. This section relates to West Virginia Code sections two, three and four, article two, chapter fifteen.

3.2. The Superintendent shall serve as the executive and administrative head of the Department of Public Safety. The Superintendent shall hold the rank of Colonel and shall be entitled to all rights, benefits and privileges of regularly enlisted members.

3.3. The Superintendent shall appoint from the enlisted membership of the Department of Public Safety a Deputy Superintendent who shall hold the rank of Lieutenant Colonel and be next in authority to the Superintendent.

3.4. The term Executive Office shall encompass the following: (1) Superintendent; (2) Deputy Superintendent; (3) Chief of Staff Services; (4) Chief of Field Operations; (5) Inspector; and (6) such other offices as the Superintendent deems necessary.

3.5. The Deputy Superintendent shall serve as the principal coordinator of department field operations and staff services functions. The Deputy Superintendent shall perform other duties as may be assigned by the Superintendent.

3.6. If the Superintendent is unable to discharge the powers and duties of his office, due to illness, disease, injury or any other cause or is absent from the geographical boundaries of West Virginia, the order of succession is as follows:

(a) Deputy Superintendent;

(b) The senior member of the Executive Office if the Superintendent and Deputy Superintendent are absent.

Whenever the Deputy Superintendent or the senior member succeeds to the Office of the Superintendent he shall exercise all the powers, functions, duties and responsibilities of the Superintendent.

3.7. The Superintendent shall appoint from the enlisted membership of the Department the number of officers and members necessary to operate and maintain the Executive Office.

3.8. The Chief of Staff Services shall be responsible to the Superintendent for the coordination of all staff services functions and the correlation of activities and duties of staff services with those of field operations. The Chief of Staff Services shall perform other duties as assigned by the Superintendent and/or Deputy Superintendent.

3.9. The Chief of Field Operations shall be responsible to the Superintendent for the planning, conducting and monitoring of all field operations and the correlation of activities and duties of field operations with those of staff services. The Chief of Field Operations shall perform other duties as assigned by the Superintendent and/or the Deputy Superintendent.

3.10. The Inspector shall be responsible to the Superintendent for ensuring that all members and civilian employees adhere to all policy and procedure governing the operation of the Department; the inspection of all Department owned, leased, rented or maintained structures; and, the inspection of all departmental records and reports. The Inspector shall serve as the Superintendent's principal point of contact regarding complaints filed against Department members or civilian employees. The Inspector shall submit to the Superintendent recommendations regarding the disposition of complaints. The Inspector shall perform other duties as assigned by the Superintendent.

3.11. The Department of Public Safety shall consist of the number of companies, districts and detachments as are required for the proper administration of the Department. Each company, district or detachment shall be composed of the number of officers and members the Superintendent deems necessary for the efficient operation of the Department.

3.12. Each Company Headquarters Staff shall consist of the Company Commander; Company Executive Officer; Company Logistics Officer; and other members and civilian employees the Superintendent deems necessary.

3.13. Each Company Commander shall be responsible for the planning, conducting and monitoring of all field operations occurring within his company. Each Company Commander shall be responsible for the correlation of the activities and duties of members and civilian employees assigned to his command with those of staff services.

3.14. Each Company Executive Officer shall perform duties assigned by his Company Commander. In the absence of the Company Commander, the Company Executive Officer shall serve as the Acting Company Commander and exercise all the powers, functions, duties and responsibilities of the Company Commander.

3.15. Each Company Logistics Officer shall perform duties assigned by his Company Commander. In the absence of the Company Commander and the Company Executive Officer, the Company Logistics Officer shall serve as the Acting Company Commander and shall exercise all the powers, functions, duties and responsibilities of the Company Commander.

3.16. Each District Headquarters Staff shall consist of the District Commander and other members and civilian employees the Superintendent deems necessary.

3.17. Each District Commander shall be responsible for the planning, conducting and monitoring of all field operations occurring within his district. Each District Commander shall be responsible for the correlation of the activities and duties of members and civilian employees assigned to his command with those of staff services. Each District Commander shall perform duties as assigned by his Company Commander.

3.18. Each Detachment Headquarters Staff shall consist of the Detachment Commander and other members and civilian employees the Superintendent deems necessary.

3.19. Each Detachment Commander shall be responsible for the planning, conducting and monitoring of all field operations occurring within his detachments area of operations. Each Detachment Commander shall be responsible for the correlation of the activities and duties of members and civilian employees assigned to his command with those of staff services. Each Detachment Commander shall perform duties assigned by his District Commander.

3.20. The Superintendent shall appoint, from the enlisted members of the Department, the number of officers and members he deems necessary to operate and maintain a scientific laboratory; keep records relating to crimes and criminals; coordinate traffic safety activities; maintain a system of supplies and accounting; and, perform other necessary services.

**§81-1-4. Transfer.**

4.1. This section relates to West Virginia Code section twenty, article two, chapter fifteen.

4.2. Definitions. -- For purposes of this section:

(a) Intercompany means to a different company.

(b) Intracompany means within the member's company.

(c) Involuntary transfer means a transfer that is not at the request or with the consent of the member.

(d) Operational needs - shall encompass; consideration of officer safety, the department's ability to provide services, the member's performance and ability, supervisory evaluation of member's suitability, change in mission or mission priority by the department, department resources and budget management, and/or other reasonable factors.

(e) Permanent means more than sixty (60) days.

(f) Temporary means sixty (60) or less than sixty (60) days.

(g) Transfer means assignment from one field operation station to another field operation station.

(h) Voluntary transfer means a transfer at the request of or with the consent of the member.

4.3. To meet operational needs, when any member of the department is to be involuntarily and permanently transferred, the member shall be notified in writing of the proposed transfer at least fifteen (15) calendar days prior to the effective date of such transfer. The Superintendent shall not be required to give notice if:

(a) the transfer is voluntary; or

(b) the result of a promotion to a supervisory rank; or

(c) the result of a member's request for appointment to a support specialist position; or

(d) at the request of or notice is waived by the member who is to be transferred.

The day the notice is given shall not be counted in the fifteen (15) days' notice requirement. Oral notification shall suffice to temporarily transfer a member inter or intracompany; oral notification shall be confirmed in writing. Company commanders are authorized to initiate intracompany temporary transfers.

**§81-1-5. Overtime Compensation.**

5.1. This section relates to W. Va. Code §15-2-5(g).

5.2. The standard work month for West Virginia State Police members who are exempt from the Federal Fair Labors Standards Act shall be (181) hours.

5.3. Members of the West Virginia State Police, with the exception of the Superintendent and civilian employees, shall receive the following percentages of the maximum supplement for the equivalent number of hours worked in excess of the standard work month:

EXCESS	TOTAL MONTHLY
1-5 hours	182 to & incl. 186 25%
6-10 hours	187 to & incl. 191 50%
11-15 hours	192 to & incl. 196 75%
16 or more	197 or more 100%

5.4. Credit for a normal workday of 8.0 hours shall be given in computing the number of hours worked per month for any legal holiday (HOD) or compensatory day (CDO) in lieu thereof; any day of annual leave (AWL), sick leave (SIQ), work related disability leave (DL), or administrative leave (AAL) taken within the month for which the computation is made. Credit for a normal workday of 8.0 hours shall also be given in computing the number of hours worked per month for any compensatory day (CDO) taken in lieu of a day off duty lost in either of the two (2) months immediately preceding the month for which the compensation is made. Credit for a normal workday shall not be given for customary days off duty (DOD) or for any make up days (MUD) in lieu thereof.

5.5. Personal knowledge and/or individual monthly activity reports shall serve as the basis for the Superintendent's monthly certification of those members who are eligible for receipt of the monthly supplement set forth above.