

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: State Tax Division TITLE NUMBER: 110

RULE TYPE: Legislative; CITE AUTHORITY W. Va. Code § 11-1C-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1J

TITLE OF RULE BEING AMENDED: Valuation of Producing And Reserve Oil and Natural Gas For Ad Valorem Property Tax Purposes

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

This rule may be accessed on the Internet through wvweb.net/taxdiv

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 25, 1997 AT 5:00 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

State Tax Division
Legal Division
P.O. Box 1005
Charleston, WV 25324-1005

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

Handwritten signature of Richard E. Boyle, Jr.

Richard E. Boyle, Jr.
State Tax Commissioner

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL



CECIL H. UNDERWOOD
GOVERNOR

STATE OF WEST VIRGINIA
DEPARTMENT OF TAX AND REVENUE

TAX DIVISION
P. O. Box 2389
Charleston, West Virginia 25328-2389

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CONSENT TO FILE RULE


June 25, 1997

To Whom It May Concern:

Title of Rule: Valuation Of Producing And Reserve Oil And Natural
Gas For Ad Valorem Property Tax Purposes.
Title Number: 110
Series Number: 1J

Pursuant to West Virginia Code § 5F-2-2(a), the undersigned hereby
consents to the filing of the foregoing rule.

Signed this 25th day of June, 1997.



Robin C. Capehart
Secretary, Tax and Revenue



**STATE OF WEST VIRGINIA
DEPARTMENT OF TAX AND REVENUE**

**CECIL H. UNDERWOOD
GOVERNOR**

**ROBIN C. CAPEHART
SECRETARY**

**TAX DIVISION
P. O. Box 2389
Charleston, West Virginia 25328-2389**

SUMMARY OF RULE

110 C.S.R. 1J

**VALUATION OF PRODUCING AND RESERVE OIL AND NATURAL GAS
FOR AD VALOREM PROPERTY TAX PURPOSES**

This rule explains and clarifies the methodology used to value oil and natural gas property for ad valorem tax purposes.



**STATE OF WEST VIRGINIA
DEPARTMENT OF TAX AND REVENUE**

**CECIL H. UNDERWOOD
GOVERNOR**

**ROBIN C. CAPEHART
SECRETARY**

**TAX DIVISION
P. O. Box 2389
Charleston, West Virginia 25328-2389**

STATEMENT OF CIRCUMSTANCES

110 C.S.R. 1J

**VALUATION OF PRODUCING AND RESERVE OIL AND NATURAL GAS
FOR AD VALOREM PROPERTY TAX PURPOSES**

The capitalization rate used for oil and natural gas property is highly dependent upon the capitalization rate used for coal. As the methodology used to value active and reserve coal property is being changed, necessary changes are required for the oil and natural gas properties.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Valuation of Producing and Reserve Oil and Natural Gas for Ad Valorem Property Tax Purposes.

Type of Rule: Legislative Interpretive Procedural

Agency: State Tax Division
 Address: P.O. Box 1005
Charleston, WV 25324-1005

1. Effect of Proposed Rule

	ANNUAL			FISCAL YEAR	
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

The amendments to this rule should not cause any change in agency costs.

3. Objectives of these rules:

The object of this rule is to explain and clarify the methodology used for valuing producing and reserve oil and natural gas properties.

Rule Title: Valuation of Producing and Reserve Oil and Natural Gas
for Ad Valorem Property Tax Purposes.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

The amendments to the rule should have little economic impact on state government.

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

The property taxes may increase on some oil and natural gas properties and decrease on others.

C. Economic Impact on Citizens/Public at Large.

None.

Date: June 25, 1997

Signature of Agency Head or Authorized Representative



Richard E. Boyle, Jr.
State Tax Commissioner

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TITLE 110

LEGISLATIVE RULE

JUN 25 2 56 PM '97

DEPARTMENT OF TAX AND REVENUE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 1J

**APPRAISAL VALUATION OF PRODUCING AND RESERVE OIL AND NATURAL GAS
FOR PROPERTY PERIODIC STATEWIDE REAPPRAISALS
FOR AD VALOREM PROPERTY TAX PURPOSES**

§ 110-1J-1. General.

1.1 **Scope.** -- ~~These regulations clarify~~ This rule and implement State law as it relates to the appraisal at market value provides the methodology the State Tax Commissioner will use to determine the appraised value of producing and reserve oil and natural gas properties.

1.2 **Authority.** -- W. Va. Code §§ 11-1C-5(a) and (c), 11-1C-5a, and 11-1C-10(d).

1.3 **Filing date.** --

1.4 **Effective date.** -- This rule applies to tax years beginning on or after January 1, 1999.

§ 110-1J-2. Introduction.

Oil and/or natural gas is one of the several estates in real property which may be owned either ~~as a separately interest in real property or in conjunction with other interests, usually as fee ownership, oil and/or natural gas ownership or as minerals ownership estates.~~ If oil and/or natural gas is owned as a separate estate, either absolute, as a leasehold, or in conjunction with other estates, 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/or natural gas is part of a larger interest in a tract of property owned in conjunction with other estates,~~ the value of the oil and/or natural gas shall be included in the value of the larger interest other estate. Oil and/or natural gas may be owned without being produced. Oil and/or natural gas title may exist where no oil and/or natural gas is actually known to be present, or where the oil and/or natural gas is unproducible or depleted.

2.1 **Categories for valuing oil and/or natural gas properties.** -- ~~Parcels of property thought to bearing or having the potential to bear oil and/or natural gas or having the oil and/or natural gas mineral interest separated from the fee of the property will be classified as producing property; non-producing property; plugged and abandoned property.:~~

2.1.1 producing property (to include home use/industrial on-property consumption);

or

2.1.2 non-producing property; or

2.1.3 barren property; or

2.1.4 plugged and/or abandoned property.

§ 110-1J-3. Definitions.

As used in ~~these regulations~~ this rule and unless the context clearly requires a different meaning, the following terms shall have the meaning ascribed herein, and shall apply in the singular or in the plural.

3.1 "Bands of investment discount component" means 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.

3.2 "Barren oil and natural gas property" means those fee/mineral parcels in West Virginia where data suggests the presence of oil and natural gas is very unlikely.

3.3 "Capitalization rate" means a rate used to convert an estimate of income to an estimate of market value. For further explanation, see Section 4.5 of this rule.

3.4 "Commissioner" or "Tax Commissioner" means the Tax Commissioner of the State of West Virginia, or his or her delegate.

3.2 5 "Discount component" means 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.

3.3 6 "Flush production" means the production of oil and/or natural gas from any well on ~~an producing oil and/or natural gas producing~~ property with an initial production date that is two (2) calendar years or less prior to the July 1st assessment date of valuation. Production beginning after December 31st and prior to the July 1st assessment date must be reported.

3.7 "Gross receipts" means total income received from production on any well, at the field line point of sale, during a calendar year before subtraction of any royalties and/or expenses.

3.4 8 "Management rate" means a rate reflecting a return to an investor for the management of similar investment portfolios.

3.5 9 "Market comparison discount" means a discount rate derived by dividing income net of the recapture component and property taxes by the arms-length selling price of the property.

3.6 10 "Natural gas producing property" means the property from which natural gas 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 up to one hundred

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twenty-five (125) acres of surface per well for property with active wells on the parcel. ~~Also to be included on All acreage of a natural gas producing property is the parcel acreage in excess of one hundred twenty-five (125) acres per well, to will be valued at the non-producing rate per acre referenced in Section 4.9 of these regulations; such rate however not to exceed the average producing rate per acre of the property this rule.~~

3.7 11 "Nonliquidity rate" means 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.

3.8 12 "Oil and/or natural gas, non-producing property" means ~~properties~~ property(s) that were ~~was~~ not engaged in production during the previous assessment year period of July 1st through June 30th. This category shall 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 or gas properties.~~

3.9 13 "Oil and/or natural gas plugged and abandoned property" means ~~up to one hundred twenty five (125) acres of surface per well of natural gas or up to forty (40) acres of surface per well of oil producing properties if the well has been~~ property having a plugged and abandoned oil and/or natural gas well(s) as required by W. Va. Code § 22B-4-1 et seq.

~~3.40 14 "Oil producing property"~~ means property from which oil 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 forty (40) acres of surface per well with one (1) or more active well(s) on the parcel. ~~Also to be included on All acreage of an oil producing property is the parcel acreage in excess of forty (40) acres per well, to will be valued at the non-producing rate per acre referenced in Section 4.9 of these regulations; such rate however not to exceed the producing rate per acre of the property this rule.~~

3.15 "Operating expenses" means only those ordinary expenses which are directly related to the maintenance and production of natural gas and/or oil. These expenses do not include extraordinary expenses, depreciation, ad-valorem taxes, capital expenditures or expenditures relating to vehicles or other tangible personal property not permanently used in the production of natural gas and/or oil.

~~3.44 16 "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 not incurring operating expenses in the gross production payable to a person who is neither the producer nor the owner of the oil and natural gas estate and who is not required to bear a share of the development or operating costs of the well.

3.42 17 "Personal property" used in oil and/or 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 production from the well to the fieldline point of sale. It shall not include vehicles or other tangible personal property not permanently used in production.

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3.13 ~~18~~ "Producer/operator" means any person or persons, corporation, partnership, joint venture or other enterprise which proposes to or does locate, drill, produce, manage, or abandon any well.

3.44 ~~19~~ "Property tax component" means 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.

3.45 ~~20~~ "Recapture component" means a rate reflecting a provision for returning to an investor a sum of money equal to his investment.

3.46 ~~21~~ "Risk rate" means a rate reflecting a return to an investor necessary to attract capital to an investment containing a possible loss of principal and/or interest.

3.47 ~~22~~ "Royalty interest" means the fractional interest in oil and/or natural gas production that is not subject to development costs or operating expenses and extends undiminished over the life of the property. Typically, it is retained by the oil and/or natural gas rights owner or lessor.

3.48 ~~23~~ "Safe rate" means a rate reflecting a return to an investor on an investment which has little, if any, likelihood of loss of principal or of loss in anticipated return on investment.

3.49 ~~24~~ "Settled production" means the production of oil and/or natural gas from all wells on a ~~producing~~ property with an initial production date that is more than two (2) calendar years prior to the July 1st assessment date of valuation.

3.20 ~~25~~ "Storage wells" means drilled and completed wells on any property used as a reservoir for the artificial injection, storage and withdrawal of natural gas into gas from a natural reservoir strata. ~~These properties shall be valued as non-producing natural gas property, such value not inclusive of inventories stored therein. Natural gas inventory stored therein shall be valued separately.~~

3.24 ~~26~~ "Summation discount component" means a discount rate expressed as the aggregate of a safe rate, risk rate, nonliquidity rate, and management rate, adjusted for inflation.

3.27 "Well" means any shaft or hole sunk, drilled, bored or dug into the earth or into underground strata for the extraction of oil or gas.

3.22 ~~28~~ "Working interest" means the fractional interest in oil and/or natural gas production subject to development and operating expenses and owned by the leaseholder and/ or operator.

§ 110-1J-4. Methods of Valuation.

4.1 General. -- Oil and/or natural gas producing property value shall be determined through the process of applying a yield capitalization model to the net receipts (gross receipts less royalties paid less expenses) for the working interest and a yield capitalization model applied to the gross

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royalty ~~receipts~~ payments for the royalty interest. Where ownership is split through a lease or royalty arrangement, different values will be determined for the working interest and the royalty interest. Each term in this valuation is discussed below.

4.2 Percentage interest in oil and/or natural gas. -- Where the ownership of oil and/or 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 (generally one-eighth) of the production income to be the royalty payment to the owner. The remainder (generally seven-eighths) is the working interest. The Tax Commissioner will annually determine ~~a typical~~ working and royalty percentage interests on a per well or lease basis, through a review of oil and natural gas leases from throughout the State producer/operator annual property tax returns. These percentages will be determined annually by dividing the total royalty paid by the reported gross income.

~~4.3. Average production rate. Gas~~ The Tax Commissioner will annually determine and report the production rate of natural gas well through review of information filed with other State agencies and data provided by companies and individuals. ~~Oil~~ The average daily rate, measured in terms of oil field standard forty two (42) gallon barrels, for the year preceding the annual 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.

~~4.4 Average industry market price. Oil~~ The Tax Commissioner will annually derive the average industry market price by reviewing the price per barrel paid by the major West Virginia crude oil producers. The Tax Commissioner's annual report on the average industry market price shall reflect a reduction for average Federal Windfall Profits Tax and West Virginia Severance Taxes deemed to be paid by the working and 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 production 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 other statistical data. The Tax Commissioner's annual report on the average industry market price shall reflect a reduction for average Federal Windfall Profits Tax and West Virginia Severance Taxes deemed to be paid by the working or royalty interests on the production.

4.5 3 Average industry operating expenses. -- The Tax Commissioner will annually biennially determine the average industry operating expenses per well. The average industry operating expenses will be deducted from working interest gross receipts in to developing an income stream for application of a yield capitalization procedure.

4.6 4 Average industry production decline rates. -- The Tax Commissioner will annually will every five (5) years derive and report the average industry production decline rates by a reviewing

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of well production records of various State agencies and along with data provided by companies and individuals.

~~4.7 5 Capitalization rate. -- A capitalization rate will be developed considering the three (3) components set out in Section 4.7.1 of these regulations. 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.~~

The A single statewide capitalization rate for oil and natural gas will be determined annually by the Tax Commissioner through the use of generally accepted methods ~~for estimating such rates~~. The rate ~~so developed~~ will be applied to based on the assumption of a declining-terminal, non-inflating income series which is indicative of oil and/or natural gas producing properties. The capitalization rate used to value oil and/or natural gas properties will be developed through considering consideration of: (1) a discount rate determined by the summation technique, (2) ~~a recapture component,~~ and (3) a property tax component.

~~4.7.1~~ 5.1 Discount component.

~~4.7.1.1.a. Summation technique. -- The summation technique will be given primary consideration in the valuation of oil and/or 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/or natural gas producing property utilizing the following four (4) major subcomponents:~~

~~4.7.1.1.a.1. Safe rate~~

~~4.7.1.1.a.2. Risk rate~~

~~4.7.1.1.a.3. Nonliquidity rate~~

~~4.7.1.1.a.4. Management rate~~

The summation technique will be used in developing a discount component of the capitalization rate. The five subcomponents of the discount rate are:

4.5.1.a Safe rate. -- The "safe rate" will reflect a rate of return that an investor could expect on an investment of minimal risk. It will be developed through review of interest rates offered on thirteen (13) week United States Treasury Bills for a period of one (1) calendar year immediately prior to the appraisal July 1st assessment date.

4.5.1.b Risk rate -- The relative degree of risk of an investment in oil and natural gas property is difficult to determine from published interest rates. The risk rate will be developed through review of data resulting from an annual survey of lending institutions, such A survey reflecting of interest rates required on loans for acquisition and/or development of natural

~~resource-producing oil and natural gas properties will be conducted annually and. This survey will be conducted for will cover~~ a one (1) calendar year period immediately prior to the appraisal July 1 assessment date. Results of the survey will be compared to quarterly interest rates offered on thirteen (13) week United States Treasury Bills for the same one (1) calendar year period. ~~An interest differential will then be selected representing the "risk rate" assignable to various financing tiers~~ The difference between the two, combined with bands-of-investment analysis, will be used as a basis to estimate the risk rate.

4.5.1.c Nonliquidity rate. -- The "nonliquidity rate" will be developed through an annual survey to determine a reasonable estimate of time that oil and natural gas properties, when exposed to the market for sale, 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 used to be~~ representative of the "nonliquidity rate." For example, if it is determined that oil and natural gas property remains on the market for an average of nine months (39 weeks) before being sold, the nonliquidity rate will be derived by taking the rate on one (1) year Treasury Bills minus the rate on 13-week Treasury Bills.

4.5.1.d Management rate. - The "management rate" represents the cost of managing the investment, not the cost of managing the oil and natural gas property. The management rate will be developed through a survey of investment firms to identify annual charges for the management of investment portfolios.

~~4.7.1.1.b. Bands of investment/market comparison. Data permitting, the bands of investment and market comparison techniques will be used to verify the summation discount component.~~

4.5.1.e Inflation rate (negative). -- Nominal interest rates, including the "safe rate" mentioned in the foregoing subdivision 4.5.1.a, are higher than real rates by an amount representing expectation of future inflation; however, net annual income from oil and natural gas property is to be estimated assuming level future royalties (no inflation). The capitalization rate must be a real rate, net of expectation of inflation. The inflation rate will be estimated through analysis of the most recent calendar year's urban consumer price index as determined by the U.S. Department of Labor, Bureau of Labor Statistics.

4.5.2 In determining the discount component of the capitalization rate, the Tax Commissioner will take the sum of the safe rate, the risk rate, the nonliquidity rate and the management rate, and will deduct from this the inflation rate.

4.7 5.3 Property tax component. -- This component will be ~~derived~~ estimated by multiplying the assessment rate by the prior tax year's statewide average of tax rates on for Class III property. At the present time, research indicates that royalty rates on oil and natural gas include a component for property tax, with no additional compensation from the producer. As a result, the property tax component will be used in the capitalization rate; however, if this described general

practice changes and property taxes are paid as additional compensation, the use of this component will be deleted.

4.5.4 Results of Capitalization Rate Survey -- The survey for development of components referenced in Subdivision 4.5.1 of this rule will be conducted annually and results filed by the Tax Commissioner in the State Register on or before July 1st of each year. Public comment on such surveys will be accepted until August 1st of each year with final results filed in the State Register on or before September 1st of each year.

4.8 6 Yield capitalization model. -- A yield capitalization model will be developed for each producing property. The model will use as a beginning point and include for each producing well, the gross receipts (both working interest and royalty interest) and production amounts from each producing well the most recent calendar year preceding the July 1 assessment date. Gross receipts and production amounts will be proportionately reduced by application of the appropriate production decline rate, referenced in Section 4.6 4 of these regulations this rule, to yield a declining terminal income series typical of the producing area and strata. The income series will be apportioned to the working interest and to the royalty interest based upon percentage interests referenced in Section 4.2 of this rule.

4.6.1 Working interest model. -- The working interest gross receipts income series referenced in Section 4.8 6 of these regulations this rule will be reduced by the annual operating expenses referenced in Section 4.5 3 of these regulations this rule to yield a net working interest income series. The net working interest income series will be discounted by applying, on an annual basis, a mid-year life Inwood efficient factor reflecting the capitalization rate referenced in Section 4.7 5 of these regulations this rule. The summation of the annual discounted income streams will be the market value estimate for the working interest of the producing oil and/or natural gas well for an area of up to one hundred twenty-five (125) acres for producing natural gas wells and up to forty (40) acres for producing oil wells including personal property as defined by Section 3 of this rule.

4.8 6.2 Royalty interest model. -- The royalty interest gross receipts income series referenced in Section 4.8 6 of these regulations this rule will be discounted by applying, on an annual basis, a mid-year life Inwood efficient factor reflecting the capitalization rate referenced in Section 4.7 5 of these regulations this rule. The summation of the annual discounted income streams will be the market value estimate for the royalty interest of the producing oil and/or natural gas well for an area of up to one hundred twenty-five (125) acres for per producing natural gas wells and up to forty (40) acres for per producing oil wells.

4.6.3 Home-use/industrial use on property consumption. -- The home-use/industrial use on property consumption will be appraised using the average annual Appalachian spot price determined by NYMEX. For home use purposes the value will be based on an assumed 200 MCF per year times the determined spot price. For industrial purposes, the value will be based on actual annual MCF usage times the spot price as determined herein.

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4.9 7 Valuation of non-producing acreage. -- The value per acre of non-producing acreage, which includes shut-in wells, shall equal the discounted annual lease payment per acre. A valuation schedule for non-producing properties will be determined annually by the Tax Commissioner ~~on a county basis~~ for each district within a county, where data is available. The Tax Commissioner will annually conduct a review of oil and/or natural gas agreements transacted at arms length in all fifty-five (55) counties to determine the average annual delay rental lease payment per acre, ~~as well as the and lease term, that oil and gas properties in the county typically command.~~ The per-acre value for non-producing property will be the sum of the projected annual income stream from delay rental during the lease term discounted in each year by a capitalization rate. A valuation of \$1.00 per acre will be used where property is located in those areas of the State where drilling activity/production have not been established and the property is presumed to be barren.

4.40 8 Valuation of plugged and abandoned acreage. -- Plugged and abandoned acreage will be valued to the oil or gas owner at the nominal rate of one dollar (\$1.00) per acre. This category includes any plugged and abandoned acreage of up to one hundred twenty-five (125) acres per natural gas well and up to forty (40) acres per oil well.

4.9 Valuation of barren oil and natural gas areas. -- Such oil and natural gas areas (fee accounts) will be valued at \$1.00 per deed acre.

4.44 10 Valuation of wells that produce both oil and natural gas. -- The valuation of these ~~producing wells that produce both oil and natural gas~~ shall be determined by use of the methods described herein ~~for oil and natural gas~~. These values shall then be summed to result in the overall value of the oil and/or natural gas producing acreage.

4.11 Valuation of storage well areas. -- Storage well areas shall be valued as non-producing natural gas property. Such value will not include inventories stored within. Natural gas storage inventories shall be assessed to the inventory owner.

4.12 Annual reports. -- The Tax Commissioner will publish an annual ~~report~~ survey for the variables to be considered in arriving at the value of the specific oil and/or natural gas related property. ~~This report s~~Survey results will be filed ~~with the office of the Secretary of State in the State Register~~ on or before ~~May 31st~~ July 1st of each year, ~~followed by a fifteen (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.~~ Public comments will be accepted until August 1st of each year with the final results filed in the State Register on or before September 1st of each year.

4.13 Active-f 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 for farm use appraisal,~~ will be valued in the following manner: ~~(For definition of an active farm see § 110 1R 1 et seq.)~~ as described in 110 C.S.R. 1A, Valuation of Farmland and Structures Situated Thereon For Ad Valorem Property Tax Purposes.

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~~4.13.1. Where income or royalty is not derived from the oil and gas rights the oil and gas interest shall not be valued.~~

~~4.13.2. Where income or royalty is derived from the oil and gas rights the oil and gas interest shall be valued as follows:~~

~~4.13.2.1. 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.~~

~~4.13.2.1. 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, shall be valued by adding the applicable oil and gas values referenced in this rule to the surface farm use value.~~

~~4.14 Property reports. -- Prior to September 1st of each year the producer and oil and gas owner will be required to file a report the West Virginia Oil and Gas Producer/Operator Return with the Department of Tax and Revenue State Tax Division with acknowledgement to the county assessor(s) for each in the county(s) where the oil and natural gas property is to be assessed located. These reports This Return form will be designed by the State Tax Commissioner so that information pertinent to the valuation of such producing property, non-producing property, and plugged and abandoned property will be reported properly by the oil and gas producer, lessee, and owner.~~

~~4.15 Confidentiality -- All information provided by or on behalf of a natural resources property owner or by or on behalf of an owner of an interest in natural resources property to any state or county representative for use in the valuation or assessment of natural resources property or for use in the development or maintenance of a legislatively funded mineral mapping or geologic information system shall be confidential. Such information shall be exempt from disclosure under provisions of West Virginia Code section four [§ 29B-1-4], article one of chapter twenty-nine-b, and shall be kept, held, and maintained confidential except to the extent such information is needed by the state tax commissioner to defend an appraisal challenged by the owner or lessee of the natural resources property subject to the appraisal: Provided, That this section may not be construed to prohibit publication or release of information generated as part of the minerals mapping or geologic information system, whether in the form of aggregated statistics, maps, articles, reports, professional talks, or otherwise presented in accordance with generally accepted practices and in a manner so as to preclude the identification or determination of information about particular property owners.~~