

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

FILED

MAY 1 1 33 PM '95

OFFICE OF THE
SECRETARY OF STATE

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

AGENCY: Division of Health TITLE NUMBER: 64

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Public Water Systems

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

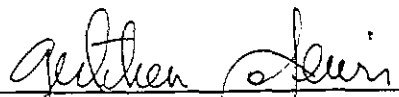
TITLE OF RULE BEING PROPOSED: _____

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

AUTHORIZATION IS CITED IN (house or senate bill number) SB 105

SECTION 64-5-2(a), PASSED ON March 9, 1995

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: June 1, 1995



Gretchen O. Lewis, Secretary
AUTHORIZED SIGNATURE

DEPARTMENT OF HEALTH AND HUMAN RESOURCES
RULE PROMULGATION HISTORY ABSTRACT

Rule Title: Public Water Systems

Series Number: 3

Amendment of Existing Rule: X New Rule:

Responsible Agency: Division of Health

Date Filed for Public Hearing or Comment Period: 5-6-94

Date of Public Hearing (if any):

Date Public Comment Period Ended: 6-6-94

Date Agency-Approved Rule Filed with the
Legislative Rule-Making Review Committee: 8-15-94

Date of Filing of Modified Rule as Approved by
the Legislative Rule-Making Review Committee: 11-28-94

Date of Final Filing: 5-1-95

Effective Date: 6-1-95

Authorized by: S. B. 105 (With amendments? Yes No X),
Passed: March 9, 1995.

Dates Emergency Rule in Effect (if any): 6-30-94 to 6-1-95

TITLE 64

WEST VIRGINIA ADMINISTRATIVE RULES
DIVISION OF HEALTH

PUBLIC WATER SYSTEMS

SERIES 3

1995

WEST VIRGINIA ADMINISTRATIVE RULES
DIVISION OF HEALTH
PUBLIC WATER SYSTEMS
64 CSR 3

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TITLE 64
WEST VIRGINIA ADMINISTRATIVE RULES
DIVISION OF HEALTH
SERIES 3
PUBLIC WATER SYSTEMS

§64-3-1. General.

1.1. **Scope** - This legislative rule establishes State standards and procedures and adopts national drinking water standards for public water systems. It establishes standards for the production and distribution of bottled drinking water, and also adopts federal standards for the certification of laboratories performing analyses of drinking water.

1.2. **Authority** - W.Va. Code §16-1-9a.

1.3. **Filing Date** - May 1, 1995.

1.4. **Effective Date** - June 1, 1995.

1.5. **Supersession or Repeal of Former Regulations** - This rule amends and reenacts Public Water Systems, West Virginia Administrative Rules, Division of Health, 64 CSR 3, 1994.

§64-3-2. Application and Enforcement.

2.1. **Application** - This rule applies to public drinking water systems, to bottled water treatment plants and distributors and to laboratories desiring certification to perform analytic tests of drinking water.

2.2. **Enforcement** - This rule is enforced by the director of the division of health.

§64-3-3. Definitions.

3.1. **Bottled Water** - Any natural or artificial mineral, spring, well, distilled or other water bottled or containerized for use primarily as drinking water.

3.2. **Bottled Water Distributor** - A person who buys and sells bottled water on a wholesale basis.

3.3. **Community Water System** - A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents.

3.4. **Director** - Director of the division of health or his or her designee.

3.5. **Non-Community Water System** - Any public water system that is not a community water system.

3.6. Person - Individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, institution, department, division, bureau, agency, federal agency or any other entity recognized by law.

3.7. Public Water System - Any water system or supply which regularly supplies or offers to supply, piped water to the public for human consumption, if serving at least an average of twenty-five (25) individuals per day for at least sixty (60) days per year, or which has at least fifteen (15) service connections and includes:

(1) Any collection, treatment, storage, and distribution facilities under the control of the owner or operator of the system and used primarily in connection with the system, and

(2) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

A public water system does not include a system which meets all of the following conditions:

(1) which consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(2) which obtains all of its water from, but is not owned or operated by a public water system which otherwise meets the definition;

(3) which does not sell water to any person; and

(4) which is not a carrier conveying passengers in interstate commerce.

3.8. Sanitary Survey - An on-site review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of the source, design, facilities, equipment, operation and maintenance for producing and distributing drinking water, as described in the federal regulations adopted in this rule.

§64-3-4. Public Water System Construction, Alteration or Renovation; Standards; Exceptions.

4.1. No person may construct, alter, renovate or award a contract for any construction, alteration or renovation of a public water system without obtaining a permit from the director.

4.2. Application for a permit to construct, alter or renovate shall be made to the director on forms prescribed by the director at least forty-five (45) days prior to the date on which approval by the director is desired. The application shall be

accompanied by an engineering report, maps, and detailed plans and specifications of the proposed construction, alteration or renovation prepared by or under the direction of a registered professional engineer.

4.3. A permit to construct, alter or renovate may be revoked by the director for failure of the public water system to comply with this rule.

4.4. A permit to construct, alter or renovate is valid for two (2) years from the date of issuance.

4.5. The public water system shall be constructed, altered or renovated in accordance with the plans and specifications approved by the director in accordance with Design Standards for Public Water Supply Systems, West Virginia Administrative Rules, Division of Health, 64 CSR 42.

4.6. To the extent practical, all new or expanded facilities shall be located outside of the one-hundred-year flood plain.

4.7. The director has the authority to issue an order requiring a change in the source of the water supply for the system or in the manner of collection, treatment, storage, or distribution facilities of the system before delivery to the consumer as may be necessary to safeguard the public health.

4.8. A permit to construct, alter or renovate is not required for any minor addition to, or alteration or renovation of an existing public water system which will not significantly affect the quality or quantity of the water supply service rendered. The work shall be done in accordance with the provisions of Design Standards for Public Water Supply Systems, West Virginia Administrative Rules, Division of Health, 64 CSR 42.

A written description of the proposed additions, alterations or renovations shall be submitted to the director no less than ten (10) working days prior to implementing the additions, alterations or renovations under this provision. The director shall notify the system whether or not the proposed additions, alterations or renovations qualify under this provision within five (5) days of receipt of the description.

4.9. All public water supply systems using a raw water source which is open to the atmosphere or subject to surface runoff shall, at a minimum, provide filtration treatment.

§64-3-5. Permit to Operate a Public Water System.

5.1. A public water system shall be operated in accordance with this rule and the federal regulations adopted in this rule.

5.2. The director has the authority to develop a program for the issuing of a permit to operate a public water system. The permit is renewable annually and may be revoked for failure to comply with the requirements of this rule or the federal standards adopted herein. The permit program shall be administered uniformly. No permit shall be granted until after the director has completed a sanitary survey.

5.3. In the event of a proposed change in the ownership of a public water system, a written application to transfer the permit to operate shall be made to the director by the new owner at least fifteen (15) days before the proposed change.

5.4. The current permit to operate shall be posted in a conspicuous place at the public water system's treatment plant or main office.

§64-3-6. Inspections and Sanitary Surveys of Public Water Systems.

6.1. Public water systems shall be inspected as scheduled by the director and sanitary surveys shall be conducted by the director in accordance with the federal regulations adopted in this rule.

6.2. The director has the right of access to all parts of a public water system and shall be furnished access to all information and records required to be kept by this rule and the federal regulations adopted in this rule.

§64-3-7. Public Water System Disinfection Requirements.

7.1. Disinfection with chlorine, chlorine dioxide, chloramine or ozone is required of all public water systems, provided the requirements of Section 7.6 of this rule are met.

7.2. The disinfectant shall be applied during treatment at a point before entering the distribution system which will provide effective contact time.

7.3. The minimum chlorine contact time for groundwater systems not influenced by surface waters is thirty (30) minutes from the point of application to the point of delivery to the first consumer or as stipulated in Design Standards for Public Water Supply Systems, West Virginia Administrative Rules, Division of Health, 64 CSR 42. At the end of the chlorine contact time, minimum free chlorine residuals shall comply with the requirements of Table 64-3A found at the end of this rule. For these systems, the amount of residual disinfectant in the drinking water at the treatment plant and in the distribution system shall be determined at least once per day, or more often if considered necessary by the director.

7.4. Surface water systems and groundwater systems under the direct influence of surface waters shall meet the disinfection requirements of the federal regulations adopted in this rule.

7.5. Chlorine residual testing equipment shall enable measurement of free and total chlorine residuals to the nearest 0.2 milligrams per liter in the range of 0.0 milligrams per liter to 2.0 milligrams per liter.

7.6. For all public water systems, at least 0.2 milligrams per liter of total chlorine residual shall be maintained throughout the distribution system at all times.

7.7. The director has the authority to authorize variances in the chlorine disinfection parameters specified in this section.

§64-3-8. Public Water System Fluoridation.

8.1. Except for water systems operated by public schools, average concentrations of fluoride present in the drinking water of a public water system, which artificially adjusts fluoride concentrations, shall be no less than the minimum and no higher than the maximum concentrations shown in Table 64-3B found at the end of this rule.

8.2. Average concentrations of fluoride present in a public school drinking water system shall be no less than three (3.0) milligrams per liter and no higher than six (6.0) milligrams per liter, with an optimum concentration of four and one-half (4.5) milligrams per liter.

8.3. The drinking water of fluoridated or defluoridated public water systems shall be monitored once per day for fluoride concentration. Records of the monitoring shall be maintained in accordance with Sections 9 and 10 of this rule.

8.4. At least once a month, a sample of drinking water shall be submitted by the public water system to the director or to a certified laboratory for fluoride analysis.

8.5. The requirements of Section 8.2 of this rule supersede the requirements of the National Secondary Drinking Water Regulations, 40 CFR Part 143, as applicable to fluoridation of public school drinking water.

§64-3-9. Public Water System Control Tests and Record Maintenance

9.1. Records of microbiological, turbidity, radiological and chemical analyses, or a summary thereof, shall be retained at a convenient location on or near the premises of the public water

system. Turbidity, radiological and chemical analytical records shall be kept for ten (10) years. Control test, microbiological and operational records shall be kept for five (5) years. All tests and analyses required by this rule or the federal regulations adopted in this rule, with the exception of on-site water system operational tests, shall be conducted by a laboratory certified by the director.

9.2. The records shall include the date, place and time of sampling; the name of the person who collected the sample; identification as to whether it was a routine distribution system sample, resample, raw or drinking water sample, or other special purpose sample; the date of the analysis; the laboratory and person responsible for performing the analysis; the analytical technique or method used for microbiological testing; and the results of the analysis.

9.3. Records of action taken by the system to correct violations of this rule or the federal regulations adopted in this rule shall be kept for three (3) years after the correction is completed.

9.4. Copies of written reports relating to sanitary surveys of the system shall be kept for ten (10) years.

9.5. Records concerning a variance or exemption from this rule or the federal regulations adopted in this rule shall be kept for at least five (5) years following the expiration of the variance or exemption.

§64-3-10. Adoption of National Regulations.

10.1. The following National Primary Drinking Water Regulations and National Secondary Drinking Water Regulations, promulgated and published prior to January 1, 1994, as final rules are hereby adopted by reference:

10.1.1. 40 C.F.R. Part 141;

10.1.2. Subparts F and G of 40 C.F.R. Part 142, except for Sections 142.57, 142.60, 142.61, and 142.62(c)-142.62(h); and

10.1.3. 40 C.F.R. Part 143.

10.2. The Director shall use the provisions of 40 C.F.R. Part 142, Subparts F and G, as adopted in this rule as applicable in granting exemptions.

10.3. In the event of a conflict between a federal standard adopted in this rule and a state standard adopted in this rule, the more stringent standard applies, except as stated in Section 8.5 of this rule.

10.4. Copies of these regulations are available from:

U.S. Environmental Protection Agency
Region III
841 Chestnut Building
Philadelphia, PA 19107

§64-3-11. Bottled Water Treatment Plants and Distributors.

11.1. No person may operate a bottled water treatment plant in this State without receiving a permit to bottle and distribute water from the director.

11.2. No person may distribute bottled water in this State without receiving a permit to distribute bottled water from the director.

11.3. Application for a permit to bottle and distribute water shall be made to the director on forms prescribed by the director. Four (4) sets of completed applications, and plans and specifications for the treatment plant shall be submitted to the director for approval at least forty-five (45) days prior to the date on which a permit from the director is desired.

11.4. The source of the water to be bottled and the bottled water shall comply with the requirements of this rule and the requirements of the federal regulations adopted in this rule pertaining to primary and secondary contaminants, sodium, fluoridation, maximum contaminant levels, sampling techniques and monitoring frequencies, for a community water system, except that the monitoring frequency for microbiological contaminants shall be no less than once each week.

11.5. A bottled water treatment plant shall be operated in accordance with the provisions of the federal standards, Current Good Manufacturing Practice in Manufacturing, Packaging or Holding Human Food, 21 CFR Part 110, in effect as of October 30, 1990, and these standards are hereby adopted by reference.

11.6. Each in-State bottled water treatment plant shall be inspected every twelve (12) months or as otherwise determined by the director.

11.7. An out-of-State bottled water treatment plant desiring to distribute bottled water in West Virginia shall apply for a permit to bottle and distribute bottled water on forms approved by the director. Four (4) copies of all materials shall be submitted. The out-of-State treatment plant shall comply with the requirements of this rule and the federal regulations adopted in this rule for in-State bottled water treatment plants. Subsequent to the initial evaluation, monitoring of the treatment plant by the regulatory agency of the state wherein the treatment plant is located is considered acceptable for the purposes of

this rule. The out-of-State treatment plant shall notify the director of any corrective action it is required to take by its state regulatory authority and shall notify the director of any change in ownership or in the event that it closes.

11.8. A person wishing to distribute bottled water in the State who does not operate a bottled water treatment plant shall apply for a permit to distribute bottled water on a form approved by the director. The applicant shall identify the location of the plants from which the bottled water is obtained and any distributor other than the bottled water plant from which the bottled water is obtained and shall provide other information required by the director. The director shall grant a permit to distribute bottled water if the bottled water complies with the requirements of this rule.

11.9. A permit issued by the director may be revoked for failure to comply with provisions of this rule.

§64-3-12. Public Water System Reporting Requirements.

12.1. Unless otherwise specified in this rule or the federal regulations adopted in this rule, the results of any test, measurement or analysis required to be made by this rule or the federal regulations adopted in this rule shall be reported to the director within forty (40) days of the system's receipt of the test, measurement or analysis.

12.2. Analytical results for total trihalomethane (TTHM) analyses shall be reported to the director within thirty (30) days of the system's receipt of the results.

12.3. Failure to comply with this rule or the federal regulations adopted in this rule shall be reported to the director within forty-eight (48) hours of the discovery of the violation.

12.4. Analytical results of tests performed by the laboratory of the division of health are not required to be reported.

12.5. A written summary of the public water system operation, test data, and other information as may be required by the director shall be submitted to the director at least once per month. The director may require more frequent reports in cases where there are public health concerns.

12.6. All reports and summaries required by this rule or the federal regulations adopted in this rule shall be submitted in a manner or form approved by the director.

12.7. The water supply system shall submit to the director a representative copy of each type of notice distributed, posted or made available to the public or media within seven (7) days following any notification of the public of a violation of this

rule or of the federal regulations adopted in this rule.

§64-3-13. Certification of Laboratories to Conduct Drinking Water Tests.

13.1. All laboratories providing drinking water testing results for purposes of this rule or the federal regulations adopted in this rule shall be certified by the director or by the Federal Environmental Protection Agency.

13.2. A certified laboratory shall comply with the requirements of this rule and with the requirements and criteria contained in the sections titled "Local Laboratories," "Other Considerations for Laboratory Certification," "Requirements for Maintaining Certification Status," "Criteria and Procedures for Downgrading/Revoking Certification Status," and "Training," of Chapter III, and in Chapters IV, V and VI of the federal Environmental Protection Agency's Manual for the Certification of Laboratories Analyzing Drinking Water, Third Edition, April, 1990, Change 1, October, 1991, and Change 2, September, 1992 and these parts of the manual are hereby adopted by reference.

13.3. An in-State laboratory shall submit an application form when seeking initial approval sixty (60) days prior to the date certification is desired.

13.4. A laboratory located outside the boundaries of this State shall be certified by the director if:

13.4.1. It has been certified by the Federal Environmental Protection Agency; or

13.4.2. It has been certified by a program for the certification of laboratories equivalent to the program of this State as determined by the director. If the program of the state in which the laboratory is located is not judged equivalent, the laboratory may request an on-site evaluation and full certification review by the director.

13.5. An out-of-state laboratory shall submit an application form when seeking initial approval and shall include with its application evidence of compliance with Section 13.4.1 or 13.4.2 of this rule. The out-of-state laboratory shall notify the director immediately of any change in its certification status under Section 13.4.1 or 13.4.2 of this rule.

13.6. An on-site inspection of in-State laboratories to determine compliance with this rule and the federal standards adopted in this rule shall be conducted initially prior to certification, and at least every three (3) years thereafter. The division has the right of entry upon proper identification at any time considered necessary during operating hours in order to conduct the inspections.

13.7. Certificates of approval shall be issued upon initial approval and are renewable on an annual basis thereafter pursuant to the conditions listed in this rule. Certificates issued will contain the name and location of the laboratory, a laboratory code number, the name of the laboratory director and the date of expiration of the certificate.

13.8. Certified laboratories shall notify the director when there is a change in ownership, laboratory director, technical personnel or location of the laboratory.

13.9. The director shall administer and use the criteria and procedures of the Section titled "Criteria and Procedures for Downgrading/Revoking Certification Status" of the Manual for the Certification of Laboratories Analyzing Drinking Water referenced in Section 13.2 of this rule.

§64-3-14. Penalties.

Any person who violates any provision of this rule or orders issued under this rule, is guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200) and each day's violation shall constitute a separate offense. In addition, thereto, the director of health or his or her authorized representative may seek injunctive relief in the circuit court of the county in which all or part of the public water system is situated for threatened or continuing violations. For a willful violation of this rule or orders issued under this rule, a person, upon a finding thereof by the circuit court of the county in which the violation occurs, is subject to a civil penalty of not more than five thousand dollars (\$5,000), and each day's violation is grounds for a separate penalty.

§64-3-15. Administrative Due Process.

Those persons adversely affected by the enforcement of this rule desiring a contested case hearing to determine any rights, duties, interests or privileges shall do so in a manner prescribed in the Rules of Procedure for Contested Case Hearings and Declaratory Rulings, West Virginia Administrative Rules, Division of Health, 64 CSR 1.

§64-3-16. Severability.

The provisions of this rule are declared to be severable. If any provision of this rule is held invalid, the remaining provisions remain in effect.

TABLE 64-3A. Minimum Levels of Free Chlorine Residual at Various Water Sample pH Levels

<u>pH VALUE</u>	<u>FREE CHLORINE RESIDUAL</u>
Up to 7.0	0.4 mg/l
7.1 to 8.0	0.6 mg/l
8.1 to 9.0	1.0 mg/l

TABLE 64-3B. Average Acceptable Range of Fluoride Concentration at Various Annual Average Maximum Daily Air Temperatures

<u>ANNUAL AVERAGE MAXIMUM DAILY AIR TEMPERATURE</u>	<u>FLUORIDE CONCENTRATION IN MILLIGRAMS PER LITER</u>		
	Lower	Optimum	Upper
53.8 - 58.3° F 12.1 - 14.6° C	0.8	1.1	1.5
58.4 - 63.8° F 14.7 - 17.7° C	0.8	1.0	1.3
63.9 - 70.6° F 17.7 - 21.4° C	0.7	0.9	1.2

64-3

Bill-Health, Public Water

OL 10

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H. B. 2170

(By Delegates Gallagher, Douglas, Compton,
Linch, Faircloth and Riggs)

(Introduced January 23, 1995 ; referred to the
Committee on the Judiciary)

10 A BILL to amend and reenact section one, article five, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 department of health and human resources to promulgate
14 legislative rules relating to public water systems.

15 Be it enacted by the Legislature of West Virginia:

16 That section one, article five, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN
20 RESOURCES TO PROMULGATE LEGISLATIVE RULES.

21 §64-5-1. Department of health and human resources.

22 (a) The legislative rules filed in the state register on the
23 twenty-second day of January, one thousand nine hundred ninety,
24 modified by the secretary of the department of health and human

1 resources to meet the objections of the legislative rule-making
2 review committee and refiled in the state register on the
3 twenty-fifth day of January, one thousand nine hundred ninety,
4 relating to the secretary of the department of health and human
5 resources (implementation of omnibus health care act), are
6 authorized.

7 (b) The legislative rules filed in the state register on the
8 twenty-second day of January, one thousand nine hundred ninety,
9 modified by the secretary of the department of health and human
10 resources to meet the objections of the legislative rule-making
11 review committee and refiled in the state register on the
12 twenty-fifth day of January, one thousand nine hundred ninety,
13 relating to the secretary of the department of health and human
14 resources (implementation of omnibus health care act payment
15 provisions), are authorized.

16 (c) The legislative rules filed in the state register on the
17 twentieth day of March, one thousand nine hundred ninety-two,
18 modified by the department of health and human resources to meet
19 the objections of the legislative rule-making review committee
20 and refiled in the state register on the seventeenth day of
21 November, one thousand nine hundred ninety-two, relating to the
22 department of health and human resources (infectious medical
23 waste), are authorized with the amendments set forth below:

24 "On page seventeen, subsection 8.2, after the words '(45)
25 days.' by inserting the following language: 'Facilities that

1 treat infectious medical waste on-site shall not store the
2 infectious medical waste more than thirty (30) days.';

3 On page twenty-one, subdivision 10.1.2., after the words
4 'disposed of' striking out the words 'as solid waste' and
5 inserting in lieu thereof the words 'in the same manner as ash
6 from solid waste incineration and as provided in subdivision
7 10.2.5. of this rule.';

8 On page twenty-six, subsection 11.7., after the words 'permit
9 to' inserting the words 'own, operate and';

10 On page twenty-six, subsection 11.7., by striking out the
11 word 'publish' and inserting in lieu thereof the words 'announce
12 the public hearing required by subsection 11.9. of this rule by
13 publishing';

14 On page twenty-six, by further amending subsection 11.7. by
15 adding thereto a new subdivision, designated subdivision
16 11.7.1.4. to read as follows: 'The announcement of the date,
17 time and place where the hearing is to be conducted, shall be
18 made at least fourteen (14) but not more than forty-five (45)
19 days prior to the hearing';

20 And,

21 On page twenty-six, subsection 11.9, by after the words
22 'proposing to' inserting the words 'own, construct and'."

23 (d) The legislative rules filed in the state register on the
24 third day of September, one thousand nine hundred ninety-two,
25 modified by the department of health and human resources to meet

1 the objections of the legislative rule-making review committee
2 and refiled in the state register on the twenty-seventh day of
3 January, one thousand nine hundred ninety-three, relating to the
4 department of health and human resources (residential board and
5 care homes), are authorized.

6 (e) The legislative rules filed in the state register on the
7 third day of May, one thousand nine hundred ninety-three,
8 modified by the department of health and human resources to meet
9 the objections of the legislative rule-making review committee
10 and refiled in the state register on the eighth day of July, one
11 thousand nine hundred ninety-three, relating to the department
12 of health and human resources (public water systems), are
13 authorized.

14 (f) The legislative rules filed in the state register on the
15 ninth day of September, one thousand nine hundred ninety-three,
16 modified by the department of health and human resources to meet
17 the objections of the legislative rule-making review committee
18 and refiled in the state register on the twenty-fourth day of
19 January, one thousand nine hundred ninety-four, relating to the
20 department of health and human resources (distribution of state
21 aid funds to local boards of health), are authorized.

22 (g) The legislative rules filed in the state register on the
23 seventh day of January, one thousand nine hundred ninety-four,
24 modified by the department of health and human resources to meet
25 the objections of the legislative rule-making review committee

1 and refiled in the state register on the twenty-fourth day of
2 January, one thousand nine hundred ninety-four, relating to the
3 department of health and human resources (hospital licensure),
4 are authorized with the amendments set forth below:

5 "On page 4, section 3.20, by striking out all of section 3.20
6 and inserting in lieu thereof the following: "Section 6a
7 Hospital -- A nonprofit hospital, as identified in W. Va. Code
8 §16-5-B-6a, whether governed by an in-state or out-of-state board
9 of directors, or a hospital owned by a county, city or other
10 political subdivision of the State of West Virginia, except for
11 existing nonprofit hospitals which are owned or operated by a
12 corporation which was incorporated in another state prior to
13 March 9, 1983: **Provided, however,** this definition does not
14 include the corporation defined in W. Va. Code §18-11C-1(d) and";

15 On page 16, section 8.3.2. by striking the comma after the
16 word "safety" and inserting in lieu thereof the word "or";

17 On page 16, section 8.3.2. after the word "et seq.," by
18 striking out the words "or involves a cost in excess of two
19 hundred thousand dollars (\$200,000)";

20 On page 17, section 8.4.2. by striking the comma after the
21 word "safety" and inserting in lieu thereof the word "or";

22 On page 17, section 8.4.2. after the word "et seq.," by
23 striking out the words "or involves a cost in excess of two
24 hundred thousand dollars (\$200,000)"; and

1 On page 45, section 12, by striking all of subdivision 12.2.1
2 and inserting in lieu thereof a new subdivision 12.2.1 to read as
3 follows:

4 12.2.1. All general acute care hospitals shall provide
5 emergency services: ~~Provided~~, That the Director may grant
6 exceptions to this requirement based upon (a) the need to avoid
7 an unnecessary duplication of services, (b) a recognition of
8 practical economies of scale within the community, or (c) other
9 such appropriate factors relating to the optimum delivery of
10 emergency services within available resources and deemed by the
11 director to be substantial. The requirement of this subdivision
12 for the provision of emergency services shall be waived by the
13 director in the case of a rural primary care hospital if such
14 hospital has entered into an appropriate patient transfer
15 agreement with another referral hospital to provide for emergency
16 services. If the hospital provides emergency services, it shall
17 have an emergency room which is located so as to permit easy
18 access from automobiles and ambulances. The emergency service
19 shall be of a size comparable to the need imposed upon it and
20 shall be adequately equipped to provide whatever life-saving
21 measures may be needed for patients admitted to this service."

22 (h) The legislative rules filed in the state register on the
23 fifteenth day of August, one thousand nine hundred ninety-four,
24 modified by the department of health and human resources to meet
25 the objections of the legislative rule-making review committee

1 and refiled in the state register on the twenty-eighth day of
2 November, one thousand nine hundred ninety-four, relating to the
3 department of health and human resources (public water systems),
4 are authorized.

5

6 NOTE: The purpose of this bill is to authorize the
7 Department of Health and Human Resources to promulgate
8 legislative rules relating to public water systems.

9

10 Strike-throughs indicate language that would be stricken from
11 the present law, and underscoring indicates new language that
12 would be added.

106

SENATE BILL NO. 106

(By Senators Manchin, Anderson, Boley, Grubb and Macnaughtan)

[Introduced January 20, 1995; referred to the Committee on Health and Human Resources; and then to the Committee on the Judiciary]

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64-3

10 A BILL to amend and reenact section one, article five, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 department of health and human resources to promulgate
14 legislative rules relating to public water systems.

15 Be it enacted by the Legislature of West Virginia:

16 That section one, article five, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN
20 RESOURCES TO PROMULGATE LEGISLATIVE RULES.

21 §64-5-1. Department of health and human resources.

22 (a) The legislative rules filed in the state register on the
23 twenty-second day of January, one thousand nine hundred ninety,
24 modified by the secretary of the department of health and human

1 resources to meet the objections of the legislative rule-making
2 review committee and refiled in the state register on the
3 twenty-fifth day of January, one thousand nine hundred ninety,
4 relating to the secretary of the department of health and human
5 resources (implementation of omnibus health care act), are
6 authorized.

7 (b) The legislative rules filed in the state register on the
8 twenty-second day of January, one thousand nine hundred ninety,
9 modified by the secretary of the department of health and human
10 resources to meet the objections of the legislative rule-making
11 review committee and refiled in the state register on the
12 twenty-fifth day of January, one thousand nine hundred ninety,
13 relating to the secretary of the department of health and human
14 resources (implementation of omnibus health care act payment
15 provisions), are authorized.

16 (c) The legislative rules filed in the state register on the
17 twentieth day of March, one thousand nine hundred ninety-two,
18 modified by the department of health and human resources to meet
19 the objections of the legislative rule-making review committee
20 and refiled in the state register on the seventeenth day of
21 November, one thousand nine hundred ninety-two, relating to the
22 department of health and human resources (infectious medical
23 waste), are authorized with the amendments set forth below:

24 "On page seventeen, subsection 8.2, after the words '(45)
25 days.' by inserting the following language: 'Facilities that

1 treat infectious medical waste on-site shall not store the
2 infectious medical waste more than thirty (30) days.';

3 On page twenty-one, subdivision 10.1.2., after the words
4 'disposed of' striking out the words 'as solid waste' and
5 inserting in lieu thereof the words 'in the same manner as ash
6 from solid waste incineration and as provided in subdivision
7 10.2.5. of this rule.';

8 On page twenty-six, subsection 11.7., after the words 'permit
9 to' inserting the words 'own, operate and';

10 On page twenty-six, subsection 11.7., by striking out the
11 word 'publish' and inserting in lieu thereof the words 'announce
12 the public hearing required by subsection 11.9. of this rule by
13 publishing';

14 On page twenty-six, by further amending subsection 11.7. by
15 adding thereto a new subdivision, designated subdivision
16 11.7.1.4. to read as follows: 'The announcement of the date,
17 time and place where the hearing is to be conducted, shall be
18 made at least fourteen (14) but not more than forty-five (45)
19 days prior to the hearing';

20 And,

21 On page twenty-six, subsection 11.9, by after the words
22 'proposing to' inserting the words 'own, construct and'."

23 (d) The legislative rules filed in the state register on the
24 third day of September, one thousand nine hundred ninety-two,
25 modified by the department of health and human resources to meet

1 the objections of the legislative rule-making review committee
2 and refiled in the state register on the twenty-seventh day of
3 January, one thousand nine hundred ninety-three, relating to the
4 department of health and human resources (residential board and
5 care homes), are authorized.

6 (e) The legislative rules filed in the state register on the
7 third day of May, one thousand nine hundred ninety-three,
8 modified by the department of health and human resources to meet
9 the objections of the legislative rule-making review committee
10 and refiled in the state register on the eighth day of July, one
11 thousand nine hundred ninety-three, relating to the department
12 of health and human resources (public water systems), are
13 authorized.

14 (f) The legislative rules filed in the state register on the
15 ninth day of September, one thousand nine hundred ninety-three,
16 modified by the department of health and human resources to meet
17 the objections of the legislative rule-making review committee
18 and refiled in the state register on the twenty-fourth day of
19 January, one thousand nine hundred ninety-four, relating to the
20 department of health and human resources (distribution of state
21 aid funds to local boards of health), are authorized.

22 (g) The legislative rules filed in the state register on the
23 seventh day of January, one thousand nine hundred ninety-four,
24 modified by the department of health and human resources to meet
25 the objections of the legislative rule-making review committee

1 and refiled in the state register on the twenty-fourth day of
2 January, one thousand nine hundred ninety-four, relating to the
3 department of health and human resources (hospital licensure),
4 are authorized with the amendments set forth below:

5 "On page 4, section 3.20, by striking out all of section 3.20
6 and inserting in lieu thereof the following: "Section 6a
7 Hospital -- A nonprofit hospital, as identified in W. Va. Code
8 §16-5-B-6a, whether governed by an in-state or out-of-state board
9 of directors, or a hospital owned by a county, city or other
10 political subdivision of the State of West Virginia, except for
11 existing nonprofit hospitals which are owned or operated by a
12 corporation which was incorporated in another state prior to
13 March 9, 1983: Provided, however, this definition does not
14 include the corporation defined in W. Va. Code §18-11C-1(d) and";

15 On page 16, section 8.3.2. by striking the comma after the
16 word "safety" and inserting in lieu thereof the word "or";

17 On page 16, section 8.3.2. after the word "et seq.," by
18 striking out the words "or involves a cost in excess of two
19 hundred thousand dollars (\$200,000)";

20 On page 17, section 8.4.2. by striking the comma after the
21 word "safety" and inserting in lieu thereof the word "or";

22 On page 17, section 8.4.2. after the word "et seq.," by
23 striking out the words "or involves a cost in excess of two
24 hundred thousand dollars (\$200,000)"; and

1 On page 45, section 12, by striking all of subdivision 12.2.1
2 and inserting in lieu thereof a new subdivision 12.2.1 to read as
3 follows:

4 12.2.1. All general acute care hospitals shall provide
5 emergency services: Provided, That the Director may grant
6 exceptions to this requirement based upon (a) the need to avoid
7 an unnecessary duplication of services, (b) a recognition of
8 practical economies of scale within the community, or (c) other
9 such appropriate factors relating to the optimum delivery of
10 emergency services within available resources and deemed by the
11 director to be substantial. The requirement of this subdivision
12 for the provision of emergency services shall be waived by the
13 director in the case of a rural primary care hospital if such
14 hospital has entered into an appropriate patient transfer
15 agreement with another referral hospital to provide for emergency
16 services. If the hospital provides emergency services, it shall
17 have an emergency room which is located so as to permit easy
18 access from automobiles and ambulances. The emergency service
19 shall be of a size comparable to the need imposed upon it and
20 shall be adequately equipped to provide whatever life-saving
21 measures may be needed for patients admitted to this service."

22 (h) The legislative rules filed in the state register on the
23 fifteenth day of August, one thousand nine hundred ninety-four,
24 modified by the department of health and human resources to meet
25 the objections of the legislative rule-making review committee

1 and refiled in the state register on the twenty-eighth day of
2 November, one thousand nine hundred ninety-four, relating to the
3 department of health and human resources (public water systems),
4 are authorized.

5

6 NOTE: The purpose of this bill is to authorize the
7 Department of Health and Human Resources to promulgate
8 legislative rules relating to public water systems.

9

10 Strike-throughs indicate language that would be stricken from
11 the present law, and underscoring indicates new language that
12 would be added.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

March 23, 1995

Kay Howard
Health, Dept. of
Rm. 265, Bldg. 3
Charleston, WV 25305

SB 105 authorizing, **Title 64, Series 3, Public Water Systems**, passed the Legislature on March 9, 1995 and the Governor signed the bill on March 23, 1995.

You have sixty (60) days after the Governor signs SB 105, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 105** section **64-5-2(a)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: YOUR AGENCY MUST SUBMIT A CLEAN COPY OF THE LEGISLATIVE RULE ON DISK, WITH ALL UNDERLINING, STRIKE-THROUGHS AND HEADERS/FOOTERS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. THE DISK MUST BE ON A WORD PERFECT (5.1 OR 5.2 VERSION) OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM 3 1/2" DOUBLE DENSITY DISK. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL ENABLE US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS AND HEADERS/FOOTERS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900



RECEIVED

SEP 25 1995

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

STATE OF WEST VIRGINIA

REGULATORY DEVELOPMENT
SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

FILED
APR 1 1 39 PM '96
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
(Plus all the volunteer help we can get)

TO: Kay Howard

AGENCY: Department of Health

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: September 20, 1995

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 3 TITLE: 64 Department of Health

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Kay Howard

TITLE OF PERSON SIGNING: Director, Office of Regulatory Development

DATE: April 12, 1996

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.