

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: WEST VIRGINIA DIVISION OF CORRECTIONS TITLE NUMBER: 90
RULE TYPE: Legislative; CITE AUTHORITY WV CODE/Chapters 62-13-2 & 62-12-17
AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: PAROLE SUPERVISION - ADD RULES L & M
TO CURRENT APPROVED RULES.

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

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 AUGUST 13, 1993 AT 8:30 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

DIVISION OF CORRECTIONS

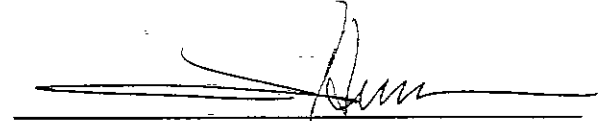
ATTN: PAROLE SERVICES

112 CALIFORNIA AVENUE

BLDG. 4, ROOM 300

CHARLESTON, WV 25305

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



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

7.40

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SECRET

SECRET

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Parole Supervision-Rule L

Type of Rule: Legislative Interpretive ☒ Procedural

Agency: WV Division of Corrections

Address: 112 California Avenue
Building 4, Room 300
Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$ 192,000.00	\$	\$ 192,000.00	\$ 192,000.00	\$ 192,000.00
PERSONAL SERVICES	102,059.00		102,059.00	102,059.00	102,059.00
CURRENT EXPENSE	60,000.00		60,000.00	60,000.00	60,000.00
REPAIRS & ALTERNATIONS					
EQUIPMENT	29,941.00		29,941.00	29,941.00	29,941.00
OTHER					

2. Explanation of above estimates: 800 parolees/probationers x 20 x 12=\$192,000.00

I. Personal Services: 2 clerks x \$12,000.00= \$24,000.00 + \$8400.00= 36,400.00
 3 parole officers \$16,212.00=\$48,636.00 + \$17023.00= 65,659.00
 Total \$102,059.00

II. Current Expense: Cover cost of Drug/Alcohol contract Counselors 35,000.00
 Travel of Officers 15,000.00
 Drug Test Kits 10,000.00

III. Equipment: Mechanical restraints, weapons-firearms/chemicals, 29,941.00

3. Objectives of these rules: copy machines & typewriters Total \$192,000.00

Objectives: Reduce county jail population expense, reduce prison population overcrowding, reduce number of county jail prisoners awaiting transfer to State Penal System, provide greater supervision of parolees & probationers and increase drug/alcohol testing of parolees and probationers.

Rule Title: Parole Supervision Rule L

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Increase parole services budget without tax increase.

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

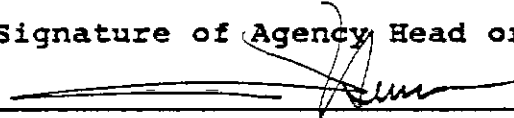
Increase supervision of probationer & parolees to provide greater public welfare and safety for citizens of the states.

C. Economic Impact on Citizens/Public at Large.

Increase parole services budget without tax increase.

Date: 13 JUL 1993

Signature of Agency Head or Authorized Representative



DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: WV Division of Corrections

EMERGENCY RULE TITLE: Parole Supervision-Rule L

1. Date of Filing _____

2. Statutory authority for promulgating emergency rule:

Chapter 62-13-2

3. Date of filing of proposed legislative rule: _____

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?

This emergency rule will amend the current legislative rule on Parole Supervision by adding a new supervision rule.

5. Has the same or similar emergency rule previously been filed and expired?

No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

The intent of the 1993 Legislature in its amending of Chapter 62-13-2 was to allow for the collection of a monthly supervision fee for parolees/probationers under the supervision of the Division of Corrections. This fee is necessary for DOC to supplement its budget in order to provide for the safety and welfare of the citizens.

It will allow for DOC to expand the parole office staff, to provide more extensive supervision of parolees and probationers. In addition to increased staff, these fees will allow for the use of electronic monitoring of P/P in order to monitor those individuals whose behavior is borderline, but not quite sufficiently delinquent to warrant their return to the penal system.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

This emergency rule is promulgated to comply with WV Code 62-13-2 which was

effective upon passage (April 9, 1993).

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

The increase of parole officer staff and electronic monitoring will also enable this

Division to increase the number of individuals released on parole. This will allow

DOC to reduce the number of prisoners backlogged in the county jails awaiting transfer

to the Penal System and yet provide an increased level of supervision of parolees and

probationers without creating an overall jeopardy to the public welfare and safety.

The immediate financial impact will accomplish two important goals for DOC (1) reduce the DOC budget of maintaining state prisoners in county facilities and (2) reduce the expense of over-crowded jail populations which each county must expend its funds and then wait for reimbursement from the state.

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: WV Division of Corrections

EMERGENCY RULE TITLE: Parole Supervision-Rule M

1. Date of Filing _____
2. Statutory authority for promulgating emergency rule:
Chapter 62-12-17

3. Date of filing of proposed legislative rule: _____
4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?
This emergency Rule will amend the current legislative rule on Parole Supervision
by adding a new supervision rule.

5. Has the same or similar emergency rule previously been filed and expired?
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.
The WV Legislature passed this law to be effective upon passage. This law precludes
convicted felons of child crimes from making their residence with a minor child and
from exercising visitation with any minor child and from having any contact with the
victim of the offense. The emergency passage of this rule is necessary to preclude
these offenders from further harming the victim or any other minor child and is
necessary for the preservation of public peace and safety.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

The emergency rule is promulgated to comply with WV Code 62-12-17 which was effective upon
passage (April 9, 1993).

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

Passage of this emergency rule is necessary to comply with the WV Code. The Division
of Corrections cannot enforce this rule without having it added as a Parole
Supervision rule to be briefed and acknowledged by convicted felons to whom it applies.
Emergency passage is necessary to prevent possible injury and death to children. By
precluding convicted offenders of child crimes from residing or visiting with minor
children, it will save lives and substantially improve the safety, health and welfare
of West Virginia's children.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Parole Supervision-Rule M
Type of Rule: Legislative Interpretive X Procedural
Agency WV Division of Corrections
Address 112 California Avenue
Building 4, Room 300
Charleston, WV 25305

1. Effect of Proposed Rule

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

2. **Explanation of above estimates:** *There is no cost to be increased or decreased as a result of implementing this Parole Supervision Rule.

3. **Objectives of these rules:** The objective of this particular rule is to preserve the public peace and better the safety, health and welfare of West Virginia's children; this rule will preclude convicted felons of child crimes from residing with or visiting minor children and precluding the offender from having contact with the victim thereby meeting the objective of the rule. It will also allow for punishment of those who violate the rule.

Rule Title: Parole Supervision

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government. *

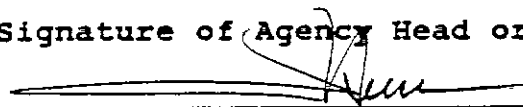
B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens. *

C. Economic Impact on Citizens/Public at Large.*

*The economic impact of this rule cannot be measured in terms of money, but could result in substantial economic growth by West Virginia considering that it will make West Virginia a safer place to reside by our most needed resource-"young people".

Date: 13 JULY 93

Signature of Agency Head or Authorized Representative



FILED

JUL 14 12 15 PM '93

TITLE 90
LEGISLATIVE RULES
DIVISION OF CORRECTIONS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 2
PAROLE SUPERVISION

§90-2-1. General

1.1 Scope - The legislative rule establishes rules and regulations governing the conduct of inmates released on parole and of parolees whose supervision has been undertaken by this State by reason of any interstate compact.

1.2 Authority - WV Code §62-13-2

1.3 Filing Date - June 27, 1989

1.4 Effective Date - June 27, 1989

§90-2-2 Rules and Regulations

2.1 All parolees supervised by the parole authorities of the WV Division of Corrections shall be required to execute a statement that he or she understands the following conditions and agrees to abide by them:

- a. When released, a parolee must proceed directly to the place to which he has been paroled and report to his parole officer within twenty-four (24) hours unless otherwise instructed;
- b. A parolee must obtain written permission from his parole officer before he leaves the prescribed area of supervision to which he is paroled;
- c. A parolee must notify his parole officer of any change of residence or employment within seventy-two (72) hours;
- d. A parolee shall have to have suitable employment, remain gainfully employed, and support any dependents to the best of his ability;
- e. A parolee shall maintain behavior that does not threaten the safety of himself or others or that could result in imprisonment;
- f. A parolee shall not own, carry or possess firearms or unlawful weapons of any kind;

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- g. A parolee must report within seventy-two (72) hours to his parole officer each time he is arrested or questioned by officers of any law enforcement agency;
- h. Between the first and tenth of each month a parolee must make a complete and truthful written report to his parole officer of his previous month's activities on forms provided and report in person as directed by the parole officer;
- i. A parolee shall not possess, use or have in his possession any illegal drugs or paraphernalia;
- j. A parolee shall not violate any municipal ordinances or the laws of this state, any other state, or the United States;
- k. A parolee must abide by any special written requirements imposed upon him by his parole officer.
- l. A parolee must pay a monthly supervision fee of \$20.00 per month by certified check or money order no later than the 5th of each month to the Division of Corrections Supervision Fund, Building 4, Room 300, 112 California Avenue, Charleston, WV 25305.
- m. A parolee on parole from an offense against a child, as defined in WV Code 61-8-12, 61-8B or 61-8D or similar convictions from other jurisdictions, shall not live in the same residence as any minor child, nor exercise visitation with any minor child and shall have no contact with the victim of the offense.

ENROLLED

Senate Bill No. 366

(By SENATORS WIEDEBUSCH, FLYMALE, YODER,
ROSS AND DITTMAR)

[Passed April 9, 1993; in effect from passage.]

AN ACT to amend and reenact section seventeen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to conditions of release on parole; and board of parole's authority to limit parolee's place of residence.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article twelve, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 12. PROBATION AND PAROLE.

§62-12-17. Conditions of release on parole.

1 Release on parole shall be upon the following
2 conditions:

3 (1) That the parolee shall not, during the period of
4 his parole, violate any criminal law of this or any
5 other state or of the United States.

6 (2) That he shall not, during the period of his parole,
7 leave the state without the consent of the board.

8 (3) That he shall comply with the rules and regula-
9 tions prescribed by the board for his supervision by

10 the probation and parole officer.

11 (4) That in every case wherein the parolee for a
12 conviction is seeking parole from an offense against a
13 child, defined in section twelve, article eight, chapter
14 sixty-one of this code, or articles eight-b and eight-d of
15 said chapter, or similar convictions from other juris-
16 dictions where the parolee is returning or attempting
17 to return to this state pursuant to the provisions of
18 article six, chapter twenty-eight of this code, the
19 parolee shall not live in the same residence as any
20 minor child, nor exercise visitation with any minor
21 child and shall have no contact with the victim of the
22 offense.

23 In addition, the board may impose, subject to
24 modification at any time, any other conditions which
25 the board may deem advisable.

The Joint Committee on Enrolled Bills hereby certifies
that the foregoing bill is correctly enrolled.

.....
Chairman Senate Committee

.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker House of Delegates

The within.....this the
day of 1993.

.....
Governor

ENROLLED

Senate Bill No. 577

(By SENATORS ROSS, DITTMAR AND YODER)

[Passed April 10, 1993; in effect from passage.]

AN ACT to amend and reenact section two, article thirteen, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to allowing the commissioner of corrections to charge parolees under the supervision of the division of corrections a fee to help defray the increasing costs of parole supervision.

Be it enacted by the Legislature of West Virginia:

That section two, article thirteen, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13. CORRECTIONS MANAGEMENT.

§62-13-2. Supervision of probationers and parolees; final determinations remaining with board of probation and parole.

1 The commissioner of corrections shall supervise all
2 persons released on parole under any law of this state
3 with the exception of those persons paroled pursuant
4 to section thirteen, article two, chapter forty-nine of
5 this code. The commissioner shall have authority to
6 revoke the parole with appropriate due process. He

7 shall also supervise all probationers and parolees
8 whose supervision may have been undertaken by this
9 state by reason of any interstate compact entered into
10 pursuant to the uniform act for out-of-state parolee
11 supervision. The commissioner shall prescribe rules
12 and regulations for the supervision of probationers and
13 parolees under his supervision and control and shall
14 succeed to all administrative and supervisory powers
15 of the board of probation and parole and the authority
16 of said board of probation and parole in such matters
17 only. The commissioner of corrections may charge
18 persons under his or her supervision who are on
19 parole a monthly fee to be determined by the commis-
20 sioner, based upon the parolee's ability to pay, not to
21 exceed twenty dollars per month to defray costs of
22 supervision. All fees collected shall be placed into a
23 special revenue account in the state treasury to be
24 used to defray the expenses incurred. The commis-
25 sioner shall consider the following factors in determin-
26 ing whether the parolee is financially able to pay the
27 fee:

28 (1) Current income prospects, taking into account
29 seasonal variations in income;

30 (2) Liquid assets, assets which may provide collateral
31 to obtain funds and other assets which may be liqui-
32 dated to provide funds to pay the fee;

33 (3) Fixed debts and obligations, including federal,
34 state and local taxes and medical expenses;

35 (4) Child care, transportation and expenses neces-
36 sary for employment;

37 (5) Age or physical infirmity of resident family
38 members; and

39 (6) The consequences for the individual if a waiver
40 or reduced fee is denied.

41 The commissioner of corrections shall administer all
42 other laws affecting the custody, control, treatment
43 and employment of persons sentenced or committed to
44 institutions under the supervision of the department
45 or affecting the operation and administration of

46 institutions or functions of the department.

47 The final determination regarding the release of
48 inmates from penal institutions and the final determi-
49 nation regarding revocation of parolees from such
50 institutions pursuant to the provisions of article
51 twelve, chapter sixty-two of this code shall remain
52 within the exclusive jurisdiction of the board of
53 probation and parole.

The Joint Committee on Enrolled Bills hereby certifies
that the foregoing bill is correctly enrolled.

.....
Chairman Senate Committee

.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker House of Delegates

The within.....this the
day of, 1993.

.....
Governor

WV DIVISION OF CORRECTIONS

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P-O-L-I-C-Y D-I-R-E-C-T-I-V-E

NUMBER:

DATE:

SUBJECT: SUPERVISION FEE
PROCEDURES FOR
PAROLEES AND
PROBATIONERS

REFERENCE: WV Code 62-13-2

SECTION I. GENERAL

1.01 Purpose

To establish who must pay a monthly supervision fee to the Division of Corrections and outline procedures for collecting and accounting for supervision fees.

1.02 Authority

This Policy Directive is promulgated by the Commissioner in accordance with the authority conferred by WV Code 62-13-2.

1.03 Applicability

West Virginia parolees under supervision in West Virginia and all parolees and probationers (except juveniles) accepted by West Virginia under the Interstate Compact will be required to pay a \$20 per month supervision fee unless an exemption from payment or a reduced fee is granted per the procedures within this Policy Directive.

1.04 Cancellation

This is a new Policy Directive. All previous written or verbal instructions are hereby cancelled.

SECTION II. PROCEDURE

2.01 Implementing Instructions

Prior to actual implementation, the following steps will be accomplished to implement these procedures:

1. The Commissioner will sign a letter outlining the start of this program; procedures for payment of the supervision fee; procedures for requesting a reduced fee or exemption from the fee; and sanctions to be taken for non-payment of the fee. This letter will be distributed to Parole Officers who will provide a copy to all affected personnel under their supervision (either mail or personal delivery is acceptable).
2. The West Virginia Conditions of Parole will be revised to include the supervision fee requirement.
3. The Interstate Compact Administrator will send a letter to all other state compact administrators advising of the West Virginia supervision fee.

4. A "form letter of warning" for non-payment of the supervision fee will be provided to all parole officers for their use.
5. A computer program will be designed to identify and account for fees collected and those still due.

2.02 Payment of Fee

1. The monthly supervision fee will be paid by either a certified bank check or money order made payable to the Division of Corrections (DOC) Supervision Fund. No other form of payment is authorized.
2. The monthly supervision fee will be mailed by the payee so as to arrive at the Central Office not later than the 10th of each month. The address for sending payment is:

West Virginia Division of Corrections
Supervision Fund
Building 4, Room 300
112 California Avenue
Charleston, West Virginia 25305-0280

2.03 Application for Exemption From or
Reduction of Supervision Fee

1. The DOC Central Office may approve individual requests for exemption from or reduction of monthly supervision fees.

2. The individual desiring an exemption from or reduction of the monthly supervision fee must submit a written request to his/her parole officer. The parole officer will forward the request along with their comments, personal knowledge of the individual's circumstances, and recommendation to the Chief of Parole Services within five working days of receipt of the request. The individual's request must state whether he/she is applying for an exemption or a reduction and the amount of the reduction. The request must outline the individual's current income or income prospects; liquid assets in their possession; fixed debts and obligations, including federal, state, and local taxes; medical expenses; child care, transportation and expenses necessary for employment; age or physical infirmity of resident family members; and the consequences for the individual if the exemption or reduced fee is denied.
3. The individual's request will be evaluated and approved or denied by either the Chief of Parole Services, Deputy Compact Administrator, or Deputy Commissioner for Programs. An appeal of their decision may be submitted to the Commissioner for final decision.

4. If the request for exemption or reduction is denied, the individual will be advised to immediately rectify any arrearage.
5. If the request for exemption or reduction is approved, the individual will be notified that the exemption/reduction is only valid as long as the circumstances under which it was granted remain the same. The individual must advise their parole officer when these circumstances change. In any event, the reduction/exemption expires four months after approval and the individual must reapply if another exemption/reduction is needed.
6. Individuals approved for an exemption must perform ten hours of community service work as approved by their parole officer in lieu of paying the monthly supervision fee.

2.04 Sanctions for Non-Payment of Fee

1. Letter of warning to delinquent individual by parole officer.
2. Twenty hours of community service work as approved by individual's parole officer.

3. Home confinement with electronic monitoring with the individual paying a fee of \$6.00 per day to the Division of Corrections Supervision Fund.
4. Parole Officer request warrant for violation of parole.
5. Liquidation of individual's assets to pay supervision fee arrearage.

2.05 Accounting/Control/Use of Funds
Collected

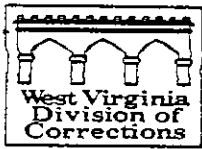
1. A computer program will be used by the Central Office to account for fees collected by individual and those still owed. A monthly report will be provided to regional directors and parole officers on/about the 24th of the month to identify personnel who have not paid the current month's fee. The program will, also, identify individuals who are exempt or approved for a reduced fee. A monthly report will, also, be provided the Chief of Parole Services, Deputy Compact Administrator, Chief of Finance Services, Deputy Commissioner of Programs, and the Commissioner which reflects funds collected for the current month, those delinquent for the current month, funds collected to date, and funds delinquent to date. All funds

collected will be placed into a special
revenue account in the state treasury.

APPROVED BY:

Nicholas J. Hun
Commissioner

Date



DEPARTMENT OF PUBLIC SAFETY
DIVISION OF CORRECTIONS
NICHOLAS J. HUN, COMMISSIONER



GASTON CAPERTON
GOVERNOR

MAJOR GENERAL JOSEPH J. SKAFF
SECRETARY

OFFICE OF THE COMMISSIONER
112 CALIFORNIA AVE.
STATE CAPITOL COMPLEX
CHARLESTON, WV 25305-0280
(304) 558-2036

July 12, 1993

Major General Joseph J. Skaff
Secretary/Department of Public Safety
State Capitol Complex
Box 2930
Charleston, WV 25305

Dear General Skaff:

I request your approval of the Division of Corrections proposals to change our Parole Supervision Rules and Regulation by adding rules "l" and "m" (see enclosure).

The addition of these rules is necessary to comply with two Statutes (Senate Bills 366 and 577) passed by the West Virginia Legislature on April 9 and 10, 1993; and will enhance our Parole Services operations as well as provide a safer and healthier environment for West Virginia children.

Sincerely,

Nicholas J. Hun, Commissioner
WV Division of Corrections

NJH:HL:sb

cc: Reading File
Henry Lowery



Joseph J. Skaff
SECRETARY
(304) 558-2930

State of West Virginia
OFFICE OF THE SECRETARY
DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY
P. O. Box 50155
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0155

July 13, 1993

Division of Corrections
Adjutant General's Office
Division of Engineering & Facilities/
State Armory Board
Military Awards Board
Division of Public Safety - WV State Police
Commission on Drunk Driving Prevention
Office of Emergency Services:
Emergency Services Advisory Council
Disaster Recovery Board
Emergency Response Commission
State Fire Commission/State Fire Marshal
Board of Probation and Parole
Regional Jail and Correctional Facility Authority
Office of Veterans' Affairs

Nicholas J. Hun, Commissioner
Division of Corrections
Building 4, Room 300
112 California Avenue
Charleston, WV 25305

Dear Commissioner Hun:

I approve of your proposed changes to the West Virginia Parole
Supervision Rules and Regulations as outlined in your July 12, 1993
letter.

Sincerely,


Joseph J. Skaff
Secretary

S/b

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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FILED