

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

FILED

MAY 1 1 38 PM '95

OFFICE OF WEST VIRGINIA
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: 5

TITLE OF RULE BEING AMENDED: Wastewater Treatment Works and Operators

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

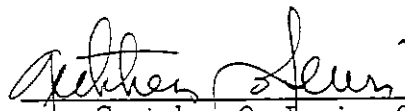
TITLE OF RULE BEING PROPOSED: _____

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

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

SECTION 64-5-1, PASSED ON March 9, 1995

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


Gretchen O. Lewis, Secretary
AUTHORIZED SIGNATURE

5.20

DEPARTMENT OF HEALTH AND HUMAN RESOURCES
RULE PROMULGATION HISTORY ABSTRACT

Rule Title: Wastewater Treatment Works and Operators

Series Number: 5

Amendment of Existing Rule: X New Rule:

Responsible Agency: Division of Health

Date Filed for Public Hearing or Comment Period: 7-8-94

Date of Public Hearing (if any):

Date Public Comment Period Ended: 8-8-94

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: 10-20-94

Date of Final Filing: 5-1-95

Effective Date: 7-1-95

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

Dates Emergency Rule in Effect (if any): N/A

TITLE 64

WEST VIRGINIA ADMINISTRATIVE RULES
DIVISION OF HEALTH

WASTEWATER TREATMENT WORKS AND OPERATORS

SERIES 5

1995

WEST VIRGINIA ADMINISTRATIVE RULES
DIVISION OF HEALTH
WASTEWATER TREATMENT WORKS AND OPERATORS
64 CSR 5

TABLE OF CONTENTS

\$64-5-1. General	1
\$64-5-2. Application and Enforcement	1
\$64-5-3. Definitions	1
\$64-5-4. Classification of Wastewater Treatment Works	2
\$64-5-5. Certified Operators Required; Duties of Wastewater Treatment Works and Wastewater Treatment Works Operators	2
\$64-5-6. Initial Application; Examination; Expiration; Renewal; Reinstatement	4
\$64-5-7. Educational Requirements; Experience Substitutes for Education; Education Equivalents; Training Credits; Approval of Training; Experience Requirements; Education and Training Substitutes for Experience; Training Credits Required for Renewal of Class III and IV Certificates	6
7.1. Educational Requirements	6
7.2. Experience Substitutes for Education; Education and Training Credit Equivalents; Approval of Training	6
7.3. Experience Requirements	7
7.4. Education and Training Substitutes for Experience	7
7.5. Training Credits Required for Renewal of Class III and IV Certificates	8
\$64-5-8. Reciprocity	8
\$64-5-9. Penalties	9
\$64-5-10. Administrative Due Process	9
\$64-5-11. Severability	10

TITLE 64
WEST VIRGINIA ADMINISTRATIVE RULES
DIVISION OF HEALTH

SERIES 5
WASTEWATER TREATMENT WORKS AND OPERATORS

§64-5-1. General.

1.1. Scope - This rule establishes minimum requirements for the examination and certification of wastewater treatment works operators, establishes a system for the classification of wastewater treatment works, and specifies certain responsibilities of wastewater treatment works.

1.2. Authority - W. Va. Code §16-1-7(2).

1.3. Filing Date - May 1, 1995.

1.4. Effective Date - July 1, 1995.

1.5. Supersession and Repeal of Former Regulations - This rule repeals and supersedes Waste Water Treatment Works Operator, 64 CSR 5, 1983.

§64-5-2. Application and Enforcement.

2.1. Application - This rule applies to wastewater treatment works and wastewater treatment works operators, except that this rule does not apply to industrial wastewater treatment works which are regulated by the division of environmental protection or to the operators of such industrial wastewater treatment works.

2.2. Enforcement - This rule is enforced by the secretary of the West Virginia department of health and human resources.

§64-5-3. Definitions.

3.1. Chief Operator - The individual who is responsible for the over-all operation of the wastewater treatment works.

3.2. High school education - Graduated from high school, obtained a general equivalency diploma (GED), or an alternative approved by the State board of education.

3.3. Operator - An individual who performs operational or supervisory work functions at a wastewater treatment works.

3.4. Operator-in-Training - An individual who has an operator-in-training certificate.

3.5. Person - Includes individual persons, corporations, societies, associations, partnerships, companies, institutions, or other legal entities, whether public or private.

3.6. **Population Equivalent Served** - A figure which expresses the hydraulic load factor of the wastewater treated by the wastewater treatment works, based on the concentration or quantity of waste, in terms of population equivalent served, regardless of the source of the waste (e.g., people, industry, agriculture). The population equivalent served is calculated based on 0.17 pounds of five (5) day biochemical oxygen demand or 0.20 pounds of suspended solids per day; the larger of the two (2) figures is used to determine the population equivalent served by the wastewater treatment works.

3.7. **Secretary** - Secretary of the West Virginia department of health and human resources or his or her designee.

3.8. **Small Wastewater Treatment Works (IS)** - Any wastewater treatment works that: 1) serves more than an individual home, excluding home aeration units and septic tank systems; 2) treats a daily flow of wastewater less than five hundred and one (501) population equivalent served; and 3) uses extended aeration, a form of pond treatment system or other technology approved by the secretary for treatment.

3.9. **Wastewater** - Water containing human, animal or domestic waste, except that this definition does not include industrial wastewater regulated by the division of environmental protection.

3.10. **Wastewater Treatment Works** - A facility for treating and discharging wastewater, except that this definition does not include industrial wastewater treatment works regulated by the division of environmental protection.

§64-5-4. Classification of Wastewater Treatment Works.

4.1. The secretary shall assign a point rating to a wastewater treatment works according to the rating system shown in Table 64-5A found at the end of this rule.

4.2. The secretary shall assign a class to a wastewater treatment works according to the classification system shown in Table 64-5B found at the end of this rule.

§64-5-5. Certified Operators Required; Duties of Wastewater Treatment Works and Wastewater Treatment Works Operators.

5.1. Any individual who operates a Class IS, I, II, III, or IV wastewater treatment works in West Virginia shall be certified by the secretary.

5.2. A wastewater treatment works shall employ an individual as the chief operator to be responsible for the operation of the wastewater treatment works. The chief operator shall work on-site.

5.3. The chief operator of a Class IS wastewater treatment

works may be employed on a part-time basis. The chief operator of a Class I, II, III or IV wastewater treatment works shall be a full-time employee, except that the secretary may permit the chief operator of a Class I wastewater treatment works to be employed on a part-time basis, based upon substantial evidence that the facility will operate in accordance with applicable State laws and rules.

5.4. The chief operator of a Class IS wastewater treatment works shall have: a Class IS wastewater treatment works operator certificate; or a Class I or higher class level wastewater treatment works certificate and previous experience in an IS extended aeration system; or a Class I or higher class level wastewater treatment works operator certificate and shall pass the Class IS examination prior to being employed as the chief operator: Provided, That the secretary may require a Class IS wastewater treatment works to employ an operator certified at a class higher than IS to be responsible for on-site operations. The chief operator of a Class I, II, III or IV wastewater treatment works shall be certified at a level at least equal to the classification of the wastewater treatment works.

5.5. The chief operator of a new wastewater treatment works shall be employed and on-site at the wastewater treatment works when construction is twenty-five percent (25%) complete.

5.6. Individuals with an operator-in-training certificate shall be supervised on-site by an operator with a certificate at a class level equal to or greater than the classification of the wastewater treatment works. However, an operator-in-training at a Class IS wastewater treatment works shall be supervised by a certified wastewater treatment works operator who has a Class IS certificate or meets one (1) of the other criteria for a chief operator of a Class IS wastewater treatment works specified in Section 5.4 of this rule.

5.7. Except for Class IS wastewater treatment works, individuals may operate wastewater treatment works of a class equal to or lower than their wastewater treatment works operator classification without supervision. Individuals may operate a wastewater treatment works of a higher class than their wastewater treatment works classification, but shall be supervised on-site by an operator with a wastewater treatment works operator certificate at least equal to the classification of the wastewater treatment works. Individuals who operate a class IS wastewater treatment works who do not have a Class IS certificate shall be supervised by an operator who has a Class IS certificate or meets one (1) of the other criteria for a chief operator of a Class IS wastewater treatment works specified in Section 5.4 of this rule.

5.8. In addition to any other responsibilities and duties, a wastewater treatment works operator shall:

5.8.1. Comply with the provisions of Sewage System Rules,

64 CSR 9, related to wastewater treatment works control tests and records; and

5.8.2. Notify the secretary at least thirty (30) days in advance of the termination of his or her employment at a wastewater treatment works.

5.9. The certificates of all individuals involved in operating a wastewater treatment works shall be prominently displayed at the wastewater treatment works.

§64-5-6. Initial Application; Examination; Expiration; Renewal; Reinstatement.

6.1. An individual desiring initial certification as an operator-in-training shall submit an application for certification to the secretary within one (1) month of employment as an operator-in-training. The application shall be on a form provided by the secretary and shall include documentation of the applicant's education. If the application is not submitted within one (1) month of the date the applicant began employment, the secretary shall count experience required for the purposes of this rule as beginning on the date of receipt of an appropriately completed application for certification as an operator-in-training.

6.2. Operator-in-training certificates are valid for one (1) year. An individual desiring to be recertified as an operator-in-training shall submit a written application to the secretary thirty (30) days prior to the expiration date of the current certificate on a form supplied by the secretary.

6.3. The secretary shall issue an initial or renewal wastewater treatment works operator-in-training certificate to individuals who are currently working in a wastewater treatment works and who meet the educational requirements of Section 7.1.1 of this rule.

6.4. Individuals desiring certification as a Class IS, I, II, III, or IV wastewater treatment works operator shall submit a written application to the secretary at least thirty (30) days prior to the date the applicant wishes to take the certification examination. The application shall be on a form furnished by the secretary and shall include documentation of the experience and education required by this rule.

6.5. The secretary shall conduct written examinations for Class IS, I, II, III, and IV wastewater treatment works operator certification, and shall notify applicants of the date, time and place of examination. The secretary shall not permit an applicant who has knowingly submitted false or incorrect information on the application to take the examination.

6.6. An individual shall make a score of seventy percent (70%) on the examination in order to attain a passing grade.

6.7. Applicants who fail an examination shall wait sixty (60) days from the date they took the examination before reapplying for the examination. Applicants who fail the same examination level three (3) times in a one (1) year period shall wait a minimum of one (1) year from the date they failed the examination for the third time to apply for re-examination.

6.8. The secretary shall issue a Class IS wastewater treatment works operator certificate to an individual if the individual:

6.8.1. Takes twenty-four (24) hours of Class IS operator training and passes the examination for Class IS; or

6.8.2. Has five hundred (500) hours of on-site operating experience at a Class IS waste water treatment works and passes the Class IS examination.

6.9. The secretary shall issue a Class I, II, III or IV wastewater treatment works operator certificate to an individual if the individual:

6.9.1. Attains a passing grade on the examination for the class;

6.9.2. Has previously been certified at the next lower class level, except that prior certification at Class IS is not required for Class I certification; and

6.9.3. Meets the education and experience requirements specified for the class in Section 7 of this rule. The secretary may issue multiple class level certificates to an individual simultaneously.

6.10. The certificate of any individual who has not been gainfully employed as a wastewater treatment works operator, shift operator, chief operator, laboratory analyst, or supervisor in a classified wastewater treatment works for a two (2) year period shall expire.

6.11. Certificates of Class IS, I, and II operators and operator-in-training certificates which are valid at the time this rule becomes effective shall continue in effect as long as the individual to whom the certificate is issued remains in compliance with this rule. Certificates of Class III and Class IV operators expires three (3) years from the date of issuance of the certificate, except as specified in Section 7.5.3 of this rule.

6.12. Individuals who desire to renew their Class III or IV wastewater treatment works operator certificate shall submit an application for renewal, on a form supplied by the secretary, and documentation of the training credits required by this rule thirty (30) days before the expiration of the certificate.

6.13. Individuals whose certificates have expired under the provisions of Sections 6.10 or 6.11 of this rule who request recertification shall meet the requirements for initial certification at the class level previously held, including passing an examination.

§64-5-7. Educational Requirements; Experience Substitutes for Education; Education Equivalents; Training Credits; Approval of Training; Experience Requirements; Education and Training Substitutes for Experience; Training Credits Required for Renewal of Class III and IV Certificates.

7.1. Educational Requirements.

7.1.1. A high school education is required for certification as an operator-in-training, except for Class IS wastewater treatment works.

7.1.2. A sixth (6th) grade education is required for certification as a Class IS operator.

7.1.3. A high school education is required for certification as a Class I operator.

7.1.4. A high school education is required for certification as a Class II operator.

7.1.5. Two (2) years of college education are required for certification as a Class III operator.

7.1.6. Four (4) years of college education and completion of a management class approved by the secretary are required for certification as a Class IV operator. The secretary shall approve management classes based on their relevance to managing a wastewater treatment works.

7.1.7. An applicant may substitute experience for education as specified in Section 7.2 of this rule.

7.2. Experience Substitutes for Education; Education and Training Credit Equivalents; Approval of Training.

7.2.1. An applicant may substitute experience at the preceding certification class level on a year for year basis for two (2) years of college education.

7.2.2. An applicant can not use experience used as a substitute for educational requirement to satisfy experience requirements.

7.2.3. An applicant may satisfy the requirement for one (1) year of college education by: thirty (30) semester hours or forty-five (45) quarter hours of college; or forty-five (45) training credits; or by a combination thereof.

7.2.4. An applicant may satisfy the requirement for one (1) training credit by six (6) hours of classroom instruction, such as courses, seminars, technical conferences, and similar activities.

7.2.5. The secretary shall approve training credits based on their relevance to the operation of a wastewater treatment works.

7.3. Experience Requirements.

7.3.1. No experience is required for certification as an operator-in-training.

7.3.2. No experience is required for a Class IS operator; experience may be substituted for special Class IS training as specified in Section 6.8.2 of this rule.

7.3.3. An individual shall have a minimum of one (1) year of full-time on-site wastewater treatment works operating experience as an operator-in-training to be certified as a Class I operator.

7.3.4. An individual shall have a minimum of three (3) years of full-time on-site wastewater treatment works operating experience at a Class I or higher class level wastewater treatment works to be certified as a Class II operator.

7.3.5. An individual shall have a minimum of five (5) years of full-time on-site wastewater treatment works operating experience, at least three (3) of which shall be at a Class I or higher class level wastewater treatment works and two (2) of which shall be at a Class II or higher class level wastewater treatment works, to be certified as a Class III operator.

7.3.6. An individual shall have a minimum of six (6) years of full-time on-site wastewater treatment works operating experience, at least three (3) of which shall be at a Class II or higher class level wastewater treatment works and three (3) of which shall be at a Class III or higher class level wastewater treatment works, to be certified as a Class IV operator.

7.3.7. An applicant may substitute two thousand (2,000) hours of wastewater treatment works operating experience for one (1) of the years of full-time wastewater treatment works operating experience required for a Class II or higher class level operator's certificate.

7.3.8. An applicant may substitute education and training for experience as specified in Section 7.4 of this rule.

7.4. Education and Training Substitutes for Experience.

7.4.1. An applicant may substitute twenty-four (24) class-

room hours of IS operator training for four (4) of the training credits used to substitute for educational requirements for a Class II or higher class level certificate.

7.4.2. An applicant may substitute a maximum of two (2) years of college education on a year for year basis for the experience requirement for Class II certification.

7.4.3. An applicant may substitute a maximum of three (3) years of college education on a year for year basis for the Class I experience requirements for Class III certificates.

7.4.4. An applicant may substitute a maximum of three (3) years of college education on a year for year basis for the Class II experience requirements for Class IV certificates.

7.4.5. An applicant may substitute training credits on a year for year basis for an unlimited number of years of experience required by this rule for certification at the Class II level or higher class level.

7.4.6. An applicant can not use education used as a substitute for experience requirements to satisfy education requirements.

7.5. Training Credits Required for Renewal of Class III and IV Certificates.

7.5.1. In order to renew a Class III wastewater treatment works operator certificate, an individual shall obtain three (3) training credits every three (3) years.

7.5.2. In order to renew a Class IV wastewater treatment works operator certificate, an individual shall obtain four (4) training credits every three (3) years.

7.5.3. The three-year period in Sections 7.5.1 and 7.5.2 of this rule begins on the date the certificate is issued, except that for individuals who have valid Class III and IV certificates as of the effective date of this rule, the three-year period begins on the effective date of this rule.

§64-5-8. Reciprocity.

The secretary shall issue an appropriate wastewater treatment works operator certificate to the holder of a currently valid wastewater treatment works operator certificate issued by a governmental agency or another state upon presentation of written documentation of the following:

8.1. The applicant has been offered and has accepted employment in West Virginia which requires a certified operator;

8.2. The applicant has successfully passed an examination at

least equivalent to that given under this rule for the class of certificate issued;

8.3. The applicant meets the educational and experience requirements of this rule for the class of certificate issued; and

8.4. The issuing authority grants reciprocity to West Virginia wastewater treatment works operators.

§64-5-9. Penalties.

9.1. The secretary may revoke the operator certificate of any individual for:

9.1.1. The use of fraud or deceit in obtaining a certificate; or

9.1.2. Neglect, incompetency or misconduct in performing the duties of a wastewater treatment works operator; or

9.1.3. Failure to comply with this rule.

9.2. The secretary shall revoke the operator certificate of any individual who fails to provide the notification required by Section 5.8.2 of this rule unless the individual has been discharged by the wastewater treatment works or other extenuating factors exist.

9.3. The secretary may reinstate the certificate of any individual whose certificate has been revoked upon presentation of evidence satisfactory to the secretary warranting the reinstatement.

9.4. Any person who violates any provision of this rule is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than two hundred dollars (\$200) or by imprisonment for not more than thirty (30) days, or both, as provided in W. Va. Code §16-1-18. Each day's failure to comply with any applicable provision of this rule constitutes a separate offense.

§64-5-10. Administrative Due Process.

10.1. Those persons adversely affected by the enforcement of this rule, may request an informal conference, in writing, within ten (10) days of the adverse effect. The request shall be precise as to the reasons for seeking the informal conference. The secretary shall conduct the informal conference within thirty (30) days of receipt of the request.

10.2. Those persons adversely affected by the written decision provided subsequent to the informal conference or who initially desire a contested case hearing to determine any rights, duties, interests, or privileges, shall do so in a manner prescribed in Rules of Procedure for Contested Case Hearings and

Declaratory Rulings, 64 CSR 1.

§64-5-11. Severability.

The provisions of this rule are severable. If any provisions of this rule are held invalid, the remaining provisions remain in effect.

TABLE 64.5A. Point Rating System for Wastewater Treatment Works.

ITEM	POINT RATING SYSTEM	RATING POINTS
Size		
Maximum population equivalent (P.E.) served	1 per 10,000 P.E. or part thereof	_____
Design flow (average day) or peak month's flow (average day), whichever is larger, in millions of gallons per day (MGD).	1 per 1.0 MGD or part thereof	_____
Effluent Discharge		
Receiving stream (sensitivity).	1 - 6	_____
Land Disposal - evaporation	2	_____
Ground Water.	4	_____
Variation in raw wastes (slight to extreme)	0 - 6	_____
Pretreatment		
Screening, Comminution.	3	_____
Grit Removal.	3	_____
Plant pumping of main flow.	3	_____
Neutralization.	1 - 8	_____
Primary Treatment		
Primary clarifiers.	5	_____
Combined sedimentation/digestion.	5	_____
Chemical addition (except chlorine, enzymes). . . .	4	_____
Secondary Treatment		
Trickling filtration with secondary clarifiers. . .	10	_____
Activated sludge with secondary clarifiers.	15	_____
Stabilization ponds without aeration.	5	_____
Aerated lagoon.	8	_____
Additional final clarification.	5	_____
Advanced Waste Treatment		
Polishing Pond.	2	_____
Chemical/Physical	10	_____
Biological or Chemical/Biological	12	_____
Ion Exchange, Rev. Osmosis.	10	_____
Chemical Recovery, carbon regeneration.	4	_____
Solids Handling		
Thickening.	5	_____
Anaerobic Digestion	10	_____
Aerobic Digestion	6	_____
Evaporative sludge drying	2	_____
Mechanical Dewatering	8	_____
Solids Reduction (Incineration, Wet Oxidation). . .	12	_____
Disinfection		
On-site generation of disinfectant.	4	_____
On-site generation of disinfectant.	5	_____
Laboratory Control by Plant Personnel		
Bacteriological (complexity).	0 - 10	_____
Chemical/Physical (complexity).	0 - 10	_____
Other (as determined by the secretary)		_____
TOTAL RATING POINTS.		_____

TABLE 64.5B. WASTEWATER TREATMENT WORKS CLASSIFICATION SYSTEM¹

CLASS	IS	I	II	III	IV
Wastewater Treatment Works Point Rating	N/A	0 to 30	31 to 55	56 to 75	76 or more
Population Equivalent Served	less than 501	501 to 1,500	1,501 to 15,000	15,001 to 50,000	50,001 or more

¹If the ranges of total point rating and population differ from those contained in the table, the secretary shall determine the appropriate facility classification, taking into account the public health and safety, the type of system, the history of the system, the type of the treatment process, and, in the instance of small communities which have "natural" treatment systems, the potential for adverse economic impact.

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Bill-Health, Wastewater

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H. B. 2169

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

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

A BILL to amend and reenact section two, article five, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the division of health to promulgate legislative rules relating to wastewater treatment works and operators.

Be it enacted by the Legislature of West Virginia:

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

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

§64-5-2. State board of health; division of health.

(a) The legislative rules filed in the state register on the second day of June, one thousand nine hundred eighty-two,

2169

1 relating to the state board of health (waste water treatment
2 works operations), are authorized.

3 (b) The legislative rules filed in the state register on the
4 second day of June, one thousand nine hundred eighty-two,
5 relating to the state board of health (laboratory reporting of
6 syphilis and gonorrhoea), are authorized.

7 (c) The legislative rules filed in the state register on the
8 second day of June, one thousand nine hundred eighty-two,
9 relating to the state board of health (public water supply
10 operators) with the modification of §11.02 as presented to the
11 legislative rule-making review committee on the ninth day of
12 November, one thousand nine hundred eighty-two, are authorized.

13 (d) The legislative rules filed in the state register on the
14 twenty-second day of October, one thousand nine hundred
15 eighty-two, relating to the state board of health (sewage
16 systems) with the modification presented to the legislative
17 rule-making review committee on the sixth day of December, one
18 thousand nine hundred eighty-two, are authorized except lines ten
19 through seventeen, page eight of the rules shall be stricken in
20 their entirety and the remaining paragraphs renumbered.

21 (e) The legislative rules filed in the state register on the
22 second day of June, one thousand nine hundred eighty-two,
23 relating to the state board of health (approval of laboratories),
24 are authorized.

1 (f) The legislative rules filed in the state register on the
2 twenty-fourth day of November, one thousand nine hundred
3 eighty-two, relating to the state board of health (permit fees),
4 are authorized.

5 (g) The legislative rules filed in the state register on the
6 third day of June, one thousand nine hundred eighty-two, relating
7 to the state board of health (certificate of need), are
8 authorized.

9 (h) The legislative rules filed in the state register on the
10 sixteenth day of August, one thousand nine hundred eighty-two,
11 relating to the state board of health (eyes of newborn children),
12 are authorized.

13 (i) The legislative rules filed in the state register on the
14 thirteenth day of August, one thousand nine hundred eighty-two,
15 and filed with amendments on the eleventh day of January, one
16 thousand nine hundred eighty-three, relating to the state board
17 of health (nursing home licensure), are authorized with the
18 amendment of §5.15.02 of those rules as set forth below:

19 By striking the word "and" at the end of subdivision (f), by
20 changing the period at the end of subdivision (g) to a semicolon,
21 and by adding the following after subdivision (g): "(h) One (1)
22 member who represents social work services."

23 (j) The legislative rules filed in the state register on the
24 twenty-fourth day of November, one thousand nine hundred
25 eighty-two, relating to the state board of health (guardianship

1 service), are authorized with the exception of section 9.3 of
2 those rules which may not be promulgated.

3 (k) The legislative rules filed in the state register on the
4 third day of June, one thousand nine hundred eighty-two, relating
5 to the state board of health (controlled substances research
6 program and certification), are authorized.

7 (l) The legislative rules filed in the state register on the
8 fifth day of November, one thousand nine hundred eighty-two,
9 relating to the state board of health (chemical test for
10 intoxication), are authorized.

11 (m) The legislative rules filed in the state register on the
12 nineteenth day of December, one thousand nine hundred
13 eighty-three, relating to the state board of health (birthing
14 center licensure), are authorized.

15 (n) The legislative rules filed in the state register on the
16 fourteenth day of November, one thousand nine hundred
17 eighty-three, relating to the state board of health (licensure of
18 behavioral health centers), are authorized with the amendment set
19 forth below:

20 Page 45, §12.8.2. In the first sentence delete the words
21 "without delay" and insert in lieu thereof the words "within
22 twenty-four hours after receiving a report of a complaint."

23 (o) The legislative rules filed in the state register on the
24 nineteenth day of December, one thousand nine hundred

1 eighty-three, relating to the state board of health (procedures
2 for recovery of corneal tissue for transplant), are authorized.

3 (p) The legislative rules filed in the state register on the
4 seventh day of September, one thousand nine hundred eighty-three,
5 relating to the state board of health (well water regulations),
6 are authorized with the amendments set forth below:

7 §4.1. In the first sentence delete the word "obtaining" and
8 insert in lieu thereof the words "applying for". In the second
9 sentence after "4.3" add "and 4.5."

10 §4.2. At the end of the second sentence, strike the period
11 and add the words "unless emergency conditions prevail as noted
12 under §4.3."

13 With the balance of §4.2 and create a new §4.3 with the
14 following changes: In the first sentence delete the word
15 "deadline" and insert in lieu thereof the word "requirements."
16 Add after the first sentence the sentence, "Emergency conditions
17 and unavoidable circumstances are those conditions involving acts
18 of God, water outages or disruption of water service,
19 unsatisfactory water quality or quantity or public health
20 threats." In the third sentence delete the word "exceed" and
21 insert in lieu thereof the words "be made in excess of."

22 Renumber §4.3 as §4.4 and add the following two sentences at
23 the end of the section: "Such standards shall constitute the
24 minimum standards for the installation, the alteration or the
25 deepening of water wells. Any plans approved by the director

1 pursuant to these regulations shall be in substantial compliance
2 with the heretofore mentioned standards."

3 Renumber §4.4 as §4.5, §4.5 as §4.6, §4.6 as §4.7, §4.7 as
4 §4.8 and §4.8 as §4.9.

5 And,

6 §5.2. Delete the words "four (4)" and insert in lieu thereof
7 the words "two (2)" and delete the words "active, continuous."

8 (q) The legislative rules filed in the state register on the
9 third day of October, one thousand nine hundred eighty-four,
10 relating to the state board of health (trauma center or facility
11 designation), are authorized.

12 (r) The legislative rules filed in the state register on the
13 twenty-first day of December, one thousand nine hundred
14 eighty-four, relating to the state board of health (reportable
15 diseases), are authorized.

16 (s) The legislative rules filed in the state register on the
17 twenty-first day of December, one thousand nine hundred
18 eighty-four, relating to the state board of health (licensure of
19 medical adult day care centers), are authorized.

20 (t) The legislative rules filed in the state register on the
21 third day of October, one thousand nine hundred eighty-four,
22 relating to the state board of health (retail food store
23 sanitation), are authorized.

24 (u) The legislative rules filed in the state register on the
25 seventeenth day of December, one thousand nine hundred

1 eighty-five, modified by the director of health to meet the
2 objections of the legislative rule-making review committee and
3 refiled in the state register on the fifteenth day of January,
4 one thousand nine hundred eighty-six, relating to the director
5 of health (adult group home licensure), are authorized.

6 (v) The legislative rules filed in the state register on the
7 twenty-ninth day of October, one thousand nine hundred
8 eighty-five, modified by the state board of health to meet the
9 objections of the legislative rule-making review committee and
10 refiled in the state register on the twenty-seventh day of
11 December, one thousand nine hundred eighty-five, relating to the
12 state board of health (licensure of hospice care programs), are
13 authorized.

14 (w) The legislative rules filed in the state register on the
15 thirty-first day of October, one thousand nine hundred
16 eighty-five, modified by the director of health to meet the
17 objections of the legislative rule-making review committee and
18 refiled in the state register on the twenty-seventh day of
19 December, one thousand nine hundred eighty-five, relating to the
20 director of health (rules governing emergency medical services),
21 are authorized with the amendments set forth below:

22 On page 3, §3.9 shall read as follows:

23 "3.9 Quorum -- When applied to the EMSAC, a majority of the
24 members thereof, except in the instance when at any meeting of
25 the EMSAC, where a quorum is not present and the director causes

1 to be deposited in the United States mail, postage prepaid,
2 return receipt requested, to each member of the EMSAC within
3 three days, a notice calling a meeting of the EMSAC at some
4 convenient place in the state of West Virginia two weeks after
5 the meeting at which no quorum was present. Quorum means any
6 number of members of the EMSAC who attend such subsequent
7 meeting. Any member missing two consecutive meetings shall be
8 removed from the EMSAC."

9 On page 6, §4.7.1 shall be deleted in its entirety;

10 And,

11 On page 7, §4.10.1 shall read as follows:

12 "4.10.1 every applicant for certification as an EMSP prior
13 to such certification, shall demonstrate his or her knowledge and
14 ability by undergoing a written examination and a demonstration
15 of skills, and by attaining a passing score on the same. Passing
16 score shall be the same for all testing programs."

17 (x) The legislative rules filed in the state register on the
18 fifth day of September, one thousand nine hundred eighty-five,
19 relating to the state department of health (revising the list of
20 hazardous substances), are authorized.

21 (y) The legislative rules filed in the state register on the
22 thirteenth day of August, one thousand nine hundred eighty-six,
23 modified by the director of the department of health to meet the
24 objections of the legislative rule-making review committee and
25 refiled in the state register on the sixteenth day of October,

1 one thousand nine hundred eighty-six, relating to the director
2 of the department of health (hazardous material treatment
3 information repository), are authorized.

4 (z) The legislative rules filed in the state register on the
5 seventeenth day of July, one thousand nine hundred eighty-six,
6 modified by the state board of health to meet the objections of
7 the legislative rule-making review committee and refiled in the
8 state register on the sixteenth day of October, one thousand nine
9 hundred eighty-six, relating to the state board of health
10 (methods and standards for chemical tests for intoxication), are
11 authorized.

12 (aa) The legislative rules filed in the state register on
13 the twenty-first day of November, one thousand nine hundred
14 eighty-six, modified by the state board of health to meet the
15 objections of the legislative rule-making review committee and
16 refiled in the state register on the twenty-third day of
17 December, one thousand nine hundred eighty-six, relating to the
18 state board of health (licensure of behavioral health centers),
19 are authorized.

20 (bb) The legislative rules filed in the state register on the
21 eighteenth day of April, one thousand nine hundred eighty-six,
22 modified by the state board of health to meet the objections of
23 the legislative rule-making review committee and refiled in the
24 state register on the seventeenth day of October, one thousand

1 nine hundred eighty-six, relating to the state board of health
2 (hospital licensure), are authorized.

3 (cc) The legislative rules filed in the state register on the
4 ninth day of December, one thousand nine hundred eighty-six,
5 modified by the state board of health to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the twenty-third day of December, one thousand
8 nine hundred eighty-six, relating to the state board of health
9 (hospital licensure and allowing hospitals to have licensed
10 hospital professionals, other than licensed physicians, on their
11 medical staff), are authorized.

12 (dd) The legislative rules filed in the state register on the
13 ninth day of December, one thousand nine hundred eighty-six,
14 modified by the state board of health to meet the objections of
15 the legislative rule-making review committee and refiled in the
16 state register on the twenty-third day of December, one thousand
17 nine hundred eighty-six, relating to the state board of health
18 (vital statistics), are authorized.

19 (ee) The legislative rules filed in the state register on the
20 eleventh day of September, one thousand nine hundred
21 eighty-seven, relating to the director of the department of
22 health (immunization criteria for transfer students), are
23 authorized.

24 (ff) The legislative rules filed in the state register on
25 the sixteenth day of November, one thousand nine hundred

1 eighty-seven, relating to the director of the department of
2 health (hazardous substances), are authorized with the amendment
3 set forth below:

4 Page 33, section 8, line 8 (unnumbered), by adding at the
5 end of section 8 the following proviso: "Provided, That the
6 owner's or operator's submissions are based on the threshold
7 reporting requirements contained in section 5, article 31,
8 chapter 16."

9 (gg) The legislative rules filed in the state register on the
10 eighteenth day of November, one thousand nine hundred
11 eighty-seven, relating to the director of the department of
12 health (trauma center or facility designation), are authorized.

13 (hh) The legislative rules filed in the state register on the
14 twenty-second day of June, one thousand nine hundred
15 eighty-eight, modified by the state board of health to meet the
16 objections of the legislative rule-making review committee and
17 refiled in the state register on the fifteenth day of September,
18 one thousand nine hundred eighty-eight, relating to the state
19 board of health (licensure of hospice care programs), are
20 authorized.

21 (ii) The legislative rules filed in the state register on the
22 fifteenth day of September, one thousand nine hundred
23 eighty-eight, modified by the state board of health to meet the
24 objections of the legislative rule-making review committee and
25 refiled in the state register on the third day of November, one

1 thousand nine hundred eighty-eight, relating to the state board
2 of health (water wells), are authorized with the amendment set
3 forth below:

4 On page 2, §3.8, shall read as follows:

5 "3.8 Water Well -- Any excavation or penetration in the
6 ground, whether drilled, bored, cored, driven or jetted that
7 enters or passes through an aquifer for purposes that may
8 include, but are not limited to: A water supply, exploration for
9 water, dewatering or heat pump wells, except that this definition
10 shall not include ground water monitoring activities and all
11 activities for the exploration, development, production, storage
12 and recovery of coal, oil and gas and other mineral resources
13 which are regulated under chapter 22, 22a or 22b of the code."

14 (jj) The legislative rules filed in the state register on the
15 twenty-second day of June, one thousand nine hundred
16 eighty-eight, modified by the state board of health to meet the
17 objections of the legislative rule-making review committee and
18 refiled in the state register on the fifteenth day of September,
19 one thousand nine hundred eighty-eight, relating to the state
20 board of health (plumbing requirements), are authorized.

21 (kk) The legislative rules filed in the state register on the
22 twenty-second day of June, one thousand nine hundred
23 eighty-eight, modified by the state board of health to meet the
24 objections of the legislative rule-making review committee and
25 refiled in the state register on the fifteenth day of September,

1 one thousand nine hundred eighty-eight, relating to the state
2 board of health (public water supply operators), are authorized.

3 (ll) The legislative rules filed in the state register on the
4 nineteenth day of October, one thousand nine hundred
5 eighty-eight, modified by the state board of health to meet the
6 objections of the legislative rule-making review committee and
7 refiled in the state register on the twentieth day of December,
8 one thousand nine hundred eighty-eight, relating to the state
9 board of health (volatile synthetic organic chemicals), are
10 authorized.

11 (mm) The legislative rules filed in the state register on the
12 second day of January, one thousand nine hundred ninety, modified
13 by the division of health to meet the objections of the
14 legislative rule-making review committee and refiled in the state
15 register on the seventeenth day of January, one thousand nine
16 hundred ninety, relating to the division of health (asbestos
17 abatement licensing), are authorized.

18 (nn) The legislative rules filed in the state register on the
19 thirtieth day of August, one thousand nine hundred eighty-nine,
20 modified by the division of health to meet the objections of the
21 legislative rule-making review committee and refiled in the state
22 register on the seventeenth day of November, one thousand nine
23 hundred eighty-nine, relating to the division of public health
24 (AIDS-related medical testing and confidentiality), are
25 authorized.

1 (oo) The legislative rules filed in the state register on the
2 nineteenth day of December, one thousand nine hundred
3 eighty-nine, modified by the state board of health to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the twenty-fourth day of
6 January, one thousand nine hundred ninety, relating to the state
7 board of health (nursing home licensure), are authorized.

8 (pp) The legislative rules filed in the state register on the
9 nineteenth day of December, one thousand nine hundred
10 eighty-nine, relating to the state board of health (licensure of
11 behavioral health centers), are authorized.

12 (qq) The legislative rules filed in the state register on the
13 twenty-eighth day of December, one thousand nine hundred
14 eighty-nine, relating to the state board of health (methods and
15 standards for chemical test for intoxication), are authorized.

16 (rr) The legislative rules filed in the state register on the
17 twenty-third day of July, one thousand nine hundred ninety,
18 modified by the board of health to meet the objections of the
19 legislative rule-making review committee and refiled in the state
20 register on the fifth day of September, one thousand nine hundred
21 ninety, relating to the board of health (fees for permits), are
22 authorized with the amendments set forth below:

23 On page two, subsection 3.6, by striking out all of the
24 subsection and renumbering the subsequent subsections.

1 On page four, subsection 5.4, by striking out all of the
2 subsection and renumbering the subsequent subsections.

3 And,

4 On page six, Table 64-30c, by striking out Table 64-30c and
5 inserting in lieu thereof a new table, to read as follows:

6 TABLE 64-30C.

7 Individual On-Site and Innovative Alternative Type

8 Sewage System Permit Fees

9 Type of System	Fees for Permit
10 Class I (New or Modified)	\$100
11 Class II (New or Modified)	\$100
12 Home Aeration Unit	\$100

13
14 (ss) The legislative rules filed in the state register on the
15 seventh day of December, one thousand nine hundred ninety,
16 modified by the board of health to meet the objections of the
17 legislative rule-making review committee and refiled in the state
18 register on the twenty-second day of January, one thousand nine
19 hundred ninety-one, relating to the board of health (public water
20 systems, bottled water and laboratory certification), are
21 authorized.

22 (tt) The legislative rules filed in the state register on the
23 thirteenth day of December, one thousand nine hundred ninety,
24 modified by the board of health to meet the objections of the
25 legislative rule-making review committee and refiled in the state
26 register on the twenty-second day of January, one thousand nine
27 hundred ninety-one, relating to the board of health (vital
28 statistics), are authorized.

1 (uu) The legislative rules filed in the state register on the
2 seventh day of January, one thousand nine hundred ninety-one,
3 modified by the division of health to meet the objections of the
4 legislative rule-making review committee and refiled in the state
5 register on the twenty-second day of January, one thousand nine
6 hundred ninety-one, relating to the division of health (fees for
7 services), are authorized.

8 (vv) The legislative rules filed in the state register on the
9 twenty-eighth day of December, one thousand nine hundred ninety,
10 modified by the division of health to meet the objections of the
11 legislative rule-making review committee and refiled in the state
12 register on the twenty-sixth day of July, one thousand nine
13 hundred ninety-one, relating to the division of health
14 (specialized health procedures), are authorized.

15 (ww) The legislative rules filed in the state register on the
16 second day of January, one thousand nine hundred ninety-one,
17 modified by the division of health to meet the objections of the
18 legislative rule-making review committee and refiled in the state
19 register on the sixteenth day of May, one thousand nine hundred
20 ninety-one, relating to the division of health (emergency medical
21 services), are authorized.

22 (xx) The legislative rules filed in the state register on the
23 tenth day of September, one thousand nine hundred ninety-one,
24 modified by the secretary of the department of health and human
25 resources to meet the objections of the legislative rule-making

1 review committee and refiled in the state register on the third
2 day of January, one thousand nine hundred ninety-two, relating to
3 the secretary of the department of health and human resources
4 (retail food store sanitation), are authorized.

5 (yy) The Legislature hereby authorizes and directs the
6 division of health to promulgate the legislative rule relating
7 to swimming pools and bathing beaches, 64 CSR 16, effective the
8 fifth day of May, one thousand nine hundred eighty, with the
9 amendment set forth below:

10 On page five, section 11.3 by striking out the period
11 following the word "beach" and adding the following: "Provided,
12 That at hotels, motels, apartment complexes, or condominiums
13 which have swimming pools of five feet or less in depth at the
14 deepest point, employment of lifeguards is recommended but not
15 mandatory, whether or not the establishment charges an admission
16 fee (gate receipt, annual pass or membership dues). If no
17 lifeguards are employed, the management shall post a sign in a
18 prominent location near the swimming pool stating "SWIM AT YOUR
19 OWN RISK - ALL PERSONS UNDER THE AGE OF 14 MUST BE ACCOMPANIED BY
20 AN ADULT."

21 (zz) The legislative rules filed in the state register on the
22 sixteenth day of September, one thousand nine hundred ninety-two,
23 modified by the division of health to meet the objections of the
24 legislative rule-making review committee and refiled in the state
25 register on the seventeenth day of November, one thousand nine

1 hundred ninety-two, relating to the division of health (trauma
2 center or facility designation), are authorized.

3 (aaa) The legislative rules filed in the state register on
4 the second day of November, one thousand nine hundred ninety-two,
5 modified by the division of health to meet the objections of the
6 legislative rule-making review committee and refiled in the state
7 register on the nineteenth day of February, one thousand nine
8 hundred ninety-three, relating to the division of health (primary
9 care center seed money grants), are authorized.

10 (bbb) The legislative rules filed in the state register on
11 the second day of November, one thousand nine hundred ninety-two,
12 modified by the division of health to meet the objections of the
13 legislative rule-making review committee and refiled in the state
14 register on the nineteenth day of February, one thousand nine
15 hundred ninety-three, relating to the division of health (primary
16 care center uncompensated care grants), are authorized.

17 (ccc) The legislative rules filed in the state register on
18 the sixteenth day of August, one thousand nine hundred
19 ninety-three, modified by the division of health to meet the
20 objections of the legislative rule-making review committee and
21 refiled in the state register on the fifteenth day of October,
22 one thousand nine hundred ninety-three, relating to the division
23 of health (cancer registry), are authorized.

24 (ddd) The legislative rules filed in the state register on
25 the fifteenth day of August, one thousand nine hundred ninety-

1 four, modified by the division of health to meet the objections
2 of the legislative rule-making review committee and refiled in
3 the state register on the twentieth day of October, one thousand
4 nine hundred ninety-four, relating to the division of health
5 (wastewater treatment works and operators), are authorized.

6

7 NOTE: The purpose of this bill is to authorize the Division
8 of Health to promulgate legislative rules relating to wastewater
9 treatment works and operators.

10

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

105

SENATE BILL NO. 105

(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]

1
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64-5

10 A BILL to amend and reenact section two, 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 division of health to promulgate legislative rules relating
14 to wastewater treatment works and operators.

15 **Be it enacted by the Legislature of West Virginia:**

16 That section two, 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 **§64-5-2. State board of health; division of health.**

22 (a) The legislative rules filed in the state register on the
23 second day of June, one thousand nine hundred eighty-two,

1 relating to the state board of health (waste water treatment
2 works operations), are authorized.

3 (b) The legislative rules filed in the state register on the
4 second day of June, one thousand nine hundred eighty-two,
5 relating to the state board of health (laboratory reporting of
6 syphilis and gonorrhoea), are authorized.

7 (c) The legislative rules filed in the state register on the
8 second day of June, one thousand nine hundred eighty-two,
9 relating to the state board of health (public water supply
10 operators) with the modification of §11.02 as presented to the
11 legislative rule-making review committee on the ninth day of
12 November, one thousand nine hundred eighty-two, are authorized.

13 (d) The legislative rules filed in the state register on the
14 twenty-second day of October, one thousand nine hundred
15 eighty-two, relating to the state board of health (sewage
16 systems) with the modification presented to the legislative
17 rule-making review committee on the sixth day of December, one
18 thousand nine hundred eighty-two, are authorized except lines ten
19 through seventeen, page eight of the rules shall be stricken in
20 their entirety and the remaining paragraphs renumbered.

21 (e) The legislative rules filed in the state register on the
22 second day of June, one thousand nine hundred eighty-two,
23 relating to the state board of health (approval of laboratories),
24 are authorized.

1 (f) The legislative rules filed in the state register on the
2 twenty-fourth day of November, one thousand nine hundred
3 eighty-two, relating to the state board of health (permit fees),
4 are authorized.

5 (g) The legislative rules filed in the state register on the
6 third day of June, one thousand nine hundred eighty-two, relating
7 to the state board of health (certificate of need), are
8 authorized.

9 (h) The legislative rules filed in the state register on the
10 sixteenth day of August, one thousand nine hundred eighty-two,
11 relating to the state board of health (eyes of newborn children),
12 are authorized.

13 (i) The legislative rules filed in the state register on the
14 thirteenth day of August, one thousand nine hundred eighty-two,
15 and filed with amendments on the eleventh day of January, one
16 thousand nine hundred eighty-three, relating to the state board
17 of health (nursing home licensure), are authorized with the
18 amendment of §5.15.02 of those rules as set forth below:

19 By striking the word "and" at the end of subdivision (f), by
20 changing the period at the end of subdivision (g) to a semicolon,
21 and by adding the following after subdivision (g): "(h) One (1)
22 member who represents social work services."

23 (j) The legislative rules filed in the state register on the
24 twenty-fourth day of November, one thousand nine hundred
25 eighty-two, relating to the state board of health (guardianship

1 service), are authorized with the exception of section 9.3 of
2 those rules which may not be promulgated.

3 (k) The legislative rules filed in the state register on the
4 third day of June, one thousand nine hundred eighty-two, relating
5 to the state board of health (controlled substances research
6 program and certification), are authorized.

7 (l) The legislative rules filed in the state register on the
8 fifth day of November, one thousand nine hundred eighty-two,
9 relating to the state board of health (chemical test for
10 intoxication), are authorized.

11 (m) The legislative rules filed in the state register on the
12 nineteenth day of December, one thousand nine hundred
13 eighty-three, relating to the state board of health (birthing
14 center licensure), are authorized.

15 (n) The legislative rules filed in the state register on the
16 fourteenth day of November, one thousand nine hundred
17 eighty-three, relating to the state board of health (licensure of
18 behavioral health centers), are authorized with the amendment set
19 forth below:

20 Page 45, §12.8.2. In the first sentence delete the words
21 "without delay" and insert in lieu thereof the words "within
22 twenty-four hours after receiving a report of a complaint."

23 (o) The legislative rules filed in the state register on the
24 nineteenth day of December, one thousand nine hundred

1 eighty-three, relating to the state board of health (procedures
2 for recovery of corneal tissue for transplant), are authorized.

3 (p) The legislative rules filed in the state register on the
4 seventh day of September, one thousand nine hundred eighty-three,
5 relating to the state board of health (well water regulations),
6 are authorized with the amendments set forth below:

7 §4.1. In the first sentence delete the word "obtaining" and
8 insert in lieu thereof the words "applying for". In the second
9 sentence after "4.3" add "and 4.5."

10 §4.2. At the end of the second sentence, strike the period
11 and add the words "unless emergency conditions prevail as noted
12 under §4.3."

13 With the balance of §4.2 and create a new §4.3 with the
14 following changes: In the first sentence delete the word
15 "deadline" and insert in lieu thereof the word "requirements."
16 Add after the first sentence the sentence, "Emergency conditions
17 and unavoidable circumstances are those conditions involving acts
18 of God, water outages or disruption of water service,
19 unsatisfactory water quality or quantity or public health
20 threats." In the third sentence delete the word "exceed" and
21 insert in lieu thereof the words "be made in excess of."

22 Renumber §4.3 as §4.4 and add the following two sentences at
23 the end of the section: "Such standards shall constitute the
24 minimum standards for the installation, the alteration or the
25 deepening of water wells. Any plans approved by the director

1 pursuant to these regulations shall be in substantial compliance
2 with the heretofore mentioned standards."

3 Renumber §4.4 as §4.5, §4.5 as §4.6, §4.6 as §4.7, §4.7 as
4 §4.8 and §4.8 as §4.9.

5 And,

6 §5.2. Delete the words "four (4)" and insert in lieu thereof
7 the words "two (2)" and delete the words "active, continuous."

8 (q) The legislative rules filed in the state register on the
9 third day of October, one thousand nine hundred eighty-four,
10 relating to the state board of health (trauma center or facility
11 designation), are authorized.

12 (r) The legislative rules filed in the state register on the
13 twenty-first day of December, one thousand nine hundred
14 eighty-four, relating to the state board of health (reportable
15 diseases), are authorized.

16 (s) The legislative rules filed in the state register on the
17 twenty-first day of December, one thousand nine hundred
18 eighty-four, relating to the state board of health (licensure of
19 medical adult day care centers), are authorized.

20 (t) The legislative rules filed in the state register on the
21 third day of October, one thousand nine hundred eighty-four,
22 relating to the state board of health (retail food store
23 sanitation), are authorized.

24 (u) The legislative rules filed in the state register on the
25 seventeenth day of December, one thousand nine hundred

1 eighty-five, modified by the director of health to meet the
2 objections of the legislative rule-making review committee and
3 refiled in the state register on the fifteenth day of January,
4 one thousand nine hundred eighty-six, relating to the director
5 of health (adult group home licensure), are authorized.

6 (v) The legislative rules filed in the state register on the
7 twenty-ninth day of October, one thousand nine hundred
8 eighty-five, modified by the state board of health to meet the
9 objections of the legislative rule-making review committee and
10 refiled in the state register on the twenty-seventh day of
11 December, one thousand nine hundred eighty-five, relating to the
12 state board of health (licensure of hospice care programs), are
13 authorized.

14 (w) The legislative rules filed in the state register on the
15 thirty-first day of October, one thousand nine hundred
16 eighty-five, modified by the director of health to meet the
17 objections of the legislative rule-making review committee and
18 refiled in the state register on the twenty-seventh day of
19 December, one thousand nine hundred eighty-five, relating to the
20 director of health (rules governing emergency medical services),
21 are authorized with the amendments set forth below:

22 On page 3, §3.9 shall read as follows:

23 "3.9 Quorum -- When applied to the EMSAC, a majority of the
24 members thereof, except in the instance when at any meeting of
25 the EMSAC, where a quorum is not present and the director causes

1 to be deposited in the United States mail, postage prepaid,
2 return receipt requested, to each member of the EMSAC within
3 three days, a notice calling a meeting of the EMSAC at some
4 convenient place in the state of West Virginia two weeks after
5 the meeting at which no quorum was present. Quorum means any
6 number of members of the EMSAC who attend such subsequent
7 meeting. Any member missing two consecutive meetings shall be
8 removed from the EMSAC."

9 On page 6, §4.7.1 shall be deleted in its entirety;

10 And,

11 On page 7, §4.10.1 shall read as follows:

12 "4.10.1 every applicant for certification as an EMSP prior
13 to such certification, shall demonstrate his or her knowledge and
14 ability by undergoing a written examination and a demonstration
15 of skills, and by attaining a passing score on the same. Passing
16 score shall be the same for all testing programs."

17 (x) The legislative rules filed in the state register on the
18 fifth day of September, one thousand nine hundred eighty-five,
19 relating to the state department of health (revising the list of
20 hazardous substances), are authorized.

21 (y) The legislative rules filed in the state register on the
22 thirteenth day of August, one thousand nine hundred eighty-six,
23 modified by the director of the department of health to meet the
24 objections of the legislative rule-making review committee and
25 refiled in the state register on the sixteenth day of October,

1 one thousand nine hundred eighty-six, relating to the director
2 of the department of health (hazardous material treatment
3 information repository), are authorized.

4 (z) The legislative rules filed in the state register on the
5 seventeenth day of July, one thousand nine hundred eighty-six,
6 modified by the state board of health to meet the objections of
7 the legislative rule-making review committee and refiled in the
8 state register on the sixteenth day of October, one thousand nine
9 hundred eighty-six, relating to the state board of health
10 (methods and standards for chemical tests for intoxication), are
11 authorized.

12 (aa) The legislative rules filed in the state register on
13 the twenty-first day of November, one thousand nine hundred
14 eighty-six, modified by the state board of health to meet the
15 objections of the legislative rule-making review committee and
16 refiled in the state register on the twenty-third day of
17 December, one thousand nine hundred eighty-six, relating to the
18 state board of health (licensure of behavioral health centers),
19 are authorized.

20 (bb) The legislative rules filed in the state register on the
21 eighteenth day of April, one thousand nine hundred eighty-six,
22 modified by the state board of health to meet the objections of
23 the legislative rule-making review committee and refiled in the
24 state register on the seventeenth day of October, one thousand

1 nine hundred eighty-six, relating to the state board of health
2 (hospital licensure), are authorized.

3 (cc) The legislative rules filed in the state register on the
4 ninth day of December, one thousand nine hundred eighty-six,
5 modified by the state board of health to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the twenty-third day of December, one thousand
8 nine hundred eighty-six, relating to the state board of health
9 (hospital licensure and allowing hospitals to have licensed
10 hospital professionals, other than licensed physicians, on their
11 medical staff), are authorized.

12 (dd) The legislative rules filed in the state register on the
13 ninth day of December, one thousand nine hundred eighty-six,
14 modified by the state board of health to meet the objections of
15 the legislative rule-making review committee and refiled in the
16 state register on the twenty-third day of December, one thousand
17 nine hundred eighty-six, relating to the state board of health
18 (vital statistics), are authorized.

19 (ee) The legislative rules filed in the state register on the
20 eleventh day of September, one thousand nine hundred
21 eighty-seven, relating to the director of the department of
22 health (immunization criteria for transfer students), are
23 authorized.

24 (ff) The legislative rules filed in the state register on
25 the sixteenth day of November, one thousand nine hundred

1 eighty-seven, relating to the director of the department of
2 health (hazardous substances), are authorized with the amendment
3 set forth below:

4 Page 33, section 8, line 8 (unnumbered), by adding at the
5 end of section 8 the following proviso: "Provided, That the
6 owner's or operator's submissions are based on the threshold
7 reporting requirements contained in section 5, article 31,
8 chapter 16."

9 (gg) The legislative rules filed in the state register on the
10 eighteenth day of November, one thousand nine hundred
11 eighty-seven, relating to the director of the department of
12 health (trauma center or facility designation), are authorized.

13 (hh) The legislative rules filed in the state register on the
14 twenty-second day of June, one thousand nine hundred
15 eighty-eight, modified by the state board of health to meet the
16 objections of the legislative rule-making review committee and
17 refiled in the state register on the fifteenth day of September,
18 one thousand nine hundred eighty-eight, relating to the state
19 board of health (licensure of hospice care programs), are
20 authorized.

21 (ii) The legislative rules filed in the state register on the
22 fifteenth day of September, one thousand nine hundred
23 eighty-eight, modified by the state board of health to meet the
24 objections of the legislative rule-making review committee and
25 refiled in the state register on the third day of November, one

1 thousand nine hundred eighty-eight, relating to the state board
2 of health (water wells), are authorized with the amendment set
3 forth below:

4 On page 2, §3.8, shall read as follows:

5 "3.8 Water Well -- Any excavation or penetration in the
6 ground, whether drilled, bored, cored, driven or jetted that
7 enters or passes through an aquifer for purposes that may
8 include, but are not limited to: A water supply, exploration for
9 water, dewatering or heat pump wells, except that this definition
10 shall not include ground water monitoring activities and all
11 activities for the exploration, development, production, storage
12 and recovery of coal, oil and gas and other mineral resources
13 which are regulated under chapter 22, 22a or 22b of the code."

14 (jj) The legislative rules filed in the state register on the
15 twenty-second day of June, one thousand nine hundred
16 eighty-eight, modified by the state board of health to meet the
17 objections of the legislative rule-making review committee and
18 refiled in the state register on the fifteenth day of September,
19 one thousand nine hundred eighty-eight, relating to the state
20 board of health (plumbing requirements), are authorized.

21 (kk) The legislative rules filed in the state register on the
22 twenty-second day of June, one thousand nine hundred
23 eighty-eight, modified by the state board of health to meet the
24 objections of the legislative rule-making review committee and
25 refiled in the state register on the fifteenth day of September,

1 one thousand nine hundred eighty-eight, relating to the state
2 board of health (public water supply operators), are authorized.

3 (ll) The legislative rules filed in the state register on the
4 nineteenth day of October, one thousand nine hundred
5 eighty-eight, modified by the state board of health to meet the
6 objections of the legislative rule-making review committee and
7 refiled in the state register on the twentieth day of December,
8 one thousand nine hundred eighty-eight, relating to the state
9 board of health (volatile synthetic organic chemicals), are
10 authorized.

11 (mm) The legislative rules filed in the state register on the
12 second day of January, one thousand nine hundred ninety, modified
13 by the division of health to meet the objections of the
14 legislative rule-making review committee and refiled in the state
15 register on the seventeenth day of January, one thousand nine
16 hundred ninety, relating to the division of health (asbestos
17 abatement licensing), are authorized.

18 (nn) The legislative rules filed in the state register on the
19 thirtieth day of August, one thousand nine hundred eighty-nine,
20 modified by the division of health to meet the objections of the
21 legislative rule-making review committee and refiled in the state
22 register on the seventeenth day of November, one thousand nine
23 hundred eighty-nine, relating to the division of public health
24 (AIDS-related medical testing and confidentiality), are
25 authorized.

1 (oo) The legislative rules filed in the state register on the
2 nineteenth day of December, one thousand nine hundred
3 eighty-nine, modified by the state board of health to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the twenty-fourth day of
6 January, one thousand nine hundred ninety, relating to the state
7 board of health (nursing home licensure), are authorized.

8 (pp) The legislative rules filed in the state register on the
9 nineteenth day of December, one thousand nine hundred
10 eighty-nine, relating to the state board of health (licensure of
11 behavioral health centers), are authorized.

12 (qq) The legislative rules filed in the state register on the
13 twenty-eighth day of December, one thousand nine hundred
14 eighty-nine, relating to the state board of health (methods and
15 standards for chemical test for intoxication), are authorized.

16 (rr) The legislative rules filed in the state register on the
17 twenty-third day of July, one thousand nine hundred ninety,
18 modified by the board of health to meet the objections of the
19 legislative rule-making review committee and refiled in the state
20 register on the fifth day of September, one thousand nine hundred
21 ninety, relating to the board of health (fees for permits), are
22 authorized with the amendments set forth below:

23 On page two, subsection 3.6, by striking out all of the
24 subsection and renumbering the subsequent subsections.

1 On page four, subsection 5.4, by striking out all of the
2 subsection and renumbering the subsequent subsections.

3 And,

4 On page six, Table 64-30c, by striking out Table 64-30c and
5 inserting in lieu thereof a new table, to read as follows:

6 TABLE 64-30C.

7 Individual On-Site and Innovative Alternative Type

8 Sewage System Permit Fees

9 Type of System	Fees for Permit
10 Class I (New or Modified)	\$100
11 Class II (New or Modified)	\$100
12 Home Aeration Unit	\$100

13
14 (ss) The legislative rules filed in the state register on the
15 seventh day of December, one thousand nine hundred ninety,
16 modified by the board of health to meet the objections of the
17 legislative rule-making review committee and refiled in the state
18 register on the twenty-second day of January, one thousand nine
19 hundred ninety-one, relating to the board of health (public water
20 systems, bottled water and laboratory certification), are
21 authorized.

22 (tt) The legislative rules filed in the state register on the
23 thirteenth day of December, one thousand nine hundred ninety,
24 modified by the board of health to meet the objections of the
25 legislative rule-making review committee and refiled in the state
26 register on the twenty-second day of January, one thousand nine
27 hundred ninety-one, relating to the board of health (vital
28 statistics), are authorized.

1 (uu) The legislative rules filed in the state register on the
2 seventh day of January, one thousand nine hundred ninety-one,
3 modified by the division of health to meet the objections of the
4 legislative rule-making review committee and refiled in the state
5 register on the twenty-second day of January, one thousand nine
6 hundred ninety-one, relating to the division of health (fees for
7 services), are authorized.

8 (vv) The legislative rules filed in the state register on the
9 twenty-eighth day of December, one thousand nine hundred ninety,
10 modified by the division of health to meet the objections of the
11 legislative rule-making review committee and refiled in the state
12 register on the twenty-sixth day of July, one thousand nine
13 hundred ninety-one, relating to the division of health
14 (specialized health procedures), are authorized.

15 (wv) The legislative rules filed in the state register on the
16 second day of January, one thousand nine hundred ninety-one,
17 modified by the division of health to meet the objections of the
18 legislative rule-making review committee and refiled in the state
19 register on the sixteenth day of May, one thousand nine hundred
20 ninety-one, relating to the division of health (emergency medical
21 services), are authorized.

22 (xx) The legislative rules filed in the state register on the
23 tenth day of September, one thousand nine hundred ninety-one,
24 modified by the secretary of the department of health and human
25 resources to meet the objections of the legislative rule-making

1 review committee and refiled in the state register on the third
2 day of January, one thousand nine hundred ninety-two, relating to
3 the secretary of the department of health and human resources
4 (retail food store sanitation), are authorized.

5 (yy) The Legislature hereby authorizes and directs the
6 division of health to promulgate the legislative rule relating
7 to swimming pools and bathing beaches, 64 CSR 16, effective the
8 fifth day of May, one thousand nine hundred eighty, with the
9 amendment set forth below:

10 On page five, section 11.3 by striking out the period
11 following the word "beach" and adding the following: "Provided,
12 That at hotels, motels, apartment complexes, or condominiums
13 which have swimming pools of five feet or less in depth at the
14 deepest point, employment of lifeguards is recommended but not
15 mandatory, whether or not the establishment charges an admission
16 fee (gate receipt, annual pass or membership dues). If no
17 lifeguards are employed, the management shall post a sign in a
18 prominent location near the swimming pool stating "SWIM AT YOUR
19 OWN RISK - ALL PERSONS UNDER THE AGE OF 14 MUST BE ACCOMPANIED BY
20 AN ADULT."

21 (zz) The legislative rules filed in the state register on the
22 sixteenth day of September, one thousand nine hundred ninety-two,
23 modified by the division of health to meet the objections of the
24 legislative rule-making review committee and refiled in the state
25 register on the seventeenth day of November, one thousand nine

1 hundred ninety-two, relating to the division of health (trauma
2 center or facility designation), are authorized.

3 (aaa) The legislative rules filed in the state register on
4 the second day of November, one thousand nine hundred ninety-two,
5 modified by the division of health to meet the objections of the
6 legislative rule-making review committee and refiled in the state
7 register on the nineteenth day of February, one thousand nine
8 hundred ninety-three, relating to the division of health (primary
9 care center seed money grants), are authorized.

10 (bbb) The legislative rules filed in the state register on
11 the second day of November, one thousand nine hundred ninety-two,
12 modified by the division of health to meet the objections of the
13 legislative rule-making review committee and refiled in the state
14 register on the nineteenth day of February, one thousand nine
15 hundred ninety-three, relating to the division of health (primary
16 care center uncompensated care grants), are authorized.

17 (ccc) The legislative rules filed in the state register on
18 the sixteenth day of August, one thousand nine hundred
19 ninety-three, modified by the division of health to meet the
20 objections of the legislative rule-making review committee and
21 refiled in the state register on the fifteenth day of October,
22 one thousand nine hundred ninety-three, relating to the division
23 of health (cancer registry), are authorized.

24 (ddd) The legislative rules filed in the state register on
25 the fifteenth day of August, one thousand nine hundred ninety-

1 four, modified by the division of health to meet the objections
2 of the legislative rule-making review committee and refiled in
3 the state register on the twentieth day of October, one thousand
4 nine hundred ninety-four, relating to the division of health
5 (wastewater treatment works and operators), are authorized.

6

7 NOTE: The purpose of this bill is to authorize the Division
8 of Health to promulgate legislative rules relating to wastewater
9 treatment works and operators.

10

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



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SECRETARY OF STATE

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March 23, 1995

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

SB 105 authorizing, Title 64, Series 5, Wastewater Treatment Works Operator, 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 **64-5-1**. 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