WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Property Valuation Training and Procedures Commission TITLE NUMBER: 189

CITE AUTHORITY: W. Va. Code §§ 11-10-5 and 11-1C-4(d)

AMENDMENT TO AN EXISTING RULE: YES X NO ___

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: Tax Map Sales

IF NO, SERIES NUMBER OF 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.

Authorized Signature

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 7/29/15

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) State Tax Department, Legal Division, 1001 Lee Street, East, Charleston, WV 25301 (304) 558-5330

LEGISLATIVE RULE TITLE: Tax Map Sales

1. Authorizing statute(s) citation West Virginia Code §11-10-5 and 11-1C-4(d)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

   June 11, 2015

   b. What other notice, including advertising, did you give of the hearing?

   The proposed rule was placed on the Tax Department's website.

   c. Date of Public Hearing(s) or Public Comment Period ended:

   July 13, 2015

   d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

   Attached ________ No comments received X

   e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)
   July 29, 2015

   f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all written correspondence regarding this rule: (Please type)

   Mark S. Morton, General Counsel for Revenue Operations

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

304-558-5330 (tel) 304-558-8728 (fax)

Mark.S.Morton@wv.gov

g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

____

____

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

____

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

TITLE 189
LEGISLATIVE RULE
PROPERTY VALUATION TRAINING AND PROCEDURES COMMISSION
SERIES 5
TAX MAP SALES
STATEMENT OF CIRCUMSTANCES

With the changes in technology, there has been an increase in the request for Digital Parcel Files. The previous version of this Rule, which was promulgated in 1992, did not address this new technology and, therefore, clarification is needed as to how these forms of technology are treated when they are requested. This Rule would repeal and replace the 1992 version of this Rule.

TITLE 189
LEGISLATIVE RULE
PROPERTY VALUATION TRAINING AND PROCEDURES COMMISSION
SERIES 5
TAX MAP SALES
SUMMARY

This Rule permits the sale of paper and electronic Finished Tax Maps and Digital Parcel Files by county assessors and permits the Property Tax Division of the West Virginia Tax Division of the Department of Revenue, as an agent for all counties for the purpose of tax map sales, to also sell paper and electronic Finished Tax Maps and Digital Parcel Files. This Rule defines certain terms, such as Finished Tax Maps and Digital Parcel Files, sets forth a price schedule for the various types of maps, establishes ordering procedures, and prohibits the reproduction of the Tax Maps and Digital Parcel Files without permission of the county assessor.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Tax Map Sales

Type of Rule: [X] Legislative [ ] Interpretive [ ] Procedural

Agency: Tax Department

Address: 1001 Lee Street
Charleston, WV 25301

Phone Number: (304) 558-5330 Email:

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The Rule permits the sale of paper and electronic Finished Tax Maps as well as the sale of Digital Parcel Files by county assessors and by the Property Tax Division of the West Virginia Tax Division of the Department of Revenue, as an agent for all counties for the purpose of tax map sales. This Rule sets for the procedures, rules and fees related to the sales of paper and electronic Finished Tax Maps as well as the sale of Digital Parcel Files.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: Tax Map Sales

Rule Title: Tax Map Sales

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

Many of these sales already taking place under the old version of Rule. However, by clarifying the cost and procedures for the paper and electronic Finished Paper Tax Maps and Digital Parcel Files there may be a small positive revenue impact from these regulations.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: 6/1/2015

Signature of Agency Head or Authorized Representative

[signature]

TITLE 189
LEGISLATIVE RULE
PROPERTY VALUATION TRAINING AND PROCEDURES COMMISSION

SERIES 5
TAX MAP SALES

§189-5-1. General.

1.1. Scope. -- This regulation establishes the prices, procedures and locations for the purchase of surface tax maps and digital parcel files prepared by the assessors of the State.

1.2. Authority. -- W.Va. Code §§ 11-10-5 and 11-1C-4(d).

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of Former Rule. -- This legislative rule repeals and replaces WV 189CSR5 "Tax Map Sales" filed April 15, 1992 and effective April 15, 1992.

§189-5-2. Definitions.

2.1. Finished Tax Maps or Tax Maps. -- Finished surface tax maps show the property and lot lines, set forth dimensions or areas, and other cadastral and cultural features that assessors are required by state law to maintain and publish for the public. These scaled tax maps are created by either manual or automated methods and in accordance with the cartographic design, map content and layout specifications mandated by the Property Valuation Training and Procedures Commission and set forth in WV 189CSR3 "Statewide Procedures for the Maintenance and Publishing of Surface Tax Maps." Finished Tax Maps may be purchased in a paper or digital format.

2.1.a. A digital Finished Tax Map is a scanned image of the paper Finished Tax Map. A digital Finished Tax Map is saved and stored as an image file.

2.2. Geographic Information Systems (GIS) – A collection of computer hardware and software tools used to enter, store, manipulate and display geographically referenced information. It integrates a wide variety of raster (image) and vector (point, line, and polygon) data and allows for sophisticated overlay and proximity analysis.

2.3 Digital Parcel Files – Digital Parcel Files are electronic files of surface parcel boundaries or parcel centroids that are typically created, edited and maintained using geographic information systems (GIS). These files are typically geo-referenced, edge-matched and topologically validated. Digital Parcel Files are saved in a file format that that allows them to be merged with other layers of data and be displayed on a single map using GIS or similar computer software. Their file format also allows Digital Parcel Files to be linkable to other data, including data from the Integrate Assessment System. Digital Parcel Files include file formats such as Esri Shapefiles as well as Autodesk Drawing, Microstation or other computer aided design (CAD) files.

2.3.a. Digital Parcel Files do not include mineral files. Mineral files are confidential under section fourteen, article one-c, chapter eleven of the West Virginia Code.

2.4 Integrated Assessment System (IAS). -- The CAMA system for West Virginia. It is an Oracle relational database maintained by the State Department of Tax and Revenue which centrally stores the statewide property tax appraisal and equity evaluation information.

2.5 Computer Assisted Mass Appraisal (CAMA). -- The process of using a computer to assist in property tax appraisal and equity evaluation. A CAMA system will include one or more relational databases and may also have a GIS component. The CAMA system for West Virginia is called the Integrated Assessment System (IAS).

§189-5-3. General Pricing Guidelines.

3.1. Cost Recovery from Tax Map Sales. -- Tax map sales help to cover costs for consumables like paper and ink, but typically sales will not generate enough revenue to pay salaries of full-time employees.

3.2. Surcharge for Courthouse Facilities Improvement Fund. -- The charges herein provided shall be in addition to surcharges required by W.Va. Code §11-1c-7(e) for the use of the Courthouse Facilities Improvement Fund. Tax maps distributed at no fee are not subject to the courthouse facilities surcharge.

3.3. Authority to Set Fees. -- The Property Valuation Training and Procedures Commission sets the fees for tax map sales with sales subject to the Courthouse Facilities Improvement Fund surcharges in accordance with paragraph 3.2 of this rule.

3.3.a. Non-Cadastral Map Data. -- Fees associated with aerial photography, addresses, road centerlines, elevation contours, digital elevation models, and other mapping layers acquired by county or local governments are outside the purview of the Property Valuation Training and Procedures Commission.

3.3.b. Customized Maps. -- If the public requests services to create customized maps that are over and above the normal mapping requirements of the assessor's office, then in addition to the charges required herein, the assessor is authorized to charge for the employees' time at a reasonable base rate as well as the cost of consumables like paper and ink. The assessor may refuse or postpone any map project that would interfere with the statutory duties of the assessor. An example of a customized map includes combining tax map information with aerial photography.

3.4. Map Sales by the West Virginia Tax Division of the Department of Revenue. -- The Tax Map Sales Office of the West Virginia Tax Division of the Department of Revenue will charge the same fees set forth in the price schedules for map products that it is authorized to sell.

3.5. Property Tax Division. -- The Property Tax Division, of the West Virginia Tax Division of the Department of Revenue, will not be charged any fees by assessors for county tax maps or related mapping files; the Property Tax Division requires the tax maps and Digital Parcel Files for monitoring the county assessor offices on behalf of the Property Valuation Training and Procedures Commission and for the Mineral Lands Mapping and Managed Timberland Programs. Likewise, the Property Tax Division will ensure all county assessors have access to the mineral parcels for their county at no cost.

3.6. Tax Maps on the Internet. -- Generally, assessors charge the public a nominal amount for map services that require human involvement to print or distribute the maps. Assessors may choose not to charge for tax maps displayed on the Internet that allow the public to view parcel maps remotely and which require no interaction of office staff in the printing and distribution of tax maps. In addition, assessors may permit the public to download their digital Finished Tax Maps via their county website or designated agent at no cost.

3.7. Digital Parcel Web Map Services on the Internet. -- Assessors may authorize agents to allow their parcels to be displayed as web map services which typically allow "viewing only" of parcels.

3.8. Cooperative Agreements. -- An assessor may choose not to charge tax map sales for other governmental agencies, economic development projects, or for other uses that benefit the public in accordance with non-disclosure agreements set forth in paragraph 7.1.a.

§189-5-4. Price Schedule for Paper or Printed Tax Maps (Table 189-5 A).

4.1. Paper Maps 8 1/2" x 11" or 8 1/2" x 14". -- Reproductions or printed tax maps on 8 1/2" x 11" Letter Size or 8 1/2" x 14" Legal Size paper shall be one dollar and fifty cents ($1.50) per copy.

4.2. Paper Maps 11" x 17". -- Reproductions or printed tax maps on 11" x 17" Ledger/Tabloid Size paper shall be three dollars ($3.00) per copy.

4.3. Full-Sized Paper Map Sheet. -- A fee of five dollars ($5.00) per sheet shall apply to full-sized (18" x 24" or larger) tax maps.

4.4. These fees will be charged in addition to the Courthouse Facilities Improvement Authority surcharge.

§189-5-5. Price Schedule for Digital Tax Map Files (Table 189-5 B).

5.1. Digital Tax Maps. -- Print-ready digital images or electronic files shall be sold for the same fee as paper maps.

5.1.a. Digital Maps 8 1/2" x 11" or 8 1/2" x 14". -- A portion of a full-sized tax map and designed to be printed to 8 1/2" x 11" Letter Size or 8 1/2" x 14" Legal Size paper shall be one dollar and fifty cents ($1.50) per file.

5.1.b. Digital Maps 11" x 17". -- A portion of a full-sized tax map and designed to be printed to 11" x 17" Ledger/Tabloid Size shall be three dollars ($3.00) per file.

5.1.c. Full-Sized Digital Maps. -- A fee of five dollars ($5.00) per file shall apply to digital tax maps designed to be printed to 18" x 24" or larger paper.

5.2. Digital Parcel Files. -- If the county assessor wants to sell Digital Parcel Files for a portion of the county or the entire county, then calculate the fee for the buyer based on the total number of tax map sheets at five dollars ($5.00) per map sheet that covers the area of interest. For example, 400 individual map sheets would compute to two-thousand dollars ($2,000) for the sale of digital parcel polygons.

5.2.a. Minimum Attributes. -- At a minimum the digital parcel files will include the District, Map, and Parcel identifiers.

5.2.b. IAS Data. -- County assessors may charge one dollar ($1.00) per map sheet for digital parcel mapping files that include attributes from the Integrated Assessment System (IAS) database.

5.3. These fees will be charged in addition to the Courthouse Facilities Improvement Authority surcharge.

§189-5-6. Ordering Procedures, Authority for Sales, and Purchasing Locations.

6.1. Ordering Procedures. -- All requests for tax maps must include the county name, district or corporation name, and map number.

6.2. Authority for Sale of Tax Maps. -- Tax maps may be copied, reproduced, distributed, sold, or lease only by the assessors of the fifty-five (55) counties of the State and by their agents.

6.2.a. Agents. A county assessor may contract an agent to copy, reproduce, distribute, sell, or lease tax maps at the prescribed price. The Property Tax Division of the West Virginia Tax Division of the Department of Revenue is hereby designated as an agent for all counties for the purpose of sale, reproduction and distribution of tax maps.

6.2.a.1. Bonding. -- The counties' agents shall be sufficiently bonded.

6.2.a.2. Property Tax Division. -- The Division may sell paper or digital Finished Tax Maps and Digital Parcel Files to the public. It is not the responsibility of the Property Tax Division to provide tax maps to authorized county agents. The Property Tax Division may withhold an amount for each paper or digital Finished Tax Map or Digital Parcel File, which shall cover the cost of materials, overhead, administration, personnel, sales tax and postage. The amount remaining after the deducting the cost of materials, overhead, administration, personnel, sales tax and postage shall on a semi-annual basis be remitted to the county whose tax map is sold.

6.2.b. Accounting Records. -- The county assessors and their agents shall maintain proper accounting procedures and practices.

6.2.c. Inspection Audit. -- The tax map accounting records of the county assessors or their agents shall be available for inspection at any time.

6.2.d. Deposits. -- Any funds received by the county assessors, or their agents, as a result of such reproductions shall be deposited on a monthly basis to the assessors' re-valuation fund.

6.3. Purchasing Locations. -- Tax maps may be purchased at the following locations:

6.3.a. County Assessors. -- Tax maps may be purchased in person at each of the fifty-five (55) county assessor's offices throughout the State located in the courthouse at each of the county seats (town or cities).

6.3.b. West Virginia Tax Division of the Department of Revenue. -- Tax maps may be purchased in person ("Walk-in") or by prepaid mail orders from West Virginia Tax Division of the Department of Revenue.

6.3.b.1. Mailing Address if Purchased by Mail Order:

Tax Division of the Department of Revenue
Property Tax Division, Tax Map Sales

124 Smith St., P. O. Box 25301
Charleston, West Virginia 25328

6.3.b.2. Physical Street Address if Purchased at State Tax Map Sales Office:

Tax Division of the Department of Revenue
Property Tax Division, Tax Map Sales
Albert T. Summers Center
1124 Smith St., P. O. Box 2389
Charleston, WV 25301
Phone: (304) 558-0784
Fax: (304) 558-4169

§189-5-7. Prohibiting Reproduction of Tax Maps and Prescribing Penalty for Violation

7.1. Reproduction of Tax Maps and Digital Parcel Files Prohibited. -- No person shall reproduce, copy, distribute or sell copies of paper/electronic tax maps or digital parcel files prepared by the counties without having first obtained the permission of the county assessor.

7.1.a. Non-Disclosure Agreements. -- Assessors may use a non-disclosure agreement as a legal contract between at least two parties to outline confidential material or information that the parties wish to share with one another for cadastral purposes, but wish to restrict access to or by third parties.

7.2. Penalties. -- Any person who, without the written permission of the county assessor, reproduces tax maps in any form, in an electronic retrieval system or otherwise, shall be refused permission by the county assessor or assessor's agent to purchase tax maps in the future.

7.3. The requirements and penalties set forth in this section do not apply to the West Virginia Tax Division of the Department of Revenue.

§189-5-8. Map Disclaimer and Scope of Surveying Practice

8.1. Map Disclaimer. -- The following map disclaimer shall accompany all tax maps and digital parcel files sold: "This product was developed for taxation purposes and is therefore not suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the appropriate usage of the information."

8.2. Scope of Surveying Practice. -- Tax maps and digital parcel files (GIS files) are not to be included as activities within the practice of surveying in accordance with the "Inclusions and Exclusions of Surveying Practice" cited in W.Va. Code §30-13A-10.

TABLE 189-5 A
Price Schedule for Paper Tax Maps

PAPER TAX MAPS[1] (Printed Copies)	Unit	WV 189CSR5 (Base fee)	W.Va. Code §11-1C-7 (CFIA Surcharge)[2]	Total	% of Total Map Cost Submitted to CFIA	Location to Purchase Map Product
8.5" x 11" or 8.5" x 14"	Per copy	$1.50	$1.50	$3.00	50%	Assessor or State Tax Sales Office
11" x 17"	Per copy	$3.00	$2.00	$5.00	40%	Assessor or State Tax Sales Office
18" x 24" or larger (full-sized map sheet)	Per map sheet	$5.00	$3.00	$8.00	37.5%	Assessor or State Tax Sales Office

TABLE 189-5 B
Price Schedule for Digital Tax Maps and GIS Files

DIGITAL TAX MAPS[1] (Print-Ready Images)	Unit	WV 189CSR5 (Base fee)	W.Va. Code §11-1C-7 (CFIA Surcharge)[2]	Total	% of Total Map Cost Submitted to CFIA	Location to Purchase Map Product
8.5" x 11" or 8.5" x 14"	Per file	$1.50	$1.50	$3.00	50%	Assessor or State Tax Sales Office
11" x 17"	Per file	$3.00	$2.00	$5.00	40%	Assessor or State Tax Sales Office
18" x 24" or larger	Per file	$5.00	$3.00	$8.00	37.5%	Assessor or State Tax Sales Office
DIGITAL PARCEL FILES	Unit	WV 189CSR5 (Base fee)	W.Va. Code §11-1C-7 (CFIA Surcharge)	Total	% of Total Map Cost Submitted to CFIA	Location to Purchase Map Product
Digital Parcel File without IAS Data	Per map sheet	$5.00	$3.00	$8.00	37.5%	Assessor or State Tax Sales Office
Digital Parcel File with IAS Data	Per map sheet	$6.00	$3.00	$9.00	33.3%	Assessor or State Tax Sales Office

Notes:
[1] An additional processing fee may be applied for customized map services.
[2] CFIA = Courthouse Facilities Improvement Authority