

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW
DIVISION**

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APR 5 10 27 AM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: West Virginia Development Office TITLE NUMBER: 145

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 08

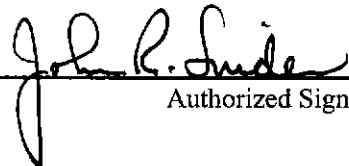
TITLE OF RULE BEING PROPOSED: Community Development Assessment and Real
Property Valuation Procedures for Office of Coalfield
Community Development

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB310

SECTION 64-10-1(a), PASSED ON March 18, 2000

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: June 19, 2000



Authorized Signature

FILED

TITLE 145
LEGISLATIVE RULE
WEST VIRGINIA DEVELOPMENT OFFICE

APR 5 10 27 AM '00

SERIES 8
COMMUNITY DEVELOPMENT ASSESSMENT AND
REAL PROPERTY VALUATION PROCEDURES
FOR OFFICE OF COALFIELD COMMUNITY DEVELOPMENT

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§ 145-8-1. General.

1.1 Scope. -- This rule establishes the procedure for the creation of community impact statements by operators, the process for the development of coalfield community development statements which include asset development goals and infrastructure needs, and the procedure for establishing the value of property to assist property owners who desire to voluntarily sell their property to an operator.

1.2 Authority. -- W. Va. Code § 5B-2A-12.

1.3 Filing Date. -- _____.

1.4 Effective Date. -- _____.

§ 145-8-2. Definitions.

As used in this rule, unless used in a context that clearly requires a different meaning, the term:

2.1 Chief -- shall mean the chief of the office.

2.2 Code -- shall mean the code of the State of West Virginia of 1931, as amended.

2.3 Community Development Statement -- shall mean the written statement containing all information required by section 5 of this rule that is prepared by the office.

2.4 Community Impact Statement -- shall mean the written statement containing all of the information required by section 4 of this rule that is filed by the operator with the office.

2.5 Development Office -- shall mean the West Virginia Development Office established in W. Va. Code § 5B-2-1 et seq.

2.6 Division -- shall mean the West Virginia Division of Environmental Protection established in W. Va. Code § 22-1-1 et seq.

2.7 Office -- shall mean the Office of Coalfield Community Development established in W. Va. Code § 5B-2A-1 et seq.

2.8 Operator -- shall mean any individual, partnership, firm, society, association, trust, corporation or other business entity which applies for, which is granted or which obtains a permit to engage in surface mining and reclamation operations.

2.9 Permit -- shall mean a permit to conduct surface mining operations.

2.10 Surface Mining Operations -- shall mean activities conducted on the surface of lands for the removal of coal where such activities disturb the natural land surface. Surface mining operations do not include any of the following:

2.10.a Coal extraction authorized pursuant to a government-financed reclamation contract;

2.10.b Coal extraction authorized as an incidental part of development of land for commercial, residential, industrial or civic use; or

2.10.c The reclamation of an abandoned or forfeited mine by a no cost reclamation contract.

§ 145-8-3. Exempted Operations.

3.1 The provisions of this rule shall apply to all surface mining operations, except:

3.1.a. Surface operations and surface impacts incident to an underground coal mine; and

3.1.b. Surface mining operations of operators that: (1) establish that their probable total annual coal production from all locations during any consecutive twelve-month period, either during the term of the permit or during the first five years after issuance of the permit, whichever period is shorter, will not exceed 300,000 tons, as determined pursuant to rules promulgated by the division, and (2) otherwise meet all criteria for the small operator assistance program authorized under the federal Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. § 1201 et seq., as amended.

3.2 The provisions of this rule shall not apply to: (1) underground coal mining operators or (2) the extraction of minerals by underground mining methods or the surface impacts thereof.

3.3 Any operator claiming an exemption from the requirements of this rule shall file a statement with the office setting forth the name and address of the operator,

the amount and location of the land to be mined or used in the surface mining operations, the expected duration of the surface mining operations, and the basis for the exemption claimed. The statement shall be executed by an acknowledged signature of an officer, member, partner or other duly authorized agent of the operator.

§ 145-8-4. Community Impact Statement.

4.1 An operator shall develop and file a community impact statement, as described in section 4.3 of this rule, with the office no more than 60 days after filing an application for a permit with the division.

4.2 A community impact statement shall also be filed by the operator within 90 days after the issuance of all permits granted after June 11, 1999, and within 90 days after the first renewal date of all permits issued prior to June 11, 1999.

4.3 A community impact statement, where practicable, shall be written in a clear and concise manner understandable to all citizens. The community impact statement shall include the following:

4.3.a The amount and location of land to be mined or used in the actual surface mining operations, the permit numbers for all mining, surface, national pollutant discharge elimination system or other permits relating to such surface mining operations, the latitude and longitude coordinates of the approximate center of the proposed area to be permitted, and the magisterial districts and other related information requested by the office.

4.3.b The expected duration of the surface mining operations in each area of the community.

4.3.c The extent of anticipated mining-related property acquisitions by the operator and any other property owners, including the names and addresses of the owners of all surface, mineral and other interests in property to be acquired related to the surface mining operations for which the permit application was filed, to the extent that such property acquisitions are known or capable of being known.

4.3.d The names and addresses of the owners of all surface, mineral and other interests in property to be mined pursuant to the permit and located within 1,000 feet of the permitted area or areas for surface mining operations.

4.3.e The intentions of property owners, other than the operator, relative to the surface, mineral and other property intended to be acquired for the anticipated surface mining operations, to the extent that such intentions are known or capable of being known.

4.3.f A statement of the postmining land use and approximate postmining contour for all land within the permit boundary.

4.3.g The intended blasting plan for the surface mining operations anticipated under the permit and the expected time and duration that the anticipated blasting shall affect each community.

4.3.h Information concerning the extent and nature of valley fills anticipated to be located within the surface mining operations and the watersheds to be affected by these valley fills.

4.3.i Economic information about the anticipated surface mining operations, including, without limitation, the estimated number of jobs created, the estimated proportion of mine employees who will be residents of West Virginia, the estimated annual mine payroll, the estimated annual coal production, the anticipated mine life, and such other economic information as may be requested by the office.

4.3.j The location of and distance from the mine site to the nearest existing gas, electric, water, sewer and other utilities, the location of and distance from the mine site to the closest paved public roadway, and the gas, electric, water, sewer and other utility infrastructure anticipated to be extended to the mine site.

4.3.k The identification of public bridges, parks and recreation areas, roads, schools, utility lines, water supplies or other public facilities that may be acquired, relocated or removed by the anticipated surface mining operations. The operator shall identify the public roads over which coal mined from the proposed surface mining operation shall be transported after leaving the permitted area, the estimated number of truckloads of coal or refuse materials to be transported daily on these roads, the estimated truck schedule of this transportation activity, and any rerouting of traffic anticipated to be caused by this transportation activity.

4.3.l Maps of the area within 1,000 feet from the permit or proposed permit area prepared from United States Geological Survey topographic maps, or maps determined to be as accurate by the office, on 7.5 minute quadrangle depicting permit boundaries, property boundaries, property ownership interests, structures, roads, and other information required to be filed with the community impact statement. Such maps shall have a preferred scale of 500 feet to one inch and shall be submitted on print paper 30 inches by 42 inches or less. If supplementary maps or plans are attached, match lines shall be used.

4.4 Simultaneously with its filing in the office, the operator shall also provide copies of the community impact statement to the division's office of mining and reclamation and office of explosives and blasting, the county commissions, the office of the clerk of the county commissions, the regional planning and development councils, the county economic development authorities, and public libraries in those areas to be affected by the surface mining operations.

4.5 Where the operator makes any significant revision to the permit application under 38 CSR § 2-3.28, which revision substantially affects any of the information provided in the community impact statement previously filed with the office, the operator shall revise those portions of the community impact statement affected and shall submit these revisions to the office and each of the entities identified in section 4.4 of this rule within 60 days after filing the request for significant revision with the division.

4.6 The failure to file a community impact statement with the office shall be a violation under W. Va. Code § 22-3-17.

§ 145-8-5. Coalfield Community Development Statement.

5.1 The office shall coordinate the development of a coalfield community development statement when an operator applies for any permit with the division.

5.1.a When multiple permit applications are applied for by one or more operators in any single county or contiguous area of an adjacent county, the office may develop a coalfield community development statement for the entire county affected by the proposed surface mining operations.

5.1.b The office shall divide the coalfield community development statement into smaller areas in the event that economic or geographic factors make a countywide statement impracticable.

5.2 Within 30 days after the community impact statement from the operator applying for the permit is filed with the office, the office shall distribute notice that it is developing a coalfield community development statement to the following:

5.2.a Owners of surface, mineral and other interests in the property intended to be mined by the operator applying for the permit, by certified mail; and

5.2.b State and local government agencies such as county commissions, city or town governments in affected communities, regional planning and development councils, and county economic development authorities having jurisdiction over the affected communities, all by certified mail.

5.3 Within 30 days after the community impact statement from the operator applying for the permit is filed with the office, the operator shall notify individuals and business owners and operators in affected communities that the office is developing a coalfield community development statement.

5.3.a This notification from the operator shall be by a class I legal advertisement as provided in W. Va. Code § 59-3-2, which shall contain a map identifying the location of the proposed surface mining operations.

5.3.b After this notification has been published, the operator shall file the publication certification for the class I legal advertisement with the office.

5.4 A notice provided by the office and the operator to affected persons and entities about the coalfield community development statement shall contain the following information:

5.4.a The name of the permit applicant and the location of the intended surface mining operations;

5.4.b The locations in the affected communities where the community impact statement has been filed by the operator for inspection;

5.4.c The expected duration of the surface mining operations in each area of the community;

5.4.d The notice shall inform its recipients that the office is preparing an initial community development statement or modifying an existing community development statement, and invite persons and entities in areas affected by the anticipated surface mining operations to submit written comments and other documentation to the chief within 30 days after the date of the notice about how their communities are anticipated to be affected by the planned surface mining operations and the intended post-mining land use; and

5.4.e The notice shall inform its recipients that a draft community development statement or modification to an existing community development statement will be made available for public inspection in the office and in those locations in the affected communities where the community impact statements for the planned surface mining operations were filed within 180 days from the date of the notice, and that persons and entities in the affected communities shall have 30 days after the date of the issuance of the draft community development statement, or modification thereof, to submit written comments and other documentation to the chief about this draft document. The deadline for filing the draft community development statement or modification to an existing community development statement may be extended by the chief for good cause shown.

5.5 After the close of the public comment period on the draft community development statement or modification to an existing community development statement, the chief shall schedule a public meeting in the county seat of the area anticipated to be affected by the planned surface mining operations to receive public comment upon the draft community development statement, or modification thereof, being developed by the office.

5.6 The office shall determine what information, findings and recommendations shall be contained in the coalfield community development

statement, or modification thereof, which shall include, but not be limited to, the following:

5.6.a An evaluation of the future of the affected communities once mining operations are completed.

5.6.b The identification of community assets that may be developed by the affected community, county or region to foster its viability when surface mining operations are completed which may include the following:

5.6.b.1 Water and wastewater services;

5.6.b.2 Developable land for housing, commercial development or other community purposes;

5.6.b.3 Recreation facilities and opportunities; and

5.6.b.4 Education facilities and opportunities.

5.6.c In determining the nature and extent of the needed community assets, the office shall consider at least the following:

5.6.c.1 An evaluation of the future of the community once surface mining operations are completed as required to be determined in the coalfield community development statement;

5.6.c.2 The prospects for the long-term viability of any asset developed under this section 5.6.c;

5.6.c.3 The desirability of foregoing some or all of the asset development required by this section 5.6.c in lieu of the requirements of section 5.6.e of this rule;

5.6.c.4 The determinations made during the development of the coalfield community development statement of the impacts of the mining operations on the community; and

5.6.c.5 The extent to which the community, local, state or federal government may participate in the development of assets the community needs to assure its viability.

5.6.d. As part of the coalfield community development statement, the office shall determine the land and infrastructure needs in the county or counties in which the surface mining operations are being conducted, or any adjacent county.

5.6.e In making a determination of the land and infrastructure needs in the general area of the surface mining operations, the office shall consider at least the following:

5.6.e.1 The availability of developable land in the general area;

5.6.e.2 The needs of the general area for developable land;

5.6.e.3 The availability of infrastructure, including, but not limited to, access roads, water service, wastewater service and other utilities;

5.6.e.4 The amount of land to be mined and the amount of valley to be filled by the surface mining operation;

5.6.e.5 The amount, nature and cost to develop and maintain the community assets identified in section 5.6.b of this rule; and

5.6.e.6 The availability of federal, state and local grants and low-interest loans to finance all or a portion of the acquisition and construction of the identified land and infrastructure needs of the general area.

5.6.f In making a determination of the land and infrastructure needs in the general area of the surface mining operations, the office shall give significant weight to developable land on or near existing or planned multi-lane highways.

5.7 The final community development statement or modification to an existing community development statement shall be completed within 180 days following the public meeting required under section 5.5 of this rule or within 180 days following the issuance of a permit for the surface mining operations, whichever occurs later. The deadline for the completion of the final community development statement or modification to an existing community development statement may be extended by the chief for good cause shown.

5.8 When the office receives community impact statements that affect communities that are included within existing community development statements, the office shall determine whether the surface mining activities anticipated by the additional community impact statements require the amendment or modification of the community development statement previously prepared by the office. In the event that the office determines no modification or amendment to the existing community development statement is required, the office and operator shall issue a notice pursuant to sections 5.2 and 5.3 containing the information required by sections 5.3.a - c and disclose the intention of the office not to further amend or modify the existing community impact statement. When the office concludes that the anticipated surface mining operations require an amendment to or modification of an existing community development

statement, then the office and operator shall use the notice and public comment provisions contained in sections 5.4.a - e and 5.5 of this rule.

5.9 Based upon the information developed by the office under sections 5.5 and 5.6 of this rule, the office shall prepare an action report, as part of the coalfield community development statement, which shall make recommendations for achieving economic development initiatives, including identifying sources of potential funding. The office shall maintain the action report available for public review, as updated pursuant to section 5.10 of this rule.

5.10 The office shall prepare an annual status update of this action report which shall describe accomplishments and prospects for continued economic development.

§ 145-8-6. Land Acquisitions.

6.1 After a community impact statement is filed by an operator as provided in section 3 of these rules, the office shall give notice to the property owner at the address identified by the community impact statement that the owner's property has been identified for purchase by the operator and the name and address of the proposed purchaser, but the office shall provide no other assistance unless requested by the potential property seller.

6.2 The office shall assist property owners so notified and other property owners who desire to sell their property voluntarily to an operator which has applied for a permit or any person, firm or corporation directly or indirectly affiliated with such operator, provided that all of the following conditions are met:

6.2.a The operator or any person, firm or corporation directly or indirectly affiliated with the operator makes an offer, in writing, to purchase the property stating all the terms and conditions of the proposed purchase;

6.2.b The property to be purchased is located within 1,000 feet of property which actually is or will be mined by the operator;

6.2.c The structures are actually being used for commercial purposes or are occupied residences situate on the property to be purchased; and

6.2.d The potential seller or group of sellers requesting assistance from the office own all of the property proposed to be purchased, and no undivided interests in the property exist that are opposed to the valuation procedure.

6.3 If requested by a potential seller qualifying under section 6.2 of this rule, the office shall only provide assistance if it determines that the value of the property is diminished by the proposed surface mining operations and that the offer made by the

operator is less than the value the property would have had prior to any diminution of value.

6.4 If the office determines that the value of the property is diminished and that the offer made by the operator or its affiliate is less than the value the property would have had prior to any diminution of value, then the office shall cause the value of the property prior to any diminution to be established by a qualified and disinterested appraiser and shall certify this value to the potential property seller and the operator.

6.5 Either party shall have 30 days after their receipt of the certification of value by the office to request a reconsideration of this valuation based upon written documentation submitted to the office within such 30-day period.

6.6 Within 30 days after its receipt of a request for reconsideration, the office shall review all documentation provided, and if the office determines that good cause has been shown for an adjustment to the previously certified value of the property, then the office shall provide the parties with certification of the adjusted value which shall be a final determination and not subject to further challenge by the parties.

99438

FILED

ANALYSIS OF PROPOSED LEGISLATIVE RULE JAN 11 2 44 PM '00

Staff Counsel: Rita A. Pauley
Date: September 8, 1999
Agency: West Virginia Development Office
Subject: Rules for West Virginia Office of Coalfield Community Development, 145 CSR 8

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

PERTINENT DATES

Filed for public comment: August 13, 1999
Public comment period ended: September 13, 1999
Filed following public comment period:
Filed LRMRC:
Filed as emergency:

Fiscal Impact: The agency anticipates expending \$750,630 during the first year; \$773,200 and \$796,400 thereafter to operate the office and pay contractors to evaluate impact statements; prepare community development statements and provide assistance with property appraisals. Please see the fiscal note attached to the rule.

ABSTRACT

This rule has been filed in response to SB 681 passed during the 1999 legislative session. The bill made several changes to state regulation of surface mining operations. As part of those changes the Office of Coalfield Community Development was created. The office is charged with assisting coal field communities in addressing long term economic needs. This includes development of the flat lands created by mountain top removal operations as well as planning for post mining development and an economy less dependant upon coal mining.

The rule creates a system to collect and process community impact statements completed by mine operators. The impact statements provide detailed information about proposed mining sites and the proposed mining operations. The rule also provides a mechanism for preparing community development statements. The development statement is an assessment of the economic potential of a community after mining operations have ceased. This assessment includes infrastructure and land use planning as well as recommendations for achieving the economic potential identified in

the assessment.

The proposed rule is new. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 is the definition section.

Section 3 provides that underground mining and certain small surface mining operations are not covered by the rule.

Section 4 explains the requirements for completing the community impact statement. Surface mine operators (operators) are required to develop and file an community impact statement with the Office of Coalfield Community Development (Office) within 60 days of applying for a mining permit with DEP. Operators who received initial permits or renewal permits after June 11, 1999 must file an impact statement within 90 days of the issuance or renewal.

The impact statement must fully describe amount and location of land to be mined including latitude and longitude coordinates, magisterial districts and other geographic indicators. All permits received for the mining operation must be listed by permit number. All property which the operator anticipates acquiring for the operation and its owners must be listed in the impact statement as well as the dwellings, business, residents and employees that would be affected by the proposed purchases. The owners of any interest in the property to be mined and owners of any property within 1000 feet of permitted areas for mining must be provided.

A statement of the postmining land use and approximate postmining contour for all land within the permit boundary and all other land which may be affected by the anticipated mining operation must be included in the impact statement. A blasting plan including how long the blasting can be expected to affect the community must be included. A discussion on the extent and nature of valley fills which may be located within the permitted area and the watersheds that may be affected by the valley fills is to be part of the statement.

The impact statement must also include economic information about the proposed operation, including such things as the number

of direct and indirect jobs crated, estimates of how many employees will come from the county of operation and how many will come from surrounding counties, estimated annual production and payroll and the estimated life of the operation. The statement must include the location of existing infrastructure and any expansion of infrastructure to the mine site.

The completed impact statement must provided to DEP, county commissions, county clerks, planning and development councils, economic development authorities and public libraries in the areas affected by the proposed operation.

Failure to file a community impact statement with the Office is a violation of West Virginia Code § 22-3-17.

Section 5 explains the requirements for the coalfield community development statements. The Office is responsible for coordinating the coalfield community development statements. The development statements may be for specific communities or one or more counties.

Within 30 days after the mine operator files the community impact statement the Office is to notify persons with ownership rights in the property to be mined; state and local governments, regional planning and development councils and county economic development authorities in the affected communities that a development statement is to be prepared. The mine operator is to notify individuals and business owners/operators by a Class I legal advertisement that a development statement is being prepared.

Both of these notices must contain: the name of permit applicant; location of the intended mine; list of where community impact statements are available for public review; expected duration of mining operation in the area; an invitation to submit comments to the Office within 30 days. The notice must also state that within 180 days of the notice a draft of the development statement will be made available for inspection, where it will be available and that affected persons will have 30 days to comment on the development statement. The time frame for filing the development statement may be extended by the Office if additional preparation time is necessary.

At the close of the public comment period, a public meeting must be held in the county seat of the affected area to receive further comment on the development statement. At the conclusion of the public meeting the Office must determine the final content of the development statement. It must cover multiple issues including a projection of the future of the communities when mining is

completed. Assets that may be developed to assist the communities post mining such as infrastructure, developable land, education and recreation opportunities are to be identified. Prospects for the long-term viability of any asset developed as a part of the development plan must be determined.

The development statement must also determine the land and infrastructure of the area. When making this determination the Office must consider several factors including such things as the availability and need for developable land in the area. The availability of infrastructure must also be considered as well as the availability of grants and low-interest loans to finance all or part of the acquisition and construction of the land and infrastructure needs which are identified in the development statement. The amount of land to be mined and the amount of the valley fills utilized in the operation are also to be considered. In making a determination of the land and infrastructure needs in an area significant weight is to be given to developable land on or near existing or planned multi-lane highways.

Once a development statement has been created for an area the Office is to determine whether new proposed mining in the area warrants amendment or modification of the original statement. If it is determined that no change to the development statement is required the Office and the operator will notify all interested parties that the Office does not intend to make changes to the current development statement. If changes are required the full process for creating a development statement is to be followed.

After all of the necessary information has been obtained and a final development statement has been drafted the Office is to prepare an action report as part of the development statement. The action report is to make recommendations for achieving the economic development initiatives, including identifying sources of potential funding. The action report is to be updated annually.

Section 6 establishes a valuation procedure to assist property owners who wish to sell their property to an operator or other person for mining purposes. After a community impact statement has been filed by an operator the Office is to notify all persons with an ownership interest in any of the property to be mined that the property has been identified for acquisition. If an operator or other agent has made a written offer to purchase the property setting forth the terms and conditions of the proposed purchase the potential seller may request assistance from the Office. The property in question must be located within 1,000 feet of property which is or will be mined and structures on the land are actually used for residential or commercial purposes.

The Office can only provide assistance if it determines that the value of the property is diminished by the proposed mining and the offer made by the operator is less than the value the property would have prior to mining. Once the determination is made that the property has been or will be diminished in value the Office will have a disinterested appraiser determine the value to the property prior to diminution of its value.

Once the value of the property is determined either party may request reconsideration of the appraised value. Within 30 days of receipt of a request for reconsideration the Office is to determine whether or not it is necessary to make an adjustment to the appraised value. If an adjustment is made it will be the final determination and is not subject to further challenge by the parties.

AUTHORITY

Statutory authority: W.Va. Code, §5B-2A-12, which provides, in part, as follows:

§5B-2A-12. Rule making.

The office shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code, to establish, implement and enforce the provisions of this article, which rules shall include, but not be limited to:

(1) The development of standards for establishing the value of property by the office; and

(2) A process for the development of a coalfield community development statement when multiple permit applications are applied for by one or more operators in any single county or contiguous area of an adjacent county.

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT,

EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

No, the final agency rule was not timely filed with the LRMRC. The rule may not be considered by the Committee unless the agency makes a special written request for the Committee to take up the rule.

VIII. OTHER.



FILED

JAN 13 2 28 PM '00

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

State Capitol - Room MB-49
Charleston, West Virginia 25305
Phone: (304) 347-4840
Fax: (304) 347-4919

email: tanders@mail.wvnet.edu

Senator Mike Ross, Co-Chairman
Delegate Mark Hunt, Co-Chairman
Debra A. Graham, Counsel

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Teri Anderson, Administrative Assistant

December 10, 1999

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Thomas E. Holder
WV Development Office
Capitol Complex
Building 6, Suite 553

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Rules for West Virginia Office of Coalfield Community Development, 145CSR8**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 310
(Senators Ross, Anderson, Minard, Snyder, Unger and Minear, *original sponsors*)

[Passed March 18, 2000; in effect from passage.]

§§64-10-1. Development office.

(a) The legislative rule filed in the state register on the eighteenth day of October, one thousand nine hundred ninety-nine, under the authority of section twelve, article two-a, chapter five-b of this code, relating to the development office (West Virginia office of coalfield community development, 145 CSR 8), is authorized.