

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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SECRETARY OF STATE

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

AGENCY: STATE TAX DEPARTMENT TITLE NUMBER: 110

CITE AUTHORITY W. VA. CODE §§ 29A-3-15 AND 11-10-5

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

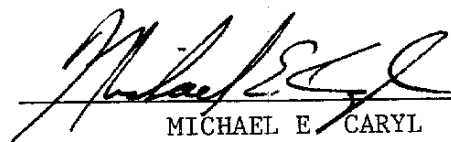
TITLE OF RULE BEING AMENDED: APPRAISAL OF PROPERTY FOR PERIODIC

STATEWIDE REAPPRAISALS FOR AD VALOREM PROPERTY TAX PURPOSES

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

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.



MICHAEL E. CARYL
STATE TAX COMMISSIONER



State Tax Department
of West Virginia

Charleston 25305

ARCH A. MOORE, JR.
GOVERNOR

MICHAEL E. CARYL
COMMISSIONER

JOHN F. LEABERRY
ASSISTANT COMMISSIONER

August 14, 1987

Honorable Ken Hechler
Secretary of State
State Capitol
Charleston, WV 25305

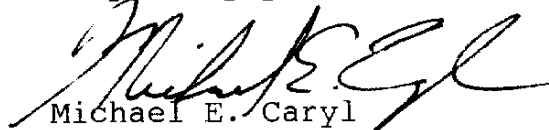
Dear Mr. Hechler:

In accordance with W. Va. Code § 29A-3-9, the State Tax Department is today filing in the State Register agency approved amendments to 110 CSR 1, §§ 11.4, 11.5 and 11.8.

These amendments are promulgated pursuant to authority granted in W. Va. Code §§ 29A-3-15 and 11-10-5.

These amended sections were filed as emergency amendments on July 2, 1987. A public comment period commenced on the day of filing and continued until 5:00 p.m. on August 3, 1987. Public comments were received. Minor modifications were made to the amended sections subsequent to being filed as an emergency legislative rule.

Very truly yours,


Michael E. Caryl
State Tax Commissioner

jm/ss
Attachment

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11.04. Valuation of Active and Reserve Coal
Properties.

(a) General. -- Coal is one of the several estates in real property which may be owned either as a separate interest or in conjunction with other interests, usually as fee ownership or as mineral ownership. If coal is owned as a separate estate, either absolute or as a leasehold interest, or in conjunction with other interests, West Virginia property tax law requires such ownership to be listed, valued and taxed based on its true and actual value. Coal may be owned without being mined. Coal rights may exist where no coal is actually present, or where the coal is unmineable or mined out. For valuation purposes this regulation classifies coal property ownership into the following categories:

- (1) Active
- (2) ~~Active/reserves~~ Reserves
- (3) ~~Inactive/reserves~~ Unmineable
- (4) Mined-out/~~Unmineable~~/Barren

(b) Definitions.

- (1) Acres Mined. -- Acres mined per year is the average annual production as defined in 11.04(b) (4) (3) divided by the product of the thickness (in feet) of the coal seam being mined as detailed in mining permit times 1800 tons per acre foot times the recovery rate according to the

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actual recovery of coal per acre being experienced at the mining operation.

$$\frac{\text{Average Annual Production}}{\text{Thickness} \times 1800 \times \text{Recovery Rate}} = \frac{\text{Annual Acres Mined}}{\text{Mined}}$$

(2) Active Mining Property. -- This term refers to a mineable ~~and/merchantable~~ seam of coal on a parcel involved in a mining operation. For the purposes of determining active mining property, all contiguous parcels ~~under/one/ownership/or owned/or/leased/by/interrelated/businesses/or individuals~~ regardless of ownership, that are under lease and/or involved in the permitted operation shall be treated as ~~one/parcel~~ active mining property. The maximum active mining portion for each seam for each mining operation on a parcel is fifteen (15) years times the acres mined [as defined in § 11-04(b)(1)] for deep mines or ~~ten/(10)~~ five (5) years times the acres mined for surface and auger mines. If the mineable ~~and merchantable~~ acreage remaining in the seam(s) being mined is less than the maximum amounts listed above, then the remaining acreage will be considered the active mining property. If more than one seam on a parcel is being actively mined, then each such seam represents separate active mining property. In the application of the herein provided valuation formula on "active mining

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property," the appropriate formula calculation will be based upon the actual market to which the coal from the tract and seam is currently being sold, whether it is "metallurgical" or "steam".

If more than one mining operation is mining a given coal seam on the same parcel, then each such mining operation has a separate active mining property. However, under no circumstances shall the sum of the active acres for all mining operations on a seam exceed the number of acres on a parcel. As necessary, the Commissioner shall apportion the number of acres for each mining operation, based upon a review of relevant leases, and the respective rates of average annual production.

125//Active/Reserves///This term means and includes the entire residual acreage of mineable and merchantable coal for each seam being actively mined in excess of the active mining property; of the number of acres corresponding to twenty-five (25) years times the acres mined per year of \$11.04105/1100, whichever is less///In the application of the herein provided valuation formula on "active reserves," the appropriate formula calculation

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will be based upon the actual market to which
the coal from that tract and seam is currently
being sold, whether it is "metallurgically" or
"steam"

(A) (3) Average Annual Production. -- The
average annual rate of coal production, in
tons per fiscal year, ending June 30th of
each calendar year, is generally determined
by a weighted average of three (3) years net
production that has occurred between July 1
and June 30 of the most current fiscal years.

The weighted average shall be determined
by multiplying the most recent year's production
by .4, the previous two (2) years production
multiplied by .3, and the resulting three (3)
figures added together to arrive at the
average annual production. However, if there
is no production during the most recent
fiscal year then the property will be valued
as *inactive* reserves.

When there has been no production during
the second or third most recent fiscal year,
the production for the current year will be
factored by .5 and the production for the
earlier fiscal year in which production
existed will be factored by .5 and the

resulting two figures will be added together to arrive at the average annual production.

If there was no production in both the second and third most recent fiscal years then the production for the most recent fiscal year will be factored by 1.0 and the resulting figure will be the average annual production.

(3) (4) Barren. -- Those properties where coal rights are separately and/or individually Fee properties, mineral properties and/or those coal properties where the coal rights are owned, and the existence of one or more coal seams has not been established.

(6) (5) Capitalization Rate. -- A rate used to convert an estimate of income into an estimate of market value. [For further explanation see § 11.04(a)(1)(C).]

(7) Inactive Reserves -- Inactive reserves are those seams of coal, or portions thereof, which are mineable and merchantable but are not active mining property, or active reserves.

(8) (6) Life of Mining Operation. -- The life of a deep mining operation shall be fifteen (15) years, or the number of years

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required to exhaust the seam at the average annual production [~~\$ 11.04(b)(4)~~ (3)] rate, whichever is less. The life of a surface or auger mining operation shall be ~~ten~~ (5) years, or the number of years required to exhaust the seam at the average annual production rate, whichever is less. Fractional years will be rounded to nearest whole number.

~~(9) // Merchantable Coal // ++ Coal which is ordinarily used for sale and can usually be sold at a profit~~

(10) (7) Metallurgical Coal. -- This term shall mean bituminous coal that is suitable for making coke by industries that refine, smelt, and work with iron and/or steel.

(11) (8) Mineable Coal. -- ~~Coal which can be mined under present day mining technology and economics~~ Coal which is so situated that it may be mined using generally accepted mining practices and suitable equipment and which is such quality so as to be commercially saleable (as either mined coal or as a recoverable reserve). Furthermore, unless there is evidence to the contrary, coal seams which

are of a thickness less than 30 inches will not be considered or classified as mineable.

~~(12)~~ (9) Mined-Out. -- A seam of coal, or any portion thereof, which is depleted by prior mining operations and which is not mineable ~~and/merchantable~~ by modern technology.

~~(13)~~ (10) Mining Operation. -- This term shall mean an enterprise engaged in actively obtaining or preparing to obtain coal or its by-products from the earth's crust, including underground, surface and auger mines. Each mining operation may have more than one area designated as "Active Mining Property" as defined in Section 11.04(b)(2). The designation of "Active Mining Property" areas shall be determined as follows:

(i) If the mining operation is producing coal from one seam under a Department of Natural Resources or Department of ~~Mines~~ Energy permit, then that operation will be designated as an "Active Mining Property." However, if the mining operation is producing coal from more than one seam under a Department of Natural Resources or Department of ~~Mines~~ Energy permit, then each active seam

will be designated as an "Active Mining Property."

(ii) If the mining operation is producing coal from one seam at different portals and/or faces under one specific Department of Natural Resources or Department of ~~Mines~~ Energy permit, then that operation will be designated as an "Active Mining Property." However, if the production of coal involves different mining techniques (e.g. surface, auger or deep mining method), or if mining sites are separate and generally independent, then such sites will be designated as separate "Active Mining Properties."

~~11A~~ (11) Multiplier. -- This term shall mean the "present worth of one per period" for the life of the mining operation [§ 11.04(b) ~~18~~ (7)] employing the capitalization rate determined in section 11.04(c) (1) ~~27~~ (I), as determined by a standard mid-year life Inwood table.

(12) Recovery Rate. -- This, which is also known as mining height, is the percentage of the marketable coal seam thickness that is recovered through the mining process.

(13) Reserves -- Reserves are those seams of coal, or portions thereof, which are mineable and contain recoverable coals, but are not active mining property.

~~(13)~~ (14) Royalty Rate. -- The royalty rates determined annually by the Tax Commissioner are the current market royalty rates for arms-length, willing-buyer, willing-seller, transactions for each of the four categories of coal mining operations derived in section 11.04(c) ~~(13)~~ (1) (F). The royalty rates are deemed to be paid to each owner of a coal estate for all actively mined property, and are not generally considered to contain payments for property tax purposes.

~~(14)~~ (15) Steam Coal. -- This term shall mean bituminous coal that is mineable ~~and merchantable~~ but that is not suitable for making coke by industries that refine, smelt, and work with iron and/or steel.

(16) Thickness. -- This, which is also known as seam height, is the measurement of all visible coal, including any thinner coals (splits) seen above or below the main block of coal.

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(17) Unmineable Coal. -- Coal which is not mineable ~~and/merchandise~~ as defined above.

(18) 1800 Tons per Acre-foot. -- The specific gravity of bituminous coal ranges between 1.15 - 1.5 depending on rank, moisture and ash content, and averages 1.32.

$$1800 \text{ Tons/Ac. Ft.} = \frac{62.4 \text{ lbs/Ft}^3 \text{ of water} \times 43,560 \text{ Ft}^3 \text{ Ac/Ft} \times 1.32}{2,000 \text{ lbs/ton}}$$

(c) Valuation Methods.

(1) Method for Determining Value of Active Mining Property.

(A) General. -- The value of active mining property shall be the ~~average~~ annual/production/times/a/royalty/rate times/a/multiplier value per active acre times the amount of active acres.

(Active Acres are described in Section 11.04(b)(2)).. In no case will the active mining property be valued at less than its value as ~~inactive~~ reserve property.

(B) Value per Active Acre. -- The value per active acre is determined through the following formula:

$$\begin{aligned} & \text{Thickness (ft.)} \\ & \times 1800 \text{ Tons Per Acre Foot} \\ & \times \text{Recovery Rate} \\ & \times \text{Royalty Rate (steam) (deep or surface)} \\ & \times \% \text{ Steam Coal Market} \\ & \times \text{Multiplier} \end{aligned}$$

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$$\begin{array}{l} \div (\text{Mine Life (yrs.)}) \\ \quad \text{(Plus) } \underline{\text{Thickness (ft.)}} \\ \quad \quad \times \underline{1800 \text{ Tons Per Acre Foot}} \\ \quad \quad \times \underline{\text{Recovery Rate}} \\ \quad \quad \times \underline{\text{Royalty Rate (metallurgical)}} \\ \quad \quad \quad \text{(deep or surface)} \\ \quad \quad \times \underline{\% \text{ Metallurgical Coal Market}} \\ \quad \quad \times \underline{\text{Multiplier}} \\ \quad \quad \div \underline{(\text{Mine Life (yrs.)})} \end{array}$$

(C) Thickness (ft.). -- See definition
in section 11.04(b)(16).

(D) 1800 Tons Per Acre - Foot. -- See
definition in section 11.04(b)(18).

(E) Recovery Rate. -- See definition in
section 11.04(b)(12).

(F) Royalty Rate. -- For use in
the formula prescribed by this regu-
lation, the royalty rate(s) shall be
determined for each of the following
four (4) different types of coal mining
operations.

- (1) Deep mines, steam coal;
- (2) Deep mines, metallurgical
coal;
- (3) Surface and auger mines, steam
coal; and
- (4) Surface and auger mines,
metallurgical coal.

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lessor-lessee, (4) date recorded, (5) acreage involved, (6) seams involved, (7) type of mining operation, and (8) consideration made. ~~Those/cases/where the/leasehold/transaction/falls/to contain/a/royalty/consideration/will/not be/included/in/the/survey/~~ From this survey, the Tax Commissioner will select the royalty rate(s) that best typify such transactions. In order to convert percentage royalty rates into specific dollars per ton rates, the Tax Commissioner will separately conduct a review of West Virginia coal selling prices, and select specific selling price rate(s) based on prices best typifying activity in each appraisal year. The selected selling price(s) per ton when multiplied by the percentage royalty will result in the specific dollar per ton royalty rate factor.

(G) % Steam and Metallurgical Coal Market. -- See discussion in Section 11.04(b)(2).

(H) Amount of Active Acres. -- The maximum amount of active acres for each active mining property will be 15 years times acres mined for deep mines and 5 years times acres mined for surface and auger mines.

(I) Capitalization Rate. -- The capitalization rate will be developed considering the techniques found in general practice in the appraisal profession when developing an income approach valuation estimate. Below is a listing of terms and definitions employed in developing various capitalization rate indicators.

(1) Definitions.

(i) Bands of Investment Discount Component. -- A discount rate derived by assigning rates to various debt and equity investment financing tiers and summing these rates, weighted by their respective percentages of total financing.

(ii) Discount Component. -- A rate reflecting a provision for returning to an investor a sum of money equal to the aggregate of the anticipated return-on-investment over the economic life of an investment.

(iii) Economic Life Method of Recapture. -- A method of developing a recapture rate by estimating the period of time an investment will produce a return and estimating an equal periodic rate of recapture of the investment over this return period.

(iv) Management Rate. -- A rate reflecting a return to an investor for the management of similar investment portfolios.

(v) Market Comparison Discount. -- A discount rate derived by dividing income net of the recapture component and property taxes by the arms-

length selling price of the property.

(vi) Market Comparison Method of Recapture. -- A recapture rate estimated by dividing income net of the discount component and property taxes by the arms-length selling price of the property.

(vii) Non-liquidity Rate. -- A rate reflecting a return to an investor representing the loss of interest on an investment arising from the time required to sell the investment.

(viii) Property Tax Component. -- A rate reflecting a provision for returning to an investor a sum of money equal to property taxes paid over the economic life of an investment.

(ix) Recapture Component. -- A rate reflecting a provision for returning to an investor a sum of money equal to his investment.

(x) Risk Rate. -- A rate reflecting a return to an investor necessary to attract capital to an investment containing a possible loss of principal and/or interest.

(xi) Safe Rate. -- A rate reflecting a return to an investor on an investment which has little, if any, livelihood of loss of principal or anticipated return on investment.

(xii) Summation Discount Component. -- A discount rate expressed as the aggregate of a safe rate, risk rate, non-liquidity rate, and management rate.

(2) Discussion. -- The capitalization rate as defined in Section 11.04(b)(6) (5) will be determined annually by the Tax Commissioner through the use of generally accepted methods for estimating

such rates. The rate so developed will consider a level-terminal income series which is indicative of active mining properties. The capitalization rate used to value active mining properties will be developed giving consideration to the following three (3) approaches:

(a) Discount Component

(i) Market Comparison.

-- Sufficient sales data permitting, the market comparison technique will be employed as the primary indicator for an appropriate discount component. The market comparison discount component will be developed by dividing aggregate royalty rate income streams adjusted for recapture by verified recorded arms-length sales transactions for active mining properties

which have occurred in
the State of West
Virginia during the ~~eight~~/18Y
five (5) years 1W1/V11/
~~Code~~/S/11+1A+3Y prior to
the annual appraisal
date. The market compar-
ison discount component
selected will be based
upon those rate indica-
tors best typifying
activity in this ~~eight~~/18Y
five (5) year research
period. In selecting the
discount component
greater emphasis will be
given to information from
arms-length sales occurring
during the most recent
years of the study.

(ii) Summation Technique.

-- In the absence of
sufficient data to
statistically support
primary consideration of
the market comparison

technique, the summation techniques will be given primary consideration. The summation discount component will be developed reflecting the following four (4) major sub-components:

- (1) Safe Rate
- (2) Risk Rate
- (3) Non-liquidity
Rate
- (4) Management Rate

The "Safe Rate" will be developed through review of quarterly interest rates offered on thirteen (13) week United States Treasury Bills for a period of three (3) years prior to the appraisal date. The "Risk Rate" will be developed through review of data resulting from an annual survey of lending

institutions, such survey reflecting interest rates required on loans for acquisition and/or development of coal properties. This survey will be conducted for a three (3) year period prior to the appraisal date. Results of the survey will be compared to quarterly interest rates offered on thirteen (13) week United States Treasury Bills for the same three (3) year period. An interest differential will then be selected representing the "Risk Rate." The "Non-liquidity Rate" will be developed through an annual survey to determine a reasonable estimate of time that coal properties remain on the market

before being sold. The market time thus determined will be used to identify United States Treasury Bills with similar time differentials in excess of thirteen (13) week Treasury Bills. The interest differential between these securities will be deemed to be representative of the "Non-liquidity Rate." The "Management Rate" will be developed through a survey of investment firms to identify charges for the management of investment portfolios.

(iii) Bands-of-Investment. -- Data permitting the Bands-of-Investment technique will be considered in conjunction with the two (2) previously mentioned discount estimate components.

(b) Recapture Component. --

Selection of a multiplier will be accomplished through access of a standard mid-year life Inwood table. The Inwood table has a factor for recapture built into the table coefficients. Inclusion of a recapture component in the capitalization rate is therefore not appropriate.

(c) Property Tax Component. --

This component will be derived by multiplying the assessment rate by the statewide average of tax rates on Class III property. At the present time research indicates that royalty rates do not include property taxes as a component. Thus, this component will not be used in the capitalization rate as defined in these regulations unless the above described general practice of the coal industry changes.

(3) The surveys referenced in Section 11.04(c)(1) ~~(C)~~ (I) (2) will be conducted and tentative results published by the

Tax Commissioner on or before ~~March~~ May
31 of each year. Public comment on such
surveys will be accepted until May/1
June 15 of each year, and final results
will be issued on or before July 1 of
each year.

12Y//Valuation of Active Reserves/

1AY//General/++/The value of each acre
of active reserves shall be one tenth of
the per acre value of active mining
property/

1BY//Per Acre Value of Active Mining
Property/++/Per acre value of active
mining property equals the value of
active mining property as described in
§ 11.0A(c)(1) divided by the number of
acres in the active mining property/

1CY//In the event that the active
reserve value per acre is less than the
inactive reserve value per acre, the
inactive reserve regional value per acre
will be used/

13Y (2) Valuation of Inactive Reserves.

(A) General. -- Inactive/ r Reserves
shall be valued considering a review of
sales reflecting arms-length, willing

buyer-willing seller transactions of such properties, and the market conditions in the region within which the property is located. The ~~inactive~~ coal reserve value shall be the product of the ~~inactive~~ reserve acres multiplied by the regional ~~inactive~~ reserve value per acre for the region in which the property is located.

(B) Review of ~~inactive~~ Reserve Coal Property Sales. -- The values per acre for ~~inactive~~ reserves shall be established annually by the Tax Commissioner after review of recorded willing seller-willing buyer arms-length coal property sales that have occurred in the State of West Virginia during the ~~eight~~ five (5) years 1W/VaL/Code/S/11+1A+BY prior to the appraisal date, and through inspection of other appropriate information ~~including the effect of the size of the parcels on the per acre value.~~ This review will place a greater emphasis on the information and sales transacted during the most recent years. The Tax Commissioner will maintain and publish this survey (report) of ~~inactive~~ coal

property sales on or before ~~March~~ May 31 of each year; will accept written public comment on the survey until ~~May~~ June 15 of each year; and issue the final regional values per acre on or before July 1 of each year. This survey of ~~inactive~~ reserve coal sales will be constructed to indicate the following:

(1) county in which the property is located, (2) deed book, page number, (3) grantor-grantee, (4) date recorded, (5) acreage involved, (6) coal seams involved, (7) consideration, and (8) consideration per coal acre sold. From this survey, the Tax Commissioner will select the regional values per ~~inactive~~ acre that best typify such transactions.

(C) Inactive Reserve Regions. -- ~~Of the fifty-five counties in West Virginia, the State Geological and Economic Survey has identified that mineable and merchantable coal deposits occur only in forty-four counties.~~

The ~~forty-four~~ counties containing mineable, ~~merchantable~~ coal seams shall be grouped into five (5) regions based

on type of coal seams, location, ownership patterns, mining activity, and sale prices of ~~inactive~~ reserves.

(1) Region 1 - Brooke, Harrison, Marion, Marshall, Monongalia and Ohio Counties.

(2) Region 2 (No present mining) - Cabell, Calhoun, Doddridge, Hancock, Jackson, Pocahontas, Putnam, Roane, Tyler, Wetzel ~~and~~ Wirt, and Wood Counties and the northwest portion of Kanawha County (Jefferson, Union, Poca ~~Districts~~ , and part of Big Sandy and Elk Districts that lie north of Elk River).

(3) Region 3 - Barbour, Grant, Mineral, Preston, Randolph, Taylor, Tucker and Upshur Counties.

(4) Region 4 - Braxton, Clay, Gilmer, Greenbrier, Lewis, Mason, Nicholas and Webster Counties.

(5) Region 5 - Boone, Fayette, Lincoln, Logan, McDowell, Mercer, Mingo, Raleigh, Summers, Wayne and Wyoming Counties and the southeast portion of Kanawha County

(Washington, Malden, Loudon, Cabin Creek Districts, and part of Big Sandy and Elk Districts which lie south of Elk River).

~~Of the remaining eleven (11)~~
~~counties (two (2) Jefferson and Hardy~~
~~have been classified as non-coal and the~~
~~other nine (9) Berkeley, Morgan,~~
~~Hampshire, Pendleton, Monroe, Jackson,~~
~~Wood, Ritchie and Pleasants are listed~~
~~as containing thin, unmineable seams.~~

If under any circumstances, the coal in any of the ~~eleven (11)~~ remaining counties not listed above becomes mineable ~~and merchantable~~, that county will be classified in the appropriate region.

(D) Multiple Seam Parcels. -- For parcels containing more than one mineable ~~merchantable~~ seam, the ~~inactive~~ reserve portion of the seam(s) being mined are assigned 100% of the value determined by the method summarized in § 11.04(c)(3). The remaining unmined, ~~inactive~~ reserve seams shall then be ranked according to their mineable/~~merchantable~~ acreages. The largest reserve seam and the second largest reserve

seam are each assigned 100% of the value determined by the method summarized in § 11.04(c) ~~(3)~~ (2). The third largest unmined, ~~inactive~~ reserve seam is valued at 75% of the amount as determined by the methods summarized in § 11.04(c) ~~(3)~~ (2). Subsequent reserve seams are each valued at 50% of the amount determined by the method summarized in § 11.04(c) ~~(3)~~ (2). The final valuation of ~~inactive~~ reserves on a parcel is the sum of each of the individual valuations.

(4) // Valuation of Mined Out / Unmineable / Barren / Coal Properties // Properties in this category shall be valued at \$1,000 per surface acre.

(3) Valuation of Unmineable Coal Properties.

Properties in this category will be valued under one of the following categories:

(A) Parcels in which each and every coal seam is unmineable or where each seam is partially unmineable and the remaining seam portion is mined out or barren, will be valued at \$5 per deed acre.

Example: 50 acre parcel -- 3 coal seams

- Seam #1 = 50.00 Ac Unmineable

- Seam #2 = 20.00 Ac Unmineable,

30.00 Ac Mined Out

- Seam #3 = 40.00 Ac Unmineable,

10.00 Ac Barren

Unmineable Value = 50.00 Ac(deed) x \$5 = \$250

(B) Parcels in which an acre or acres of
unmineable coal exists in any seam will be
valued at \$5 times the amount of unmineable
acreage in the seam with the least amount of
unmineable acreage.

Example: 50 acre parcel -- 3 coal seams

- Seam #1 = 40.00 Ac Mineable,

10.00 Ac Unmineable

- Seam #2 = 30.00 Ac Mineable,

20.00 Ac Unmineable

- Seam #3 = 35.00 Ac Mineable,

15.00 Ac Unmineable

Unmineable Value = 10 Ac Unmineable x \$5 = \$50*

*This value will be added to the reserve
mineable acreage value to complete the
property's coal valuation..

(4) Valuation of Mined Out/Barren Coal Properties

Properties in these categories will be
valued under one of the following circum-
stances.

(A) Parcels in which each and every coal
seam is completely mined out and/or barren,
will be valued at \$1.00 per deed acre.

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Example: 100 acre parcel -- 2 coal seams

- Seam #1 = 100 acres mined out

- Seam #2 = 50 acres mined out,

50 acres barren

Value = 100 Ac (deed) x \$1 = \$100

(B) Parcels in which an acre or acres of
mined out/barren coal exists in any seam will
be valued at \$1 times the amount of mined
out/barren acreage in the seam with the least
amount of mined out/barren acreage.

Example: 100 acre parcel -- 2 coal seams

- Seam #1 = 90 acres mineable,

10 acres mined out

- Seam #2 = 80 acres mineable,

20 acres mined out

Value = 10 Ac Mined Out/Barren x \$1 = \$10*

* This value will be added to the reserve
mineable acreage value to complete the
property's coal valuation.

(5) Total Coal Valuation. -- The total coal
valuation for any coal parcel will involve the
value for all active acres, all reserve acres and
specific categories for unmineable and mined
out/barren acreage. Thus, the total amount of
coal acres valued for any parcel shall not be less

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than the amount of deed acres, and total value for
 any coal parcel shall not be less than \$100.00.

(6) Summary of Valuation Methods.

(A) Each/seam/on/those/properties/with
 mineable/and/merchantable Properties that
 involve coal shall be valued as follows.

Active/Mining/Property

Average//////////Royalty//////////Active/Coal
 /Annual//////////X///Rate//////////X///Multiplier///#///Real/Property
 /ProductionY//////////Per/TonY//////////ValueY
 Active Mining Property
 Value per Active Acre X Active Acres = Active Coal
 Real Property
 Value

Active/Reserve/Property

//////////Active/Reserve
 /Active//////////Per/Acre/Value/of//////////Coal/Real/Prop+
 /ReservesY///X///Active/Mining/PropertyY///X/10%#///erty/ValueY

Inactive/Reserve/Property

Total//////////Regional/Per/Acre//////////Inactive/Coal
 /Inactive//////////X///Inactive/Reserves//////////#///Reserves/Real
 /Reserve/AcresY//////////ValueY//////////Property/ValueY

Reserve Property

Regional Per Acre		Reserve		Seam		Reserve
Reserve Value	X	Acres	X	Factor	=	Real Property Value

Unmineable Property

\$5 Per Acre	X	Deed Acres		=	Unmineable Coal Real Property Value
--------------	---	------------	--	---	-------------------------------------

Mined Out Property

\$1 Per Acre	X	Deed Acres		=	Mined Out Coal Real Property Value
--------------	---	------------	--	---	------------------------------------

Barren Property

\$1 Per Acre	X	Deed Acres		=	Barren Coal Real Property
--------------	---	------------	--	---	---------------------------

Value

~~(B) // Mined-out, unmineable and barren coal
properties shall be valued at One Dollar
(\$1.00) per surface acre.~~

(C) (B) The total value for coal properties will be the sum of the value of active mining property, ~~active reserves, the inactive~~ reserves ~~and the~~ unmineable, mined-out, ~~unmineable~~ and barren acres.

(D) (C) If other real property interests are owned in the coal property acreage, then the value of those additional interests shall be added to the total value of the coal properties to arrive at the total real property value.

(6) (7) Leasehold Interests. -- These regulations generally attribute the value of coal to the owner of the coal property. In those circumstances, however, where the owner of the property is subject to a lease requiring the owner to permit mining at royalty rates substantially below current market values, the owner may petition the Assessor, and on appeal, the Tax Commissioner, to attribute a portion of the value of the coal determined by this formula to the leaseholder.

(8) Active Farm Properties -- The coal rights, that are part of a "fee" estate where the use of the surface has qualified as an active farm, will be valued in the following manner:

(A) Where income or royalty is not derived from the coal rights (coal rights not leased or non-producing) the coal interest shall not be valued.

(B) Where income or royalty is derived from the coal rights (coal rights leased or producing) the coal interest shall be valued as follows:

(1) Fee estates where the annual wholesale value of farm commodities or products, is fifty percent (50%) or more of the usual annual gross income from all uses of the property, shall be subject to farm use valuation. Thus coal interests shall not be valued under this situation.

(2) Fee estates where the annual wholesale value of farm commodities or products is less than fifty percent (50%) of the usual annual gross income from all uses of the property, the

applicable coal values shall be added to
the surface farm use value.

(9) Property Reports. -- Prior to November 1 of
each year the producer and coal owner will be
required to file reports with the assessor of the
county where the coal property is assessed. These
reports will be designed by the State Tax Commis-
sioner so that producing properties will be
reported by the producer (with acknowledgement to
the coal owner) and reserve properties will be
reported by the coal owner.

Section 11.05(a)

11.05. Valuation of Producing and Reserve Oil and
Natural Gas Properties.

(a) General. -- Oil and natural gas is one of the several estates in real property which may be owned either as a separate interest or in conjunction with other interests, usually as fee ownership, oil and natural gas ownership or as mineral ownership. If oil and natural gas is owned as a separate estate, West Virginia property tax law requires such ownership to be listed, valued and taxed based on its true and actual value. If the interest in oil and natural gas is part of a larger interest in a tract of property, the value of the oil and natural gas interest shall be included in the value of the larger interest. Oil and natural gas may be owned without being produced. Oil and natural gas rights may exist where no oil and/or natural gas is actually present, or where the oil and/or natural gas is unproducible or depleted.

(b) (See 11:05(d)(18)(Page 30)) /Annual/Reports/+/+/The
Tax/Commissioner/will/publish/an/annual/report/for/the
variables/to/be/considered/in/arriving/at/the/value/of/the
specific/oil-related/property/+/+/These/reports/when/required
by/the/regulation/will/be/published//subjected/to/comment

and/take/effect/upon/the/schedule/set/out/in/this/section/
All/such/reports/must/be/published/on/or/before/the/30th/day
of/April/preceding/the/assessment/date,/followed/by/a/thirty
day/period/for/written/public/comment///The/Tax/Commissioner
will/review/the/comments/and/present/the/final/values/of/the
variables/to/be/used/in/the/assessment/year/on/or/before
July/1/of/each/calendar/year///These/final/values/will/be
posted/in/the/county/assessors/office/and/the/State
Register/

(b) Categories for Valuing Oil and Natural Gas Bearing Properties. -- Parcels of property thought to bear oil and natural gas or having the oil and natural gas mineral interest separated from the fee of the property will be classified as oil producing property, assigned oil/reserves/or/unassigned/oil/reserves/ leased, non-producing property, or non-leased, non-producing property.

(c) Definitions.

(1) "Natural gas producing property" means the property from which natural gas is/being has been produced or extracted at any time during the most recent assessment year. Natural gas producing property includes the interest or interests underlying an area of 125 acres of surface per well with active wells on the parcel. Also to be

included on natural gas producing property is the parcel acreage above 125 acres per well, to be valued at a specific rate per acre as determined by the Tax Department.

(2) "Oil producing property" means property from which oil ~~is/being~~ has been produced or extracted at any time during the most recent assessment year.

Oil producing property includes the interest or interests underlying an area of up to 40 acres of surface per well with one or more active well(s) on the parcel. Also to be included on oil producing property is the parcel acreage above the 40 acres per well, to be valued at a specific rate per acre as determined by the Tax Department.

(2) "Assigned oil reserve property" means properties in an area of potential production, as determined by the Tax Department, but from which there has been no past production of oil, or the part of a parcel from which there has been past or current production that lies outside an oil producing property, or the 40 acres of surface per well of oil producing property if the well is shut-in for the entire year.

(3) "Oil and natural gas leased, non-producing property" means properties that are leased by a lessor to a lessee on July 1 of the current assessment year, but was engaged in no production during the

same assessment year period of July 1 through June 30. This category shall also include any acreage that has been shut-in for the entire year. This category shall also include any acreage owned by a company or individual whose primary business involves the production or leasing of any oil and gas properties.

(3) "Unassigned/oil/reserve/property" means properties/outside/of/the/area/of/potential/production, as/determined/by/the/Tax/Department, in/which/the oil/mineral/interest/has/been/conveyed/separately from/the/rest/of/the/property, or/the/40/acres/of surface/per/well/of/oil/producing/property if/the well/has/been/plugged/and/abandoned/as/required/by Article/4,/Chapter/22/of/the/West/Virginia/Code/[WV Code/§/22-4-1/et/seq. (1981)]

(4) "Oil and natural gas non-leased, non-producing property" means properties that are not leased on July 1 of the current assessment year and was not engaged in production during the same assessment year period of July 1 through June 30; or the 125 acres of surface per well of natural gas or the 40 acres of surface per well of oil producing properties if the well has been plugged and abandoned as required by Article 4, Chapter 22 of the West Virginia Code [WV Code § 22-4-1 et. seq. (1981)].

(5) "Working interest" means the fractional interest in oil and natural gas production subject to operating expenses and owned by the leasehold or operator. Owner operated wells are to be valued using the working interest formula.

(6) "Royalty interest" means the fractional interest in oil and/or natural gas production not subject to operating expenses and retained by the oil rights owner or lessor. ~~Overriding/royalty interests/not incurring operating expenses/are treated/entirely/as/royalty/interest/~~

(7) "Overriding royalty" means the fractional interest reserved or purchased by a seller of a lease to another party, thereby participating in the gross proceeds of production from the lease while at the same time incurring no operating expenses. Such overriding royalty interests will be appraised using the royalty interest formula, but is to be placed on the personal property books of the county in which the well is located.

(8) "Flush production" means the production of oil and natural gas from any well on an oil and natural gas producing property whose initial production date is two years or less prior to the date of valuation.

(9) "Settled production" means the production of oil and natural gas from all wells on a producing

property whose initial production date is more than two years prior to the date of valuation.

(10) "Personal property" used in oil and natural gas production means machinery and equipment in and about the well and all other tangible personal property used in producing oil and/or natural gas from the well. It shall not include vehicles or other tangible personal property not permanently used in production.

(11) "Producer/Operator" means any person or persons, corporation, partnership, adventure or other enterprise which proposes to or does locate, drill, manage or abandon any well.

(12) "Storage Wells" means any property used as a reservoir for the storage of natural gas. These properties shall be valued as non-leased, non-producing natural gas property.

Section 11.05(d)

(d) Methods of Valuation.

(1) General. -- For oil producing property, its value shall be determined by (1) a formula which applies a multiplier to the average daily production of the well(s) for working interest and royalty interest property, plus (2) a value attributable to the personal property used in production per well times the number of producing wells on the property for working interest property. For natural gas producing property, its value shall be determined by a formula which applies a multiplier to the quantity of the gross receipts minus the royalties paid for the working interest or a multiplier times the gross royalty receipts for the royalty interest.

Where ownership is split through a lease or royalty arrangement, different multipliers will be used for the working interest and the royalty interest. Each term in this computation is discussed below.

(2) (See 11.05(d)(3)(Page 8)) Average/Daily Production ++ The average/daily production of an oil well is its production rate, measured in terms of oil field standard 42 gallon barrels, for the year preceding the annual tax assessment date, divided by the number of full or partial days of

well/production///partial/days/shall/include/time
allowed/for/oil/to/collect/between/pumpings///Full
of/partial/days/shall/not/include/time/when/well
non-production/results/from/workover//redrilling//or
well/maintenance/

(2) Percentage Interest in Oil and Natural Gas. --

Where the ownership of oil and natural gas in place is divided through a lease or other arrangement, the compensation to the owner of the property is derived by designating a percentage of the production to be the royalty payment to the owner. The remainder is the working interest. The Tax Commissioner will annually determine an assumed average working and royalty percentage interest through a review of oil and gas leases from throughout the State.

(3) Average Production Rate. -- Gas - The Tax Commissioner will annually determine and report the production rate of natural gas wells through review of information filed with the West Virginia Department of Mines Energy, Office of Oil and Gas, and data provided by companies and individuals. The production rate will be used in the method described in the regulations for the determination of the formulas to be used to appraise natural gas producing properties.

Oil - The average daily production of an oil well is its production rate, measured in terms of

oil field standard 42 gallon barrels, for the year preceding the annual tax assessment date, divided by the number of full or partial days of well production. Partial days shall include time allowed for oil to collect between pumpings. Full or partial days shall not include time when well non-production results from workover, redrilling, or well maintenance.

(4) Average Industry Market Price. -- Oil - The Tax Commissioner will annually derive the average industry market price by reviewing the price paid per barrel by the major West Virginia crude oil purchasers. The Tax Commissioner's annual report on the average industry market price should reflect a reduction for average Federal Windfall Profits Tax and West Virginia ~~Business/and/Occupation~~ Severance Taxes deemed to be paid by the working or royalty interests in the production. The average industry market price will be used in the method described in the regulations for determination of the formulas to be used to appraise oil producing properties.

Gas - The Tax Commissioner will annually derive and report the average industry market price by reviewing the price paid per MCF by the major West Virginia natural gas purchasers, a survey of oil and gas associations, and Department of Energy statistical

data. The average industry market price will be used in the method described in the regulations for determination of the formulas to be used to appraise natural gas producing properties.

(5) Average Industry Operating Expense. -- The Tax Commissioner will annually determine the average industry operating expense per well ~~and publish that expense in an annual report~~. The average industry operating expenses per well will be used in the method described in the regulations for determination of the formulas to be used to appraise ~~oil~~ producing properties.

(6) Average Industry Production Decline Rate. -- The Tax Commissioner will annually derive and report the average industry production decline rate by a review of well production records located at the West Virginia Department of Mines Energy, Office of Oil and Gas and data provided by companies and individuals. ~~The Tax Commissioner will annually publish a report on the result of this review. The average production decline rate will be used in conjunction with the deemed average daily production rate for calculation of multipliers for the various production classifications.~~ The average industry production decline rate will be used in the method described in the regulations for determination of

the formulas to be used to appraise producing properties.

(7) Capitalization Rate. -- A capitalization rate will be developed considering the three components set out in § 11.05(d)(7)(B). This rate will be used to select the factor(s) from a standard mid-year life present worth of one table using a compound interest premise. (See § 11.05(d)(10) for an example.) Below is a listing of terms and definitions employed in developing this capitalization rate.

(A) Definitions.

(i) Bands of Investment Discount Component. -- A discount rate derived by assigning rates to various debt and equity investment financing tiers and summing these rates, weighted by their respective percentages of total financing.

(ii) Discount Component. -- A rate reflecting a provision for returning to an investor a sum of money equal to the aggregate of the anticipated return-on-investment over the economic life of an investment.

(iii) Management Rate. -- A rate reflecting a return to an investor for the management of similar investment portfolios.

- (iv) Market Comparison Discount. -- A discount rate derived by dividing income net of the recapture component and property taxes by the arms-length selling price of the property.
- (v) Non-Liquidity Rate. -- A rate reflecting a return to an investor representing the loss of interest on an investment arising from the time required to sell the investment.
- (vi) Property Tax Component. -- A rate reflecting a provision for returning to an investor a sum of money equal to property taxes paid over the economic life of an investment.
- (vii) Recapture Component. -- A rate reflecting a provision for returning to an investor a sum of money equal to his investment.
- (viii) Risk Rate. -- A rate reflecting a return to an investor necessary to attract capital to an investment containing a possible loss of principal and/or interest.
- (ix) Safe Rate. -- A rate reflecting a return to a investor on an investment

which has little, if any, livelihood of loss of principal or anticipated return on investment.

(x) Summation Discount Component. --

A discount rate expressed as the aggregate of a safe rate, risk rate, non-liquidity rate, and management rate.

- (B) Discussion. -- The capitalization rate will be determined annually by the Tax Commissioner through the use of generally accepted methods for estimating such rates. The rate so developed will consider a declining-terminal income series which is indicative of oil and natural gas producing properties. The capitalization rate used to value oil and natural gas properties will be developed considering (1) a discount component determined primarily by the summation technique, (2) a recapture component, and (3) a property tax component.

(1) Discount Component.

(i) Summation Technique. -- The summation technique will be given primary consideration in the valuation of oil and natural gas producing property. The summation technique

will determine a discount component which will be used to calculate the present value of the future income of the oil and natural gas producing property utilizing the following four (4) major sub-components:

- (1) Safe Rate
- (2) Risk Rate
- (3) Non-liquidity Rate
- (4) Management Rate

The "Safe Rate" will be developed through review of quarterly interest rates offered on thirteen (13) week United States Treasury Bills for a period of one (1) year prior to the appraisal date. The "Risk Rate" will be developed through review of data resulting from an annual survey of lending institutions, such survey reflecting interest rates required on loans for acquisition and/or development of natural gas producing properties. This survey will be conducted for a ~~three (3)~~ one (1) year period prior to the appraisal date. Results of the survey will be

compared to quarterly interest rates offered on thirteen (13) week United States Treasury Bills for the same ~~thirteen (13)~~ one (1) year period. An interest differential will then be selected representing the "Risk Rate." The "Non-liquidity Rate" will be developed through an annual survey to determine a reasonable estimate of time that natural gas properties remain on the market before being sold. The market time thus determined will be used to identify United States Treasury Bills with similar time differentials in excess of thirteen (13) week Treasury Bills. The interest differential between these securities will be deemed to be representative of the "Non-liquidity Rate." The "Management Rate" will be developed through a survey of investment firms to identify charges for the management of investment portfolios.

(ii) Bands-of-Investment/Market Comparison. --- Data permitting the

bands-of-investment technique and market comparison techniques will be used to verify the summation discount component.

(2) Recapture Component -- Selection of a multiplier will be accomplished through access of a standard mid-year life present worth of one table premised on a compound interest rate. This table has a factor for recapture built into the table coefficients. Inclusion of a recapture component in the capitalization rate is therefore not appropriate.

(3) Property Tax Component -- This component will be derived by multiplying the assessment rate by the statewide average of tax rates on Class III property.

(8) Multipliers -- Oil -- The multiplier serves to combine mathematically the effects of the deemed average daily production rate, average industry market price of oil, average industry well operating expense, working and royalty interest, flush and settled production, average production decline rate and a capitalization rate. [See § 11.05(d)(10)] This multiplier will not be constant for all oil producing properties. Each category defined below will have a separate multiplier and the procedure

and results of these income analyses will be published in an annual report by the Tax Commissioner. The multipliers are to be used for oil producing properties.

Separate multipliers shall be derived for each of the following twelve (12) categories:

(A) Working interest in settled production for average daily production between 0 and .750 barrels per day of oil.

(B) Working interest in settled production for average daily production of between .751 and 2.000 barrels per day.

(C) Working interest in settled production for average daily production of more than 2.000 barrels per day.

(D) Working interest in flush production for average daily production of between 0 and .750 barrels per day.

(E) Working in flush production for average daily production of between .751 and 2.000 barrels per day.

(F) Working interest in flush production for average daily production of over 2.000 barrels per day.

(G) Royalty interest in settled production for average daily production between 0 and .750 barrels per day.

(H) Royalty interest in settled production for average daily production between .751 and 2.000 barrels per day.

(I) Royalty interest in settled production for average daily production in excess of 2.000 barrels per day.

(J) Royalty interest in flush production for average daily production between 0 and .750 barrels per day.

(K) Royalty interest in flush production of average daily production of between .751 and 2.000 barrels per day.

(L) Royalty interest in flush production for average daily production of 2.000 barrels per day.

(9) Deemed Average Daily Production Rate. -- For the purpose of determining multipliers for wells of different productive capacities, wells will be divided into three classifications. Those classifications will be:

(a) 0 through .750 barrels of average daily production.

(b) .751 through 2.000 barrels of average daily production.

(c) Greater than 2.000 barrels of average daily production.

For the sole purpose of calculating the multiplier applicable to each classification of production, all wells within each classification will be deemed to have the same rate of production and those rates are as follows:

	<u>Classification</u>	<u>Deemed ADP Rate</u>
(a)	0 - .750 ADP	.750 ADP
(b)	.751 - 2.000 ADP	1.500 ADP
(c)	2.000+	4.000 ADP

(10) EXAMPLE:

The multipliers for each category will be determined as shown in this example. The numbers used in this example are not the result of any actual survey, although they may approximate or duplicate the results of such surveys. This example assumes that the necessary annual surveys have been performed with the results as follows:

Average Daily Production (ADP) Rate = .75 barrel

Working Interest = 7/8 of production

Royalty Interest = 1/8 of production

Average Industry Market Price = \$22.50/barrel

Average Industry Operating Expense - \$3,600/year

Capitalization Rate = 15%

Average Industry Decline Rate = 7% Per Year for

Settled Production

State Tax Department
Leg. Reg. 11-1A
Series IA

Gross Income = Percentage Interest ADP x 365 x
\$22.50

Net Income = Gross Income - Operating Expenses

Royalty Interest

0-.750 ADP Category

	Deemed Average Daily Production (ADP)	Royalty Interest ADP	Income	Capitalization Rate Present Worth of 1 Factor	Discounted Income
Year 1	.750	.094	\$772	.933	\$ 720
Year 2	.698	.086	714	.811	579
Year 3	.649	.081	665	.705	469
Year 4	.604	.076	624	.613	383
Year 5	.562	.070	575	.533	306
Year 6	.523	.065	534	.464	248
					<u>\$2,705</u>
					Total Discounted Income

$$\begin{aligned} &\$2,705 \text{ (Total Discounted Income)} \\ &\underline{.094 \text{ (Year 1: Royalty Interest ADP)}} = \$28,777 \text{ (Multiplier for Royalty Interest)} \end{aligned}$$

Working Interest

0-.750 ADP Category

	Deemed Average Daily Production (ADP)	Working Interest ADP	Annual Gross Income	Operating Expenses	Net Income	Capitalization Rate Present Worth of 1 Factor	Discounted Net Income
Year 1	.750	.656	\$5,388	\$3,600	\$1,788	.933	\$1,668
Year 2	.698	.611	5,018	3,600	1,418	.811	1,150
Year 3	.649	.568	4,665	3,600	1,065	.705	751
Year 4	.604	.529	4,345	3,600	745	.613	457
Year 5	.562	.492	4,041	3,600	441	.533	235
Year 6	.523	.458	3,762	3,600	162	.464	75
							<u>\$4,336</u>
							Total Discounted Net Income

$$\begin{aligned} &\$4,336 \text{ (Total Discounted Net Income)} \\ &\underline{.656 \text{ (Year 1: Working Interest ADP)}} = \$6,610 \text{ (Multiplier for Working Interest)} \end{aligned}$$

State Tax Department
Leg. Reg. 11-1A
Series IA

ALL//Personal/Property/Used/in/Oil/Production///++
The/Tax/Commissioner/will/annually/derive/and
publish/a/report/of/the/average/value/of/the/personal
property/used/in/oil/production//The/Tax/Commissioner
will/review/the/comments/on/the/report/and/present
the/value/for/the/personal/property/used/in/oil
production///This/value/will/be/multiplied/by/the
number/of/producing/and/shut-in/wells/on/the/property
to/determine/the/overall/value/of/personal/property
used/in/oil/production/

(11) Summary of Valuing Oil Producing Property. --

Each active oil property in West Virginia will be
valued in the following way:

Working Interest

1. (Working Interest				(Value of Oil
Average Daily	X	(Multiplier)	=	Producing
Production)				Property)

PLUS

2. (Value for Personal Property Used in Oil Production) X (Number of Wells on the Property) = Total Value of
Property Used in Oil Production

Royalty Interest

1. (Royalty Interest				(Value of Oil
Average Daily	X	(Multiplier)	=	Producing Property)
Production)				

PLUS

2. (Excess Acreage				(Value of Excess
Above 40 Acres	X	(Rate per Acre)	=	Oil Acreage)
Per Well)				

(12) Multipliers -- Gas - The multiplier combines mathematically the effects of average industry market price of natural gas, average industry well operating expenses, working and royalty interest, average production rate, average production decline rate, flush and settled production and a capitalization rate. [See § 11.05(d)(13)] This multiplier will not be constant for all natural gas producing properties. Each category defined below will have a separate multiplier. The multiplier will be derived by conducting an income analysis of a typical West Virginia well based on the aforementioned variables and published in an annual report.

Separate multipliers shall be established by the Tax Commissioner for the following four (4) categories:

- (1) Working interest in settled production.
- (2) Working interest in flush production.
- (3) Royalty interest in settled production.
- (4) Royalty interest in flush production.

(13) Example:

The income analysis chart will be in the following forms. The figures used in these charts are hypothetical values of what may be derived from the annual reports and are not to be considered actual figures, although they may approximate or duplicate the results of actual annual reports.

Variables

Annual Industry Production Rate = 6000 MCF

Working Interest = $7/8$ of production

Royalty Interest = $1/8$ of production

Average Industry Market Price = 2.60/MCF

Average Industry Operating Expenses = \$3000

Average Industry Production Decline Rate = 7%

Capitalization Rate = 15%

Gross Income = Working interest production x \$2.60

Net Income = Gross Income - Operating Expenses

		<u>Working Interest</u>				<u>Capitalization</u>		<u>Discounted</u>	
		<u>Total</u>	<u>Working Interest</u>	<u>Gross</u>	<u>Operating</u>	<u>Net</u>	<u>Rate Present</u>	<u>Net Income</u>	<u>Net Income</u>
		<u>Production</u>	<u>Production</u>	<u>Income</u>	<u>Expenses</u>	<u>Income</u>	<u>Worth of 1 Factor</u>		
Year	1	6,000	5,250	\$13,650	\$3,000	\$10,650	.933	\$	9,936
Year	2	5,580	4,883	12,696	3,000	9,696	.811		7,863
Year	3	5,189	4,540	11,804	3,000	8,804	.705		6,207
Year	4	4,826	4,223	10,980	3,000	7,980	.613		4,892
Year	5	4,488	3,927	10,210	3,000	7,210	.533		3,843
Year	6	4,174	3,652	9,495	3,000	6,495	.464		3,014
Year	7	3,882	3,397	8,832	3,000	5,832	.403		2,350
Year	8	3,610	3,159	8,213	3,000	5,213	.351		1,830
Year	9	3,357	2,937	7,636	3,000	4,636	.305		1,414
Year	10	3,122	2,732	7,103	3,000	4,103	.265		1,087
Year	11	2,903	2,540	6,604	3,000	3,604	.231		833
Year	12	2,700	2,363	6,144	3,000	3,144	.200		629
Year	13	2,511	2,197	5,712	3,000	2,712	.174		472
Year	14	2,335	2,043	5,312	3,000	2,312	.152		351
Year	15	2,172	1,901	4,943	3,000	1,943	.132		256
Year	16	2,020	1,768	4,597	3,000	1,597	.115		184
Year	17	1,879	1,644	4,274	3,000	1,274	.100		127
Year	18	1,747	1,529	3,975	3,000	975	.087		85
Year	19	1,625	1,422	3,697	3,000	697	.075		52
Year	20	1,511	1,322	3,437	3,000	437	.066		29
Year	21	1,405	1,229	3,195	3,000	195	.057		11
Year	22	1,309	1,145	2,977	3,000	---	.075		0
									\$45,465

Total Discounted
Net Income

\$45,465 (Total Discounted Income)
\$13,650 (Year 1: Working Interest Production) = 3.331 (Multiplier for Working Interest)

Royalty Interest

	Total Production	Royalty Interest Production	Income	Capitalization Rate Present Worth of 1 Factor	Discounted Income
Year 1	6,000	750	\$1,950	.933	\$ 1,819
Year 2	5,580	697	1,812	.811	1,470
Year 3	5,189	649	1,687	.705	1,189
Year 4	4,826	603	1,568	.613	961
Year 5	4,488	561	1,459	.533	778
Year 6	4,174	522	1,357	.464	630
Year 7	3,882	485	1,261	.403	508
Year 8	3,610	451	1,173	.351	412
Year 9	3,357	420	1,092	.305	333
Year 10	3,122	390	1,014	.265	269
Year 11	2,903	363	944	.231	218
Year 12	2,700	337	876	.200	175
Year 13	2,511	314	816	.174	142
Year 14	2,335	292	759	.152	115
Year 15	2,172	271	705	.132	93
Year 16	2,020	252	655	.115	75
Year 17	1,879	235	611	.100	61
Year 18	1,747	218	567	.087	49
Year 19	1,625	203	528	.075	40
Year 20	1,511	189	491	.066	32
Year 21	1,405	176	458	.057	26
Year 22	1,309		---		0
					\$ 9,395

Total Discounted
Income

$$\begin{aligned} & \$9,395 \text{ (Total Discounted Income)} \\ & \$1,950 \text{ (Year 1: Royalty Interest Production)} \\ & = 4.818 \text{ (Multiplier for Royalty Interest)} \end{aligned}$$

(14) Summary of Method for Valuing Active Natural Gas Producing Property. -- Each active natural gas well in West Virginia will be valued in the following way:

Working Interest

1. (Gross Receipts
Less Royalties) X (Multiplier) = (Working Interest
Value of Natural Gas
Producing Property)

PLUS

2. (Value for Personal Property Used in Oil Production) X (Number of Wells) = (Total Value of
Personal Property Used in Oil Production)

Royalty Interest

1. (Royalties) X (Multiplier) = (Royalty Interest
Value of Natural Gas
Production)

PLUS

2. (Excess Acreage
Above 125 Acres
Per Well) X (Rate per Acre) = (Value of Excess
Gas Acreage)

(g) Valuation of Assigned Reserves --- The value per acre of assigned reserves shall be equal to the annual lease payment per acre times the multiplier. A valuation schedule for assigned oil reserve properties will be determined annually by the Tax Commissioner on a regional basis. The Tax Commissioner will annually conduct a review of oil agreements transacted at arms length in all fifty-five counties to determine the annual lease payment per acre, as

well/as/the/lease/term//The/Tax/Commissioner/will
also/conduct/a/review/of/non+dry/completions/in/all
55/counties/as/reported/to/the/West/Virginia/Department
of/Mines//Office/of/Oil/and/Gas//The/assigned
reserve/multiplier/is/the/sum/of/the/projected
annual/income/stream/during/the/lease/term/discounted
in/each/year/by/a/capitalization/rate//The/regions/
the/annual/lease/payment/per/acre//lease/term//and
multiplier/will/be/published/annually/in/a/report/by
the/Tax/Commissioner//The/Tax/Commissioner/will
review/the/public/comments/on/the/report/and/present
the/valuation/determination/for/assigned/oil/reserve
property/

(15) Valuation of Leased, Non-Producing Acreage. --

The value per acre of leased, non-producing acreage shall equal the annual lease payment per acre times the multiplier.

A valuation schedule for leased, non-producing properties will be determined annually by the Tax Commissioner on a county-by-county basis. The Tax Commissioner will annually conduct a review of oil and natural gas agreements transacted at arms length in all fifty-five counties to determine the annual lease payment per acre, as well as the lease term. The multiplier is the sum of the projected annual income stream during the lease term discounted in

each year by a capitalization rate. The annual lease payment per acre, lease term, and multiplier will be published annually in a report by the Tax Commissioner and will be used to determine the values for leased, non-producing property.

(15) Valuation of Unassigned Oil Reserves -- Unassigned Reserves will be valued at the nominal rate of \$1.00 per acre. Unassigned reserves will be properties outside of the area of potential production as determined by the Tax Commissioner. The Tax Commissioner will annually publish a report of the regions which are classified as unassigned oil reserves.

(16) Valuation of Non-Leased, Non-Producing Acreage. -- Non-leased, non-producing acreage will be valued at the nominal rate of \$1.00 per acre, but in no instance will any oil and/or natural gas property be valued under \$100. This category also includes any plugged and abandoned acreage - 125 acres per gas well, 40 acres per oil well.

(17) Valuation of Wells that Produce Both Oil and Gas. -- The valuation of these producing wells shall be determined by use of the methods described in § 11.03 herein for oil and § 11.06 for natural gas. excluding the value for personal property used in both methods. These values/

including the value of personal property, shall then be summed to result in the overall value of the oil and natural gas producing acreage.

The Tax Commissioner will annually derive and publish a report of the average value of the personal property used in oil and gas production. This value will be multiplied by the number of producing and shut-in wells on the property to determine the overall value of personal property used in oil and natural gas production.

(18) Annual Reports. -- The Tax Commissioner will publish an annual report for the variables to be considered in arriving at the value of the specific oil and natural gas related property. This report will be filed with the office of the Secretary of State on or before July 1 May 31st of each year, followed by a 15 day period for written public comment. The Tax Commissioner will review the comments and present final variables and multipliers to be used on or before July 1.

(19) Active Farm Properties -- The oil and gas rights, that are part of a "fee" estate where the use of the surface has qualified as an active farm, will be valued in the following manner:

(A) Where income or royalty is not derived from the oil and gas rights the oil and gas interest shall not be valued.

(B) Where income or royalty is derived from the oil and gas rights the oil and gas interest shall be valued as follows:

(1) Fee estates where the annual wholesale value of farm commodities or products, is fifty percent (50%) or more of the usual annual gross income from all uses of the property, shall be subject to farm use valuation. Thus oil and gas interests shall not be valued under this situation.

(2) Fee estates where the annual wholesale value of farm commodities or products is less than fifty percent (50%) of the usual annual gross income from all uses of the property, the applicable oil and gas values shall be added to the surface farm use value.

(20) Property Reports -- Prior to November 1 of each year the producer and oil and gas owner will be required to file a report with the assessor of the county where the oil and gas property is assessed. These reports will be

designed by the State Tax Commissioner so that
information pertinent to the valuation of such
producing property, leased non-producing
property, and non-leased non-producing property
will be reported by the oil and gas producer,
lessee, and owner.

11.08. Valuation of Other Active Natural Resources

(a) General.

(1) Other active natural resource interests, such as limestone, fireclay, dolomite, sandstone, shale, sand and gravel, and salt are some of the several estates in real property which may be owned either as a separate interest, or in conjunction with other interests, usually as fee ownership or as minerals ownership. If the other active natural resource interest is owned as a separate estate, either absolute or as a leasehold interest, West Virginia property tax law requires such ownership to be listed, valued and taxed based on its true and actual value.

(2) Other West Virginia natural resource interests, such as lead and zinc, manganese, iron ore, radioactive minerals, and oil shale, which at present are not being actively mined shall be valued in accordance with this regulation, when such interests are separated from the fee interest or begin being leased or actively mined.

(3) These other natural resource interests may be owned without being mined. These other natural resources rights may exist where the natural resource is not actually present, or where the natural resource is unmineable or mined out.

(4) For valuation purposes, this regulation classifies other natural resource property ownership into the following categories:

- (A) Active
- (B) ~~Active~~ Reserves
- (C) ~~Inactive/Reserves~~ Unmineable
- (D) Mined-Out/~~Unmineable~~/Barren

(B) Definitions.

(1) Acres Mined. -- Acres mined per year is the average annual production as defined in

11.08(b)(4) (3) divided by the product of the thickness in feet of the natural resource seam being mined as detailed in mining permit reports times the tons per acre foot, as set out below, times the recovery rate according to the actual recovery of the natural resource per acre being experienced at the mining operation.

For use in these regulations the following in-place tons per acre-foot figures will be used:

Limestone = 3,600 tons per acre foot

Sandstone = 3,600 tons per acre foot

Clay and Shale = 3,050 tons per acre foot

Sand and Gravel = 2,400 tons per acre foot

Salt = 2,950 tons per acre foot

Average Annual Production Annual
Thickness x Tons Per Acre Foot x Recovery Rate = Acres Mined

(2) Active Mining Property. -- This term refers to the mineable ~~and/merchandise~~ natural resource on a parcel involved in a mining operation. For the purposes of determining active mining property, all contiguous parcels, ~~under/one~~ regardless of ownership, or/owned/or/leased/by/interrelated businesses/or/individuals/shall/be/treated/as/one parcel that are under lease or involved in the permitted operation shall be treated as an active mining parcel. The active mining acreage of any natural resource or resources on a parcel shall be calculated by multiplying acres mined times the determined life of the mine. If this calculation, however, results in an acreage figure that is higher than the total mineable acreage of that natural resource on that parcel, the lower figure shall be used. This calculation shall be made of each "other natural resource" activity being mined on the parcel.

For use in these regulations, the maximum active mining property for each natural resource will be as follows:

(A) Surface Limestone. -- The active mining property of a surface limestone mine shall be derived by multiplying ~~ten/100~~ five (5) years times acres mined.

(B) Deep Limestone. -- The active mining property of a deep limestone mine shall be derived by multiplying fifteen (15) years times acres mined.

(C) Sandstone. -- The active mining property of a surface sandstone mine shall be derived by multiplying ~~ten (10)~~ five (5) years times acres mined.

(D) Surface Clay and Shale. -- The active mining property of a surface clay and shale mine shall be derived by multiplying ~~ten (10)~~ five (5) years times acres mined.

(E) Deep Clay and Shale. -- The active mining property of a deep clay and shale mine shall be derived by multiplying fifteen (15) years times acres mined.

(F) Sand and Gravel. -- The active mining property of a sand and gravel mine shall be derived by multiplying ~~ten (10)~~ five (5) years times acres mined.

(G) Salt. -- The active mining property around each salt well shall be a maximum of 35 acres. After a well's first year of production, active mining property shall be derived by subtracting acres mined from the 35 acres.

(B) Active Reserves -- This term means and includes the entire residual acreage of the mineable and merchantable natural resource being mined in excess of the active mining property, or the number of acres corresponding to 25 years times the acres mined per year is 11,081 by 1111, whichever is less.

(A) (3) Average Annual Production. -- The average annual rate of natural resource production, in tons per fiscal year, ending June 30th of each calendar year, is determined by a weighted average of the three (3) years net production, that has occurred between July 1 and June 30 of the most current fiscal years.

The weighted average shall be determined by multiplying the most recent year's production by .4, the previous two (2) years production multiplied by .3, and the resulting three (3) figures added together to arrive at the average annual production. However, if there is no production during the most recent fiscal year then the property will not be valued as active mining property for that year.

Where there has been no production during the second or third most recent fiscal year, the production for the current year will be factored

by .5 and the production for the earlier fiscal year in which production existed will be factored by .5 and the resulting two figures will be added together to arrive at the average annual production.

If there was no production in both the second and third most recent fiscal years then the production for the most recent fiscal year will be factored by 1.0 and the resulting figure will be the average annual production.

(3) (4) Barren. -- This term means and includes those properties where other natural resource rights are separately and/or individually owned, and the existence of any natural resource has not been established.

(3) (5) Capitalization Rate. -- A rate used to convert an estimate of income into an estimate of market value. [For further explanation see § 11.08(c)(1)(H)]

(7) Inactive Reserves. -- Inactive reserves are those natural resource assets or portions thereof which are mineable and merchantable but are not active mining property or active reserves.

(3) (6) Life of Mining Operation. -- The life of the mining operation (in years) shall be equal to the active mining property acreage divided by

acres mined. The maximum mine life shall be ~~ten~~
five (5) years for surface mines involving
limestone, sandstone, clay and shale, and sand and
gravel, ~~and~~ ten (10) years for wells used in the
production of salt, and fifteen (15) years for
deep mined involving limestone, and clay and
shale. In calculating the years involved in the
life of active mining property, all fractional
figures will be rounded to the nearest whole
number.

10Y // Merchantable Natural Resource // / / / A

merchantable/natural/resource/is/one/ordinarily
extracted/for/sale/and/can/usually/be/sold/at/a
profit//of/which/is/extracted/for/use/in/the
manufacture/of/other/products/like/salt/for/use
in/making/paint/and/chemicals//

10Y (7) Mineable Natural Resource. -- A mineable
natural resource is/one/which/could/be/profitably
mined/by/judicious/methods which is so situate
that it may be mined using generally accepted
mining practices and suitable equipment and which
is such quality so as to be commercially saleable
(as either a mined natural resource or as a
recoverable reserve).

11Y (8) Mined-Out. -- A natural resource, or any
portion thereof, determined to be depleted by

prior mining operations, and which is not mineable
~~and/merchantable~~ by modern technology.

~~(12)~~ (9) Mining Operation. -- This term shall mean an enterprise engaged in actively obtaining or preparing to obtain a natural resource or its by-products from the earth's crust, including underground, surface and auger mines. Each mining operation may have more than one area designated as "Active Mining Property" as defined in Section 11.08(b)(2). This designation of "Active Mining Property" areas shall be determined as follows:

(i) If the mining operation is producing a natural resource from a Department of Natural Resources or Department of ~~Mines~~ Energy permit, then that operation will be designated an "Active Mining Property." However, if the mining operation is producing from more than one natural resource under a Department of Natural Resources or Department of ~~Mines~~ Energy permit, then each active natural resource will be designated as an "Active Mining Property."

(ii) If the mining operation is producing a natural resource at different locations, portals and/or faces under one specific Department of Natural Resources or Department

of ~~Mines~~ Energy permit, then that operation will be designated as one "Active Mining Property." However, if the production of the natural resource involves different mining techniques (e.g., surface, auger or deep mining method), or if mining sites are separate and generally independent, then such sites will be designated as separate "Active Mining Properties."

~~(13)~~ (10) Multiplier. -- This term shall mean the "present worth of one per period" for the life of the mining operation employing the capitalization rate determined in section 11.08(c)(1) ~~(2)~~ (H), as determined by a standard mid-year life Inwood table.

(11) Recovery Rate. -- This, which is also known as mining height, is the percentage of the natural resource thickness that is economically recovered through the mining process.

(12) Reserves. -- Reserves are those natural resource acres or portions thereof, which are mineable and contain recoverable natural resources but are not active mining property.

~~(14)~~ (13) Royalty Rate. -- The royalty rates determined annually by the Tax Commissioner are the current market royalty rates for arms-length,

willing-buyer, willing-seller, transactions for each of the different types of natural resources and types of mining operations derived in section 11.08(c)(1) ~~(B)~~ (F). The royalty rates are deemed to be paid to each owner of a natural resource estate for all actively mined property.

(14) Thickness. -- This, which is also known as the natural resource or seam height, is the measurement of all the visible natural resource, including any thinner resource strands (splits) seen above or below the main block.

(15) Tons Per Acre Foot. -- This is the outcome of the calculation used in converting a natural resource's specific gravity into a quantity measurement.

~~(15)~~ (16) Unmineable Natural Resource. -- A natural resource which is not mineable ~~and merchantable~~ as defined above.

(c) Valuation Methods.

(1) Method for Determining Value of Active Mining Property.

(A) General. -- The value of active mining property shall be the ~~average/annual/production times/d/royalty/rate~~ value per active acre times ~~a/multiplier~~ the amount of active acres. In no case will the active mining

property be valued at less than its value as ~~inactive~~ reserve property.

(B) Value Per Active Acre. -- The value per active acre is determined through the following formula:

	Thickness	
x	Tons per foot acre	
x	Recovery Rate	
x	Multiplier	
÷	[Mine Life (yrs.)]	= Value per Active Acre

(C) Thickness (ft.). -- See definition in Section 11.08(b)(14).

(D) Tons Per Foot Acre. -- See definition in Section 11.08(b)(15), and actual tons per natural resource in Section 11.08(b)(1).

(E) Recovery Rate. -- See definition in Section 11.08(b)(11).

~~(B)~~ (F) Royalty Rate. -- For use in the formula prescribed by this regulation, the royalty rate(s) will be determined for each of the different types of natural resources and types of mining operations. These will include specific royalty rates for (1) limestone (dolomite) surface mine; (2) limestone (dolomite) deep mine; (3) sandstone (industrial) surface mine; (4) sandstone (aggregate) surface mine; (5) clay and shale surface mine; (6) clay and shale deep mine;

(7) sand and gravel surface mine; and (8) salt wells. These royalty rates shall be established annually by the Tax Commissioner after review of recorded, willing seller-willing buyer arms-length natural resource property leases that have occurred in the State of West Virginia during at least the ~~eight~~ (5) years ~~10/1/00~~ 11/1/00 prior to appraisal date, and through inspection of other appropriate information. This review will place a greater emphasis on the information and leases transacted during the most recent years. For those natural resources that are not involved in any recorded lease agreements, the Tax Commissioner will derive a royalty rate through surveys conducted with private appraisal and/or engineering companies, data provided by the West Virginia Geological and Economic Survey, West Virginia Department of Natural Resources, West Virginia Department of ~~Mines~~ Energy, West Virginia Department of Highways, and other appropriate information from the specific natural resource companies involved. The Tax Commissioner will maintain and publish this survey (report) of royalty

rates (which will include the preliminary rates) on or before ~~March~~ May 31 of each year; will accept written public comment on the survey until ~~May~~ June 15 of each year; and issue final royalty rates on or before July 1 of each year. This survey of royalty rates will be constructed to indicate the following: (1) county in which leased property is located; (2) deed book, page number; (3) lessor-lessee; (4) date recorded; (5) acreage involved; (6) type of mining operation; (7) consideration; and (8) a narrative on rates derived for those non-leased natural resources. From this survey, the Tax Commissioner will select the royalty rate(s) that best typify such transactions. In order to convert percentage royalty rates into specific value per ton rates, the Tax Commissioner will conduct a review of the specific natural resource selling prices in West Virginia by requesting such information from private purchasers, State Department of Highways, and West Virginia Geological and Economic Survey, as well as other informative sources available and select specific selling price rate(s) based on prices best typifying

activity in each appraisal year. The selected selling prices per ton when multiplied by the percentage royalty rate will result in a price per ton royalty rate factor.

(G) Amount of Active Acres. -- The maximum amount of active acres are described in Section 11.08(b)(2).

(H) Capitalization Rate. -- This capitalization rate will be developed considering the techniques found in general practice in the appraisal profession when developing an income approach valuation estimate. Below is a listing of terms and definitions employed in developing various capitalization rate indicators.

(1) Definitions.

(i) Bands of Investment Discount Component. -- A discount rate derived by assigning rates to various debt and equity investment financing tiers and summing these rates, weighted by their respective percentages of total financing.

(ii) Discount Component. -- A rate reflecting a provision for returning to an investor a sum of money

equal to the aggregate of the anticipated return-on-investment over the economic life of an investment.

(iii) Economic Life Method of Recapture. -- A method of developing a recapture rate by estimating the period of time an investment will produce a return and estimating an equal periodic rate of recapture of the investment over this return period.

(iv) Management Rate. -- A rate reflecting a return to an investor for the management of similar investment portfolios.

(v) Market Comparison Discount. -- A discount rate derived by dividing income net of the recapture component and property taxes by the arms-length selling price of the property.

(vi) Market Comparison Method of Recapture. -- A recapture rate estimated by dividing income net of the discount component and property

taxes by the arms-length selling price of the property.

(vii) Non-Liquidity Rate. -- A rate reflecting a return to an investor representing the loss of interest on an investment arising from the time required to sell the investment.

(viii) Property Tax Component. -- A rate reflecting a provision for returning to an investor a sum of money equal to property taxes paid over the economic life of an investment.

(ix) Recapture Component. -- A rate reflecting a provision for returning to an investor a sum of money equal to his investment.

(x) Risk Rate. -- A rate reflecting a return to an investor necessary to attract capital to an investment containing a possible loss of principal and/or interest.

(xi) Safe Rate. -- A rate reflecting a return to an investor on an investment which has little, if

any, livelihood of loss of principal or anticipated return on investment.

(xii) Summation Discount Component. -- A discount rate expressed as the aggregate of a safe rate, risk rate, non-liquidity rate, and management rate.

(2) Discussion. -- The capitalization rate as defined in section 11.08(b) (6) (5) will be determined annually by the Tax Commissioner through the use of generally accepted methods for estimating such rates. The rate so developed will consider a level-terminal income series which is indicative of active mining properties. The capitalization rate used to value active mining properties will be developed giving consideration to the following three (3) approaches:

(a) Discount Component

(i) Market Comparison. -- Sufficient sales data permitting, the market comparison technique will be employed as the primary indicator for an

appropriate discount component. The market comparison discount component will be developed by dividing aggregate royalty rate income streams adjusted for recapture by verified recorded arms-length sales transactions for active mining properties which have occurred in the State of West Virginia during the ~~eight~~/18/ five (5) years ~~WV Code § 11-1A-3~~ prior to the annual appraisal date. The market comparison discount component selected will be based upon those rate indicators best typifying activity in this ~~eight~~/18/ five (5) year research period. In selecting the discount component greater emphasis will be given to information from arms-length sales occurring during the most recent years of the study.

(ii) Summation Technique. --

In the absence of sufficient data to statistically support primary consideration of the market comparison technique, the summation techniques will be given primary consideration. The summation discount component will be developed reflecting the following four (4) major sub-components:

- (1) Safe Rate
- (2) Risk Rate
- (3) Non-Liquidity Rate
- (4) Management Rate

The "Safe Rate" will be developed through review of quarterly interest rates offered on thirteen (13) week United States Treasury Bills for a period of three (3) years prior to the appraisal date. The "Risk Rate" Will be developed through review of data resulting from an annual survey of lending institutions,

such survey reflecting interest rates required on loans for acquisition and/or development of natural resource properties. This survey will be conducted for a three (3) year period prior to the appraisal date. Results of the survey will be compared to quarterly interest rates offered on thirteen (13) week United States Treasury Bills for the same three (3) year period. An interest differential will then be selected representing the "Risk Rate." The "Non-Liquidity Rate" will be developed through an annual survey to determine a reasonable estimate of time that natural resource properties remain on the market before being sold. The market time thus determined will be used to identify United States Treasury Bills with similar

time differentials in excess of thirteen (13) week Treasury Bills. The interest differential between these securities will be deemed to be representative of the "Non-Liquidity Rate." The "Management Rate" will be developed through a survey of investment firms to identify charges for the management of investment portfolios.

(iii) Bands-of-Investment. -- Data permitting the Bands-of-Investment technique will be considered in conjunction with the two (2) previously mentioned discount estimate components.

(b) Recapture Component. --

Selection of a multiplier will be accomplished through access of a standard mid-year life Inwood table. The Inwood table has a factor for recapture built into the table coefficients. Inclusion of a

recapture component in the capitalization rate is therefore not appropriate.

(c) Property Tax Component. -- The effective property tax rate will be estimated by multiplying the assessment ratio by the average statewide levy rate for Class III property. At the present time, research indicates that the natural resource property tax is paid by the property owner with no additional compensation from producer. Thus, since property taxes are part of Royalty Rates, this component will be used in the capitalization rate. However, if this described general practice changes, (property taxes paid by producer) then the use of this component will be deleted.

(3) The surveys referenced in Section 11.08(c)(1) ~~(C)~~ (H) (2) will be conducted and tentative results published by the Tax Commissioner on or before ~~March~~ May 31 of each year. Public comment on

such surveys will be accepted until
May/1 June 15 of each year, and final
results will be issued on or before
July 1 of each year.

12) // Valuation of Active Reserves/

1A) // General/ // The value of each acre of
active reserves shall be one-tenth of the per
acre value of active mining property/

1B) // Per Acre Value of Active Mining Property/
// Per acre value of active mining property
equals the value of active mining property as
described in § 11.08(c)(1) divided by the
number of acres in the active mining property/

1C) // In the event that the active reserve
value per acre is less than the inactive
reserve value per acre, the inactive reserve
value per acre will be used/

13) (2) Valuation of Inactive Reserves. --

Inactive Reserve values for limestone, sandstone,
clay and shale, sand and gravel, and salt shall be
determined annually by the Tax Commissioner. This
determination will be conducted by the Tax Commis-
sioner after review of recorded willing seller-
willing buyer arms-length natural resource property
sales that have occurred in the State of West
Virginia during at least the ~~eight~~ five (5) years

~~(W/Vd/Code/S/11-1A-3)~~ prior to the appraisal date, and through inspection of other appropriate information. This review will place a greater emphasis on the information and sales transacted during the most recent years. For those natural resource properties which are not involved in any recorded sale agreements, the Tax Commissioner ~~will~~ may also derive the valuations through ~~surveys~~ reviews conducted with private appraisal and/or engineering companies, data provided by the West Virginia Geological and Economic Survey, West Virginia Department of Natural Resources, West Virginia Department of ~~Mines~~ Energy and the West Virginia Department of Highways, and other appropriate information as requested from the natural resource owners or producers. The Tax Commissioner will maintain and publish this survey (report) of ~~inactive~~ natural resource property sales on or before ~~March~~ May 31 of each year; will accept written public comment on the survey until May 1 of each year; and issue the final values per acre on or before ~~July/1~~ June 15 of each year. This survey of ~~inactive~~ reserve natural resource sales will be constructed to indicate the following: (1) county in which the property is located; (2) deed book, page number; (3) grantor-grantee; (4) date recorded;

(5) acreage involved; (6) natural resource involved; (7) consideration; (8) consideration per natural resource acre sold and (9) a narrative on values derived for those natural resources not involved in sales. From this survey, the Tax Commissioner will select the values per acre for each natural resource that best typify such transactions.

~~Also as part of this review, the Tax Commissioner will consider the effect of inactive mining properties being adjacent to active mining properties and active reserves in determining values under this section.~~

(3) Valuation of Unmineable Other Natural Resource Properties. -- Properties in this category shall be valued at \$1.00 per acre.

(4) Valuation of Mined-Out/~~Unmineable~~/Barren Other Natural Resource Properties. -- Properties in this category shall be valued at \$1.00 per ~~surface~~ acre.

(5) Total Natural Resource Valuation. -- The total natural resource valuation for any natural resource parcel will involve the value for all active acres, all reserve acres, all unmineable, and all mined out/barren acreage. However, the total value for any natural resource parcel shall not be less than \$100.00.

§ 6 Summary of Valuation of Methods.

Table 5 - Valuation of Other Natural Resources

(A) Properties with mineable/merchandise
that involve natural resources shall be
values as follows:

Active/Mining/Acres

(Average/Annual//////////Royalty//////////Active/Natural
/Natural/Resource////////X///Rate////////X///Multiplier///Resource/Real
/Production/in/Tons////////Per/Ton//////////Property/Value)

Active/Reserve/Acres/(Part/of/Active/Operation)

(Total//////////Per/Acre/Value//////////Active/Reserve
/Active/Reserve////////X///of/Active/Mine///X///10%///Other/Natural
/Acres//////////ing/Property//////////Resource/Real
//////////Property)

Inactive/Reserve/Acres/(Leased/of/Permitted/Acres/+/No/Mining)

(Total/Inactive//////////Inactive/Reserve//////////Inactive/Reserve
/Reserve/Acres////////X///Value/Per/Acre//////////Other/Natural
//////////Resource/Real
//////////Property/Value)

Active Mining Property

Value per Active Acre X Active Acres = Active Natural
Resource Real
Property Value

Reserve Property

Per Acre
Reserve Value X Reserve
Acres = Reserve Real
Property Value

Unmineable Property

\$1 per acre X Unmineable Acres = Unmineable Real
Property Value

Mined Out/Barren Property

\$1 per acre X Mined Out/Barren = Mined Out/Barren
Acres Real Property Value

~~(B) // Mined-out, unmineable and barren natural
resource properties shall be valued at one
dollar / \$1.00 / per surface acre /~~

(C) (B) The total value for the natural
resource properties will be the sum of the
value of the active mining property, ~~the~~
~~active~~ reserves, ~~the~~ ~~inactive~~ ~~reserves~~ and
the mined-out/unmineable/barren acres.

(D) (C) If other real property interest are
owned in the natural resource acreage, then
the value of those additional interests shall
be added to the total value of the natural
resource properties to arrive at the total
real property value.

(E) (7) Leasehold Interests. -- These regu-
lations generally attribute the value of the
natural resource to the owner of the value of the
natural resource to the owner of the natural
resource property. In those circumstances,
however, where the owner of the property is
subject to a lease requiring the owner to permit
mining at royalty rates substantially below
current market values, the owner may petition the
assessor, and on appeal, the Tax Commissioner, to
attribute a portion of the value of the coal
determined by this formula to the leaseholder.

(8) Active Farm Properties. -- The natural resource rights, that are part of a "fee" estate where the use of the surface has qualified as an active farm, will be valued in the following manner:

(A) Where income or royalty is not derived from the natural resource rights (natural resource rights not leased or non-producing) the natural resource interest shall not be valued.

(B) Where income or royalty is derived from the natural resource rights (natural resource rights leased or producing) the natural resource interest shall be valued as follows:

(1) Fee estates where the annual wholesale value of farm commodities or products, is fifty percent (50%) or more of the usual annual gross income from all uses of the property, shall be subject to farm use valuation. Thus, natural resource interests shall not be valued under this situation.

(2) Fee estates where the annual wholesale value of farm commodities or products is less than fifty percent (50%) of the usual annual gross income

from all uses of the property, the
applicable natural resource values shall
be added to the surface farm use value.

(9) Property Reports. -- Prior to November 1 of
each year the producer and natural resource owner
will be required to file a report with the assessor
of the county where the natural resource property
is assessed. These reports will be designed by
the State Tax Commissioner so that producing
properties will be reported by the producer (with
authorization from natural resource owner).