

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

Form #6

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**FILED**  
JUN 24 3 00 PM '93  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: Agriculture TITLE NUMBER: 61

AMENDMENT TO AN EXISTING RULE: YES\_\_\_, NO \_\_\_

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 6C

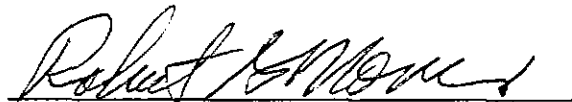
TITLE OF RULE BEING PROPOSED: General Groundwater Protection Rules  
for Fertilizer and Manures

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

AUTHORIZATION IS CITED IN (house or senate bill number) House Bill 100

SECTION 64-9-1(11), PASSED ON May 26, 1993

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: July 1, 1993



3.60

TITLE 61  
LEGISLATIVE RULE  
STATE DEPARTMENT OF AGRICULTURE

SERIES 6C  
GENERAL GROUNDWATER PROTECTION RULES FOR FERTILIZER AND MANURES

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§61-6C-1. General.

1.1. Scope - The rules establish practices to prevent or minimize the entry of nutrients from fertilizers and manures into groundwater while maintaining and improving the soil and plant resources of this state.

1.2. Authority - Code of West Virginia 20-5M-5-c.

1.3. Filing Date - September 15, 1992

1.4. Effective Date - July 1, 1993

1.5. This is a new legislative rule.

§61-6C-2. Incorporation by Reference.

2.1. The following documents are adopted in their entirety:

2.1.a. Generic State Management Plan for Pesticides and Fertilizers in Groundwater, (November 1, 1992) WV61CSR 22 et seq.

2.1.b. Water Well Design Standards WV 64 CSR 46 et seq. (effective 6-8-84).

2.1.c. Soil Conservation Service Field Office Technical Guide as supplemented by the West Virginia Soil Conservation Committee (access number PB85-2444661AS) (current version at effective date of this rule).

2.1.d. Best Management Practices for Fertilizers and Manures WV 61 CSR 22B et seq. (December 6, 1992).

§61-6C-3. Definitions.

3.1. "Animal unit" means a unit of measurement calculated by adding the following numbers: the number of slaughter and feeder

cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

3.2. "Best Management Practices" means activities, procedures and practices to prevent or remedy the introduction of fertilizer or manure residues into groundwater to the extent technically feasible and economically practical. Best Management Practices are designed to maintain the health and long-term productivity of the soil, water and related plant and animal resources and to minimize the threat of soil, waste and nutrient contamination to the waters of the state.

3.3. "Commissioner" means the commissioner of agriculture of the state of West Virginia or his or her duly authorized agent.

3.4. "Department" means the West Virginia Department of Agriculture.

3.5. "Feedlot" means a lot or facility (other than an aquatic animal production facility) where the following conditions are met: 1.) animals (other than aquatic animals) have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and 2.) crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered, for the purposes of these rules, to be a single feedlot if they adjoin each other or if they use a common area or system for the disposal of wastes.

3.6. "Fertilizer" means any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes and gypsum, and other products exempted by regulation of the commissioner.

3.7. "Manure" means any substance composed of excreta of animals, other than man, and may include bedding or other materials normally associated with the substance as well as water associated with or added to the substance.

3.8. "Non-point source" means a diffuse source of substances that have the potential to impair the beneficial uses of groundwater resulting from activities over a relatively large area, the effects of which must normally be addressed or controlled by a management or conservation practice.

3.9. "Point source" means a source of substances that have

the potential to impair the beneficial uses of groundwater resulting from an activity over a small area and generally is limited to mixing, loading and storage sites or feedlots. A source is not considered a point source until a discharge of substances occurs.

#### §61-6C-4. Program and Policy Statements.

4.1. The commissioner shall encourage the education of all users of fertilizers and manures so that they have the knowledge and technical means to respond independently and voluntarily in addressing environmental concerns. The commissioner will encourage the development of training and educational programs for persons who make recommendations for the application rates for fertilizers and manures and for those persons who apply fertilizers and manures.

4.2. The commissioner shall support the development of financial incentives for the implementation of best management practices and will instruct potential users of these incentives of the availability of the programs.

4.3. The commissioner may develop mandatory best management practices by rule, in accordance with the provisions of Chapter 29A, Article 1 of this code, for the application and use of fertilizers or manures when valid groundwater data indicates that chemicals from fertilizers or manures are contaminating the groundwater and when scientific knowledge develops to indicate that the mandatory best management practices will be effective in the protection of groundwater.

4.4. The commissioner shall take action to promulgate rules to make some or all of the voluntary best management practices mandatory in a portion or all of the state when the monitoring program indicates that the chemical concentrations of residues from fertilizers or manures in groundwater are increasing or other valid data shows that contamination exceeding the water quality standards have occurred. A change in technology or methodology that lowers the detection limits and thus changes the amount of pollutant detected shall not be interpreted as showing an increase in chemical concentration of a particular residue. The commissioner shall utilize data averaged from at least four samples over a one year period to determine if the water quality standards have been exceeded or there is a trend of increasing concentrations of the chemical residue from fertilizers or manures.

4.5. The commissioner shall review the voluntary and mandatory programs every 5 years to determine the effectiveness of the programs and will effect change in the programs if the voluntary and/or mandatory programs are not effective or if the current best available technology needs to be incorporated into

these programs.

§61-6C-5. Powers and duties of commissioner.

5.1. The commissioner:

5.1.a. may enter and inspect, during reasonable hours, any location where fertilizers or manures are manufactured, distributed, transported, stored or used, and where records relating to the storage, manufacture, distribution, shipment, labeling or use of fertilizers or manures are kept;

5.1.b. may coordinate the sampling and inspection program with all other groundwater regulatory agencies within the framework of the Department of Environmental Protection, Division of Natural Resources state groundwater management strategy and their rules relating to monitoring and analysis of groundwater;

5.1.c. shall utilize the Department of Environmental Protection, Division of Natural Resources data management system for data on groundwater;

5.1.d. shall conduct a study to determine the cause of contamination, assess remediation options for the situation, and notify the groundwater user(s) or owner(s), if known to the commissioner, when contamination is predicted or is known to be occurring due to the residues of fertilizers or manures;

5.1.e. shall share data with other federal and state agencies for their evaluation and further investigation;

5.1.f. shall promote the protection of groundwater from fertilizers or manures through public education programs;

5.1.g. shall encourage, participate in, conduct or cause to be conducted studies on the environmental impact of the use of fertilizers and manures on the groundwater of this state, as well as ecologically and economically sound fertilizer and manure use and application practices;

5.1.h. shall collect and expend moneys under the terms of this rule as provided by WV Code §20-5M-1 et seq.;

5.1.i. may cooperate and enter into agreements with governmental agencies of this state or other states, agencies of the federal government and foreign governments, and private associations in order to carry out the purpose and provisions of this rule;

5.1.j. shall make reports and recommendations to the Groundwater Coordinating Committee or to the legislature as needed

to further the protection of groundwater in this state;

5.1.k. shall maintain a testing laboratory or contract with other laboratories for testing;

5.1.l. may conduct hearings, assess civil administrative penalties, seek injunctive relief and issue orders in accordance with §20-5M-10.

5.1.m. shall promulgate additional rules as necessary to protect groundwater within statutory mandates that may include, but is not limited to, permitting, licensing and certification, facility design, operational management, closure, remediation and monitoring of water quality.

#### §61-6C-6. Protection of groundwater from point sources.

6.1. Any person storing fluid bulk fertilizers in undivided quantities in excess of five thousand (5,000) U.S. gallons or dry bulk fertilizers in undivided quantities exceeding 25 tons shall comply with the rules for Primary and Secondary Containment of Fertilizers (WV 61 CSR 6B) in addition to these rules. For purposes of this rule, the term "undivided" indicates the total amount of product stored at the facility which may be divided into several storage containers.

6.2. Any person maintaining more than the number of animals in a feedlot as listed in this subsection shall submit a Nutrient Management Plan to the commissioner within 2 years of the effective date of these rules and shall implement the plan within 3 years of the development of the Nutrient Management Plan. The Nutrient Management Plan is specified in the Nutrient Management Standard Practice #590 of the Soil Conservation Service Field Office Technical Guide.

6.2.a. Number of animals maintained: 1,000 slaughter or feeder cattle; 700 mature dairy cattle (whether milked or dry cows); 2,500 swine each weighing over 25 kilograms (approximately 55 pounds); 500 horses; 10,000 sheep or lambs; 55,000 turkeys; 100,000 laying hens or broilers (if the facility has continuous overflow watering); 30,000 laying hens or broilers (if the facility has a liquid manure handling system); 5,000 ducks; or 1,000 animal units.

6.3. Any person maintaining more than the number of animals in a feedlot as listed in this subsection in an area where the potential for impairment of existing groundwater quality is high from the storage of manure; such as in a karst limestone area, in an area with sandy soils, in a location within 100 ft of an open portal of a sinkhole or within 100 ft of wells that do not meet the Water Well Design Standards set by WV 64 CSR 46 et seq.; shall

submit to the commissioner a Nutrient Management Plan within 5 years of the effective date of these rules and shall implement the plan within 5 years of the development of the Nutrient Management Plan.

6.3.a. Number of animals maintained: 300 slaughter or feeder cattle; 200 mature dairy cattle (whether milked or dry cows); 750 swine each weighing over 25 kilograms (approximately 55 pounds); 150 horses; 3,000 sheep or lambs; 16,500 turkeys; 30,000 laying hens or broilers (if the facility has continuous overflow watering); 9,000 laying hens or broilers (if the facility has a liquid manure handling system); 1,500 ducks; or 300 animal units.

6.4. Any person storing an amount of manure in a defined area generated by the number of animals specified in Sections 6.2.a. or 6.3.a. for a period of 45 days or more in a 12 month period even if the person does not meet the other criteria of a feedlot shall comply with the applicable provisions of sections 6.2. and 6.3, except that this Section will not be construed to apply to the normal practice of pasturing animals.

#### §61-6C-7. Remediation.

7.1. The commissioner has the authority pursuant to §20-5M et seq. to order persons to conduct remedial actions when issuing an order. When issuing an order pursuant to §20-5M-10, the commissioner may:

7.1.a. encourage agreements for investigation and cleanups in appropriate cases;

7.1.b. use permanent solutions to the maximum extent practical to correct groundwater contamination where possible;

7.1.c. not allow for dilution and dispersion of the contaminant if active remedial measures are technically and economically feasible; and

7.1.d. specify which parameters will be tested in a monitoring program in order to demonstrate control and containment.

#### §61-6C-8. Hearings, penalties, orders, and injunctive relief.

8.1. The commissioner may conduct hearings, assess civil administrative penalties, seek injunctive relief and issue orders in accordance with §20-5M-10 and §20-5M-11.

8.2. When determining the assessment of penalties pursuant to §20-5M et seq., the commissioner may consider the following factors:

8.2.a. the extent of harm to the public health, the environment, or the beneficial use of the groundwater;

8.2.b. the burden and fairness of requiring a person to bear the loss;

8.2.c. the person's history of compliance that may indicate continued noncompliance or disregard for compliance;

8.2.d. the person's knowledge of the rules and regulations that were violated; and

8.2.e. activities that were conducted in a negligent, reckless or intentional manner, where negligence means a failure to exercise reasonable care.

TITLE 61  
LEGISLATIVE RULE  
DEPARTMENT OF AGRICULTURE

SERIES 6C  
GENERAL GROUNDWATER PROTECTION  
RULES FOR FERTILIZER AND MANURES

**§61-6C-1. General.**

1.1. Scope. -- The rules establish practices to prevent or minimize the entry of nutrients from fertilizers and manures into groundwater while maintaining and improving the soil and plant resources of this state.

1.2. Authority. -- W. Va. Code §20-5M-5-c.

1.3. Filing Date. -- June 24, 1993

1.4. Effective Date. -- July 1, 1993

**§61-6C-2. Incorporation by Reference.**

2.1. The following documents are adopted in their entirety:

2.1.1. Generic State Management Plan for Pesticides and Fertilizers in Groundwater, (November 1, 1992) WV 61 CSR 22 et seq.

2.1.2. Water Well Design Standards WV 64 CSR 46 et seq. (effective 6-8-84).

2.1.3. Soil Conservation Service Field Office Technical Guide as supplemented by the West Virginia Soil Conservation Committee (access number PB85-2444661AS) (current version at effective date of this rule).

2.1.4. Best Management Practices for Fertilizers and Manures WV 61 CSR 22B et seq. (December 6, 1992).

**§61-6C-3. Definitions.**

3.1. "Animal unit" means a unit of measurement calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of

mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

3.2. "Best Management Practices" means activities, procedures and practices to prevent or remedy the introduction of fertilizer or manure residues into groundwater to the extent technically feasible and economically practical. Best Management Practices are designed to maintain the health and long-term productivity of the soil, water and related plant and animal resources and to minimize the threat of soil, waste and nutrient contamination to the waters of the state.

3.3. "Commissioner" means the commissioner of agriculture of the state of West Virginia or his or her duly authorized agent.

3.4. "Department" means the West Virginia Department of Agriculture.

3.5. "Feedlot" means a lot or facility (other than an aquatic animal production facility) where the following conditions are met: 1.) animals (other than aquatic animals) have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and 2.) crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered, for the purposes of these rules, to be a single feedlot if they adjoin each other or if they use a common area or system for the disposal of wastes.

3.6. "Fertilizer" means any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes and gypsum, and other products exempted by regulation of the commissioner.

3.7. "Manure" means any substance composed of excreta of animals, other than man, and may include bedding or other materials normally associated with the substance as well as water associated with or added to the substance.

3.8. "Non-point source" means a diffuse source of substances that have the potential to impair the beneficial uses of groundwater resulting from activities over a relatively large area, the effects of which must normally be addressed or controlled by a management or conservation practice.

3.9. "Point source" means a source of substances that have the potential to impair the beneficial uses of groundwater resulting from an activity over a small area and generally is limited to mixing, loading and storage sites or feedlots. A source is not considered a point source until a discharge of substances occurs.

#### **§61-6C-4. Program and Policy Statements.**

4.1. The commissioner shall encourage the education of all users of fertilizers and manures so that they have the knowledge and technical means to respond independently and voluntarily in addressing environmental concerns. The commissioner will encourage the development of training and educational programs for persons who make recommendations for the application rates for fertilizers and manures and for those persons who apply fertilizers and manures.

4.2. The commissioner shall support the development of financial incentives for the implementation of best management practices and will instruct potential users of these incentives of the availability of the programs.

4.3. The commissioner may develop mandatory best management practices by rule, in accordance with the provisions of Chapter 29A, Article 1 of the W. Va. Code, for the application and use of fertilizers or manures when valid groundwater data indicates that chemicals from fertilizers or manures are contaminating the groundwater and when scientific knowledge develops to indicate that the mandatory best management practices will be effective in the protection of groundwater.

4.4. The commissioner shall take action to promulgate rules to make some or all of the voluntary best management practices mandatory in a portion or all of the state when the monitoring program indicates that the chemical concentrations of residues from fertilizers or manures in groundwater are increasing or other valid data shows that contamination exceeding the water quality standards have occurred. A change in technology or methodology that lowers the detection limits and thus changes the amount of pollutant detected shall not be interpreted as showing an increase in chemical concentration of a particular residue. The commissioner shall utilize data averaged from at least four samples over a one year period to determine if the water quality standards have been exceeded or there is a trend of increasing concentrations of the chemical residue from fertilizers or manures.

4.5. The commissioner shall review the voluntary and mandatory programs every 5 years to determine the effectiveness of the programs and will effect change in the programs if the voluntary and/or mandatory programs are not effective or if the current best available technology needs to be incorporated into these programs.

#### **§61-6C-5. Powers and Duties of Commissioner.**

5.1. The commissioner:

5.1.1. may enter and inspect, during reasonable hours, any location where fertilizers or manures are manufactured, distributed, transported, stored or used, and where records relating to the storage, manufacture,

distribution, shipment, labeling or use of fertilizers or manures are kept;

5.1.2. may coordinate the sampling and inspection program with all other groundwater regulatory agencies within the framework of the Department of Environmental Protection, Division of Natural Resources state groundwater management strategy and their rules relating to monitoring and analysis of groundwater;

5.1.3. shall utilize the Department of Environmental Protection, Division of Natural Resources data management system for data on groundwater;

5.1.4. shall conduct a study to determine the cause of contamination, assess remediation options for the situation, and notify the groundwater user(s) or owner(s), if known to the commissioner, when contamination is predicted or is known to be occurring due to the residues of fertilizers or manures;

5.1.5. shall share data with other federal and state agencies for their evaluation and further investigation;

5.1.6. shall promote the protection of groundwater from fertilizers or manures through public education programs;

5.1.7. shall encourage, participate in, conduct or cause to be conducted studies on the environmental impact of the use of fertilizers and manures on the groundwater of this state, as well as ecologically and economically sound fertilizer and manure use and application practices;

5.1.8. shall collect and expend moneys under the terms of this rule as provided by WV Code 20-5M-1 et seq.;

5.1.9. may cooperate and enter into agreements with governmental agencies of this state or other states, agencies of the federal government and foreign governments, and private associations in order to carry out the purpose and provisions of this rule;

5.1.10. shall make reports and recommendations to the Groundwater Coordinating Committee or to the legislature as needed to further the protection of groundwater in this state;

5.1.11. shall maintain a testing laboratory or contract with other laboratories for testing;

5.1.12. may conduct hearings, assess civil administrative penalties, seek injunctive relief and issue orders in accordance with W. Va. Code §20-5M-10.

5.1.13. shall promulgate additional rules as necessary to protect groundwater within statutory mandates that may include, but is not limited to, permitting, licensing and certification, facility design, operational management, closure, remediation and monitoring of water quality.

**§61-6C-6. Protection of groundwater from point sources.**

6.1. Any person storing fluid bulk fertilizers in undivided quantities in excess of five thousand (5,000) U.S. gallons or dry bulk fertilizers in undivided quantities exceeding 25 tons shall comply with the rules for Primary and Secondary Containment of Fertilizers (WV 61 CSR 6B) in addition to these rules. For purposes of this rule, the term "undivided" indicates the total amount of product stored at the facility which may be divided into several storage containers.

6.2. Any person maintaining more than the number of animals in a feedlot as listed in this subsection shall submit a Nutrient Management Plan to the commissioner within 2 years of the effective date of these rules and shall implement the plan within 3 years of the development of the Nutrient Management Plan. The Nutrient Management Plan is specified in the Nutrient Management Standard Practice #590 of the Soil Conservation Service Field Office Technical Guide.

6.2.1. Number of animals maintained: 1,000 slaughter or feeder cattle; 700 mature dairy cattle (whether milked or dry cows); 2,500 swine each weighing over 25 kilograms (approximately 55 pounds); 500 horses; 10,000 sheep or lambs; 55,000 turkeys; 100,000 laying hens or broilers (if the facility has continuous overflow watering); 30,000 laying hens or broilers (if the facility has a liquid manure handling system); 5,000 ducks; or 1,000 animal units.

6.3. Any person maintaining more than the number of animals in a feedlot as listed in this subsection in an area where the potential for impairment of existing groundwater quality is high from the storage of manure; such as in a karst limestone area, in an area with sandy soils, in a location within 100 ft of an open portal of a sinkhole or within 100 ft of wells that do not meet the Water Well Design Standards set by WV 64 CSR 46 et seq.; shall submit to the commissioner a Nutrient Management Plan within 5 years of the effective date of these rules and shall implement the plan within 5 years of the development of the Nutrient Management Plan.

6.3.1. Number of animals maintained: 300 slaughter or feeder cattle; 200 mature dairy cattle (whether milked or dry cows); 750 swine each weighing over 25 kilograms (approximately 55 pounds); 150 horses; 3,000 sheep or lambs; 16,500 turkeys; 30,000 laying hens or broilers (if the facility has continuous overflow watering); 9,000 laying hens or broilers (if the facility has a liquid manure handling system); 1,500 ducks; or 300 animal units.

6.4. Any person storing an amount of manure in a defined area generated by the number of animals specified in Sections 6.2.1 or 6.3.1 for a period of 45 days or more in a 12 month period even if the person does not meet the other criteria of a feedlot shall comply with the applicable provisions of sections 6.2 and 6.3, except that this Section will not be construed to apply to the normal practice of pasturing animals.

#### **§61-6C-7. Remediation.**

7.1. The commissioner has the authority pursuant to W. Va. Code §20-5M et seq. to order persons to conduct remedial actions when issuing an order. When issuing an order pursuant to W. Va. Code §20-5M-10, the commissioner may:


7.1.1. encourage agreements for investigation and cleanups in appropriate cases;

7.1.2. use permanent solutions to the maximum extent practical to correct groundwater contamination where possible;

7.1.3. not allow for dilution and dispersion of the contaminant if active remedial measures are technically and economically feasible; and

7.1.4. specify which parameters will be tested in a monitoring program in order to demonstrate control and containment.

#### **§61-6C-8. Hearings, Penalties, Orders, and Injunctive Relief.**

8.1. The commissioner may conduct hearings, assess civil administrative penalties, seek injunctive relief and issue orders in accordance with W. Va. Code §§20-5M-10 and 20-5M-11. 

8.2. When determining the assessment of penalties pursuant to W. Va. Code §20-5M et seq., the commissioner may consider the following factors:

8.2.1. the extent of harm to the public health, the environment, or the beneficial use of the groundwater;

8.2.2. the burden and fairness of requiring a person to bear the loss;

8.2.3. the person's history of compliance that may indicate continued noncompliance or disregard for compliance;

8.2.4. the person's knowledge of the rules and regulations that were violated; and

8.2.5. activities that were conducted in a negligent, reckless or intentional manner, where negligence means a failure to exercise reasonable care.

SENATE BILL NO. 226

Bill- (By Senator Manchin

1 [Introduced March 1, 1993; referred to the  
2 Committee on Agriculture; and then to the  
3 Committee on the Judiciary.]  
4  
5  
6  
7  
8  
9

10 A BILL to amend and reenact section one, article nine, chapter  
11 sixty-four of the code of West Virginia, one thousand nine  
12 hundred thirty-one, as amended, relating to authorizing the  
13 commissioner of agriculture to promulgate legislative rules  
14 relating to general groundwater protection rules for  
15 fertilizers and manures.

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

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

20 **ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS**  
21 **TO PROMULGATE LEGISLATIVE RULES.**

22 **§64-9-1. Commissioner of agriculture.**

23 (a) The legislative rules filed in the state register on the  
24 sixth day of April, one thousand nine hundred eighty-three,

1 relating to the commissioner of agriculture (schedule of charges  
2 for inspection services: fruit), are authorized.

3 (b) The legislative rules filed in the state register on the  
4 third day of August, one thousand nine hundred eighty-three,  
5 relating to the commissioner of agriculture (licensing of  
6 auctioneers), are authorized.

7 (c) The legislative rules filed in the state register on the  
8 eighth day of February, one thousand nine hundred eighty-four,  
9 relating to the commissioner of agriculture (conduct of beef  
10 industry self-improvement assessment program referendum), are  
11 authorized.

12 (d) The legislative rules filed in the state register on the  
13 fourth day of June, one thousand nine hundred eighty-four,  
14 relating to the commissioner of agriculture (feeding untreated  
15 garbage to swine), are authorized.

16 (e) The legislative rules filed in the state register on the  
17 fourth day of June, one thousand nine hundred eighty-four,  
18 relating to the commissioner of agriculture (registration,  
19 taxation and control of dogs), are authorized.

20 (f) The legislative rules filed in the state register on the  
21 first day of November, one thousand nine hundred eighty-four,  
22 relating to the commissioner of agriculture (public markets), are  
23 authorized.

24 (g) The legislative rules filed in the state register on the  
25 tenth day of September, one thousand nine hundred eighty-four,

1 relating to the commissioner of agriculture (noxious weed rules),  
2 are authorized.

3 (h) The legislative rules filed in the state register on the  
4 fourth day of June, one thousand nine hundred eighty-four,  
5 relating to the commissioner of agriculture (animal disease  
6 control), are authorized.

7 (i) The legislative rules filed in the state register on the  
8 fifth day of January, one thousand nine hundred eighty-four,  
9 relating to the commissioner of agriculture (use of certain  
10 picloram products), are authorized.

11 (j) The legislative rules filed in the state register on the  
12 eighth day of March, one thousand nine hundred eighty-five,  
13 relating to the commissioner of agriculture (increasing certain  
14 fees by rules and regulations), are authorized.

15 (k) The legislative rules filed in the state register on the  
16 thirteenth day of January, one thousand nine hundred eighty-six,  
17 modified by the commissioner of agriculture to meet the  
18 objections of the legislative rule-making review committee and  
19 refiled in the state register on the thirty-first day of January,  
20 one thousand nine hundred eighty-six, relating to the  
21 commissioner of agriculture (licensing of livestock dealers), are  
22 authorized.

23 (l) The legislative rules filed in the state register on the  
24 eighteenth day of June, one thousand nine hundred eighty-six,  
25 modified by the commissioner of agriculture to meet the

1 objections of the legislative rule-making review committee and  
2 refiled in the state register on the fifth day of January, one  
3 thousand nine hundred eighty-seven, relating to the commissioner  
4 of agriculture (West Virginia pesticide use and application act),  
5 are authorized.

6 (m) The legislative rules filed in the state register on the  
7 eighteenth day of August, one thousand nine hundred eighty-six,  
8 modified by the director of the division of forestry of the  
9 department of agriculture to meet the objections of the  
10 legislative rule-making review committee and refiled in the state  
11 register on the fifth day of January, one thousand nine hundred  
12 eighty-seven, relating to the director of the division of  
13 forestry of the department of agriculture (ginseng), are  
14 authorized.

15 (n) The legislative rules filed in the state register on the  
16 tenth day of April, one thousand nine hundred eighty-seven,  
17 relating to the commissioner of agriculture (schedule of charges  
18 for inspection services: fruit), are authorized.

19 (o) The legislative rules filed in the state register on the  
20 thirteenth day of August, one thousand nine hundred eighty-seven,  
21 modified by the commissioner of agriculture to meet the  
22 objections of the legislative rule-making review committee and  
23 refiled in the state register on the eighth day of September, one  
24 thousand nine hundred eighty-seven, relating to the commissioner  
25 of agriculture (animal disease control), are authorized.

1 (p) The legislative rules filed in the state register on the  
2 fifteenth day of September, one thousand nine hundred  
3 eighty-eight, relating to the commissioner of agriculture (sale  
4 and distribution of commercial fertilizer), are authorized.

5 (q) The legislative rules filed in the state register on the  
6 fifteenth day of September, one thousand nine hundred  
7 eighty-eight, modified by the commissioner of agriculture to meet  
8 the objections of the legislative rule-making review committee  
9 and refiled in the state register on the twenty-sixth day of  
10 October, one thousand nine hundred eighty-eight, relating to the  
11 commissioner of agriculture (animal disease control), are  
12 authorized.

13 (r) The legislative rules filed in the state register on the  
14 fifteenth day of May, one thousand nine hundred eighty-nine,  
15 modified by the commissioner of agriculture to meet the  
16 objections of the legislative rule-making review committee and  
17 refiled in the state register on the twenty-first day of August,  
18 one thousand nine hundred eighty-nine, relating to the  
19 commissioner of agriculture (production of milk and cream for  
20 manufacturing purposes), are authorized.

21 (s) The legislative rules filed in the state register on the  
22 seventh day of August, one thousand nine hundred eighty-nine,  
23 modified by the commissioner of agriculture to meet the  
24 objections of the legislative rule-making review committee and  
25 refiled in the state register on the twenty-third day of October,

1 one thousand nine hundred eighty-nine, relating to the  
2 commissioner of agriculture (animal disease control), are  
3 authorized.

4 (t) The legislative rules filed in the state register on the  
5 tenth day of August, one thousand nine hundred ninety, modified  
6 by the commissioner of agriculture to meet the objections of the  
7 legislative rule-making review committee and refiled in the state  
8 register on the fifth day of October, one thousand nine hundred  
9 ninety, relating to the commissioner of agriculture (meat  
10 inspection), are authorized.

11 (u) The legislative rules filed in the state register on the  
12 tenth day of August, one thousand nine hundred ninety, modified  
13 by the commissioner of agriculture to meet the objections of the  
14 legislative rule-making review committee and refiled in the state  
15 register on the third day of October, one thousand nine hundred  
16 ninety, relating to the commissioner of agriculture (agricultural  
17 liming materials), are authorized.

18 (v) The legislative rules filed in the state register on the  
19 tenth day of August, one thousand nine hundred ninety, modified  
20 by the commissioner of agriculture to meet the objections of the  
21 legislative rule-making review committee and refiled in the state  
22 register on the third day of October, one thousand nine hundred  
23 ninety, relating to the commissioner of agriculture (public  
24 markets), are authorized.

1 (w) The legislative rules filed in the state register on the  
2 nineteenth day of September, one thousand nine hundred ninety,  
3 modified by the commissioner of agriculture to meet the  
4 objections of the legislative rule-making review committee and  
5 refiled in the state register on the ninth day of November, one  
6 thousand nine hundred ninety, relating to the commissioner of  
7 agriculture (animal disease control), are authorized.

8 (x) The legislative rules filed in the state register on the  
9 eighth day of August, one thousand nine hundred ninety-one,  
10 modified by the commissioner of agriculture to meet the  
11 objections of the legislative rule-making review committee and  
12 refiled in the state register on the twenty-fourth day of  
13 September, one thousand nine hundred ninety-one, relating to the  
14 commissioner of agriculture (commercial feed), are authorized  
15 with the amendments set forth below:

16 On page two, after subsection 3.3., by adding a new  
17 subsection, designated subsection 3.4., to read as follows:

18 "3.4. The commissioner will not assess a tonnage fee on any  
19 commercial feed or feed ingredients used in the manufacture of  
20 poultry contract feed.";

21 On page five, after subsection 4.3.m., by adding a new  
22 subsection, designated subsection 4.3.n., to read as follows:

23 "4.3.n. The commissioner will consider poultry contract feed  
24 to be customer-formula feed.";

25 And,

1 On page eight, after subsection 5.5., by adding a new  
2 subsection, designated subsection 5.6., to read as follows:

3 "5.6. Poultry contract feed labels shall conform to the  
4 requirements of W. Va. Code §19-14-8(d), except that:

5 5.6.a. The name of the grower or feeder will substitute for  
6 the requirements for the name of the purchaser; and,

7 5.6.b. The net weight (avoir dupois) of the commercial feed  
8 and each feed ingredient used in the feed shall not be required  
9 to be listed."

10 (y) The legislative rules filed in the state register on the  
11 fourth day of June, one thousand nine hundred ninety-one,  
12 modified by the commissioner of agriculture to meet the  
13 objections of the legislative rule-making review committee and  
14 refiled in the state register on the second day of August, one  
15 thousand nine hundred ninety-one, relating to the commissioner of  
16 agriculture (wood destroying insect treatment standards), are  
17 authorized.

18 (z) The legislative rules filed in the state register on the  
19 twentieth day of December, one thousand nine hundred ninety,  
20 modified by the commissioner of agriculture to meet the  
21 objections of the legislative rule-making review committee and  
22 refiled in the state register on the thirtieth day of April, one  
23 thousand nine hundred ninety-one, relating to the commissioner of  
24 agriculture (fee structure for the pesticide control act of  
25 1990), are authorized.

1 (aa) The legislative rules filed in the state register on the  
2 eighth day of August, one thousand nine hundred ninety-one,  
3 modified by the commissioner of agriculture to meet the  
4 objections of the legislative rule-making review committee and  
5 refiled in the state register on the twelfth day of November, one  
6 thousand nine hundred ninety-one, relating to the commissioner of  
7 agriculture (animal disease control), are authorized.

8 (bb) The legislative rules filed in the state register on the  
9 eighth day of August, one thousand nine hundred ninety-one,  
10 modified by the commissioner of agriculture to meet the  
11 objections of the legislative rule-making review committee and  
12 refiled in the state register on the tenth day of September, one  
13 thousand nine hundred ninety-one, relating to the commissioner of  
14 agriculture (West Virginia plant pest act), are authorized.

15 (cc) The legislative rules filed in the state register on the  
16 twenty-sixth day of July, one thousand nine hundred ninety-one,  
17 modified by the commissioner of agriculture to meet the  
18 objections of the legislative rule-making review committee and  
19 refiled in the state register on the sixteenth day of October,  
20 one thousand nine hundred ninety-one, relating to the  
21 commissioner of agriculture (licensing of pesticide businesses),  
22 are authorized.

23 (dd) The legislative rules filed in the state register on the  
24 eighth day of August, one thousand nine hundred ninety-one,  
25 modified by the commissioner of agriculture to meet the

1 objections of the legislative rule-making review committee and  
2 refiled in the state register on the second day of October, one  
3 thousand nine hundred ninety-one, relating to the commissioner of  
4 agriculture (certified pesticide applicators), are authorized.

5 (ee) The legislative rules filed in the state register on the  
6 eighth day of August, one thousand nine hundred ninety-one,  
7 modified by the commissioner of agriculture to meet the  
8 objections of the legislative rule-making review committee and  
9 refiled in the state register on the twenty-fourth day of  
10 September, one thousand nine hundred ninety-one, relating to the  
11 commissioner of agriculture (assessment of civil penalties and  
12 procedures for consent agreements and negotiated settlements),  
13 are authorized.

14 (ff) The legislative rules filed in the state register on the  
15 eighth day of August, one thousand nine hundred ninety-one,  
16 modified by the commissioner of agriculture to meet the  
17 objections of the legislative rule-making review committee and  
18 refiled in the state register on the twenty-fourth day of  
19 September, one thousand nine hundred ninety-one, relating to the  
20 commissioner of agriculture (aerial application of herbicides to  
21 rights-of-way), are authorized.

22 (gg) The legislative rules filed in the state register on the  
23 eighth day of August, one thousand nine hundred ninety-one,  
24 modified by the commissioner of agriculture to meet the  
25 objections of the legislative rule-making review committee and

1 refiled in the state register on the twenty-fourth day of  
2 September, one thousand nine hundred ninety-one, relating to the  
3 commissioner of agriculture (frozen desserts and imitation frozen  
4 desserts), are authorized, with the amendment set forth below:

5 On page twelve, by striking out all of section 15 and  
6 substituting a new section 15, to read as follows:

7 **§61-4B-15. Enforcement policy.**

8 15.1. The commissioner may assess a violation of W. Va. Code  
9 §19-11B-1 et seq. or of these rules against the manufacturer of  
10 product and/or the distributor of the mix used to manufacture the  
11 product.

12 15.2. The commissioner will assess any violations of W. Va.  
13 Code §19-11B-1 et seq. or of this rule to the distributor for mix  
14 sampled from unopened containers. The company will not be  
15 assessed additional cumulative notices of violations until the  
16 commissioner has determined that the firm has had adequate notice  
17 of the previous notice, generally 10 days from the mailing of the  
18 notice of violation.

19 15.3. Whenever one of the last five consecutive official  
20 product sample(s) taken on separate days within a one year period  
21 are found to be adulterated or misbranded, the commissioner shall  
22 send a written "First Notice" to the manufacturer or distributor  
23 whichever is appropriate. This notice shall notify the  
24 manufacturer or distributor of the violation of W. Va. Code

1 §19-11B-1 et seq. or of these rules and the enforcement policy  
2 established by this section of the rule.

3 15.4. Whenever two of the last five consecutive official  
4 product sample(s) taken on separate days within a one year period  
5 are found to be adulterated or misbranded the commissioner shall  
6 send a written "Second Notice" to the manufacturer or distributor  
7 whichever is appropriate.

8 15.4.a. The commissioner shall collect additional official  
9 product sample(s) within 21 days of the sending of a Second  
10 Notice to the manufacturer or distributor, but shall not collect  
11 product samples before the lapse of 7 days from the sending of a  
12 Second Notice.

13 15.5. Whenever three of the last five consecutive official  
14 product sample(s) taken on separate days within a one year period  
15 are found to be adulterated or misbranded the commissioner shall  
16 send a written "Third Notice" to the manufacturer or distributor  
17 whichever is appropriate.

18 15.5.a. The commissioner shall collect additional official  
19 product sample(s) within 21 days of the sending of the Third  
20 Notice to the manufacturer or distributor, but shall not collect  
21 additional product samples before the lapse of 7 days from the  
22 date of sending of the notice.

23 15.6. The commissioner will issue a "Shut-down Order" for a  
24 period of 24 hours to a manufacturer or distributor when the  
25 record of the firm indicates that effective action has not been

1 taken to correct the causes of the violations, for instance when  
2 three out of the last five samples from the same machine are  
3 violative. The "Shut-down Order" will normally be issued with  
4 the "Third Notice". The "Shut-down Order" will give the reasons  
5 for the order, state the portion of the manufacturing or  
6 distributing operation that is prohibited from operating while  
7 the order is in effect, give conditions of the order, state the  
8 length of time that the Shut-down Order will be in effect and  
9 specify a time and place for a hearing to be held in this matter.  
10 Except that in the case where the public health, safety or  
11 welfare is at risk, the commissioner will issue an immediate  
12 Shut-down Order and give notice to the manufacturer or  
13 distributor under the provisions of subdivision 15.6.a. of this  
14 rule.

15 15.6.a. The commissioner will issue an immediate Shut-down  
16 Order without giving the manufacturer or distributor the  
17 opportunity to be heard where there is a hazard to the public  
18 health, safety or welfare. In these cases, the manufacturer or  
19 distributor will be given the opportunity to request a hearing  
20 before the commissioner after the notification of the order is  
21 received by the manufacturer or distributor. All Shut-down  
22 Orders issued due to noncompliance with subdivisions 8.1.c.,  
23 8.1.d. or 8.1.g. of this rule are considered to involve a risk to  
24 the public health, safety or welfare.

1       15.6.b. The manufacturer or distributor will be responsible  
2 for causing all operations covered by the Shut-down Order to  
3 cease and follow all other conditions of the order. At the end  
4 of the period of the order, the manufacturer or distributor may  
5 resume operations without further action by the commissioner.

6       15.7. If after a Shut-down Order has been issued the  
7 commissioner finds that effective corrective action has not been  
8 taken, he may issue a suspension of the Frozen Desserts  
9 Manufacturer Permit. The suspension shall state the time that  
10 the suspension will become effective, give the reasons for the  
11 suspension and specify a time and place for a hearing to be held  
12 in this matter. Except that in the case of a summary suspension  
13 the commissioner will give the manufacturer the opportunity to  
14 request a hearing in this matter subsequent to the notification  
15 of the suspension.

16       15.7.a. All suspensions due to nonconformance to  
17 subdivisions 8.1.c., 8.1.d. or 8.1.g. of this rule are summary  
18 suspensions.

19       15.7.b. A suspension of the Frozen Desserts Manufacturer  
20 Permit remains in effect until the manufacturer submits and the  
21 commissioner accepts a written plan of correction and a request  
22 for a reinstatement of the permit.

23       15.7.c. The commissioner has seven days from the date of  
24 receipt of this application to respond to a suspension in the  
25 case of violations of subdivisions 8.1.c., 8.1.d. or 8.1.g. of

1 this rule and fourteen days to respond for all other violations  
2 of W. Va. Code §19-11B-1 et seq. or these rules. The  
3 commissioner will accept or deny the application for a  
4 reinstatement of the permit and will give the terms and  
5 conditions under which the permit will be reinstated.

6 15.8. If the commissioner finds that after the firm has  
7 resumed production following a suspension of their Frozen  
8 Desserts Manufacturer Permit that effective corrective action has  
9 not been taken, then the commissioner will hold a hearing to  
10 determine if the Frozen Desserts Manufacturer Permit should be  
11 revoked.

12 15.9. Persons who manufacture a product on an intermittent  
13 or infrequent basis, so that the standard enforcement policy  
14 cannot apply, will enter into a consent agreement with the  
15 commissioner for correction of all items found to be not in  
16 conformance with W. Va. Code §19-11B-1 et seq. or these rules.

17 15.10. Whenever an antibiotic or pesticide residue test is  
18 found to be above tolerance, the commissioner shall notify the  
19 manufacturer and/or distributor immediately of this fact and  
20 shall begin an investigation to determine the cause of the  
21 residue. The commissioner shall require that any person found to  
22 be responsible for the residue shall correct the cause of the  
23 residue prior to the resumption of the manufacturing or  
24 distribution of the product.

1        15.11.    A person who performs a recall by voluntarily  
2 removing product from sale and distribution in an effective  
3 manner so as to limit the potential harm to the health and  
4 well-being of the public may be eligible for exemptions from the  
5 normal enforcement policy.    The commissioner shall consider the  
6 facts of each case when making a decision on an exemption.

7        15.12.    The commissioner may apply the enforcement policy in  
8 a liberal manner in cases where all official product sample  
9 results that involve a product in the form actually sold to the  
10 public have been found to be in conformance with W. Va. Code  
11 §19-11B-1 et seq. or these rules.

12       15.13.    The commissioner may suspend the standard enforcement  
13 policy in cases where such action is necessary to protect the  
14 public health, safety or welfare.

15       15.14.    Resamples will only be taken from machines that were  
16 shown to be producing violative product the previous visit,  
17 except for resamples needed to check that the nonviolative status  
18 is being maintained according to the following schedule:

19       15.14.a.    After a first notice and one nonviolative sample,  
20 resamples will be taken between 5 to 6 months after the  
21 nonviolative sample.

22       15.14.b.    After a second notice and one nonviolative sample,  
23 resamples will be taken between 3-4 months after the nonviolative  
24 sample.

1        15.14.c. Other resamples may be considered necessary to  
2 determine that the nonviolative status is being maintained."

3        (hh) The legislative rules filed in the state register on the  
4 eighth day of August, one thousand nine hundred ninety-one,  
5 modified by the commissioner of agriculture to meet the  
6 objections of the legislative rule-making review committee and  
7 refiled in the state register on the twenty-fourth day of  
8 September, one thousand nine hundred ninety-one, relating to the  
9 commissioner of agriculture (West Virginia apiary law of 1991),  
10 are authorized.

11        (ii) The legislative rules filed in the state register on the  
12 eighth day of August, one thousand nine hundred ninety-one,  
13 modified by the commissioner of agriculture to meet the  
14 objections of the legislative rule-making review committee and  
15 refiled in the state register on the twenty-fourth day of  
16 September, one thousand nine hundred ninety-one, relating to the  
17 commissioner of agriculture (disposal of dead poultry), are  
18 authorized with the amendments set forth below:

19        On page two, section two, by adding a new subsection to read  
20 as follows:

21        "2.8 "Disposal pit" means an opening dug in the ground to a  
22 minimum depth of six feet, containing a minimum capacity of 150  
23 cubic feet, covered with a minimum of 12 inches of dirt, and  
24 provided with one or more openings for the introduction of  
25 poultry. The openings shall be a minimum size of eight inches

1 square and equipped with tight lids. A disposal pit shall be  
2 located in a site which will prevent contamination of the  
3 groundwater or the surface water. This site should conform to  
4 the standards established in this rule."

5 On page two, subsection 3.1 after the word "incinerator," by  
6 adding the words "disposal pit,"

7 And,

8 On page two, by adding a new section, designated section 4,  
9 to read as follows:

10 **"§61-1C-4. Standards for Site Location for Disposal Pits.**

11 4.1 No part of a disposal pit system shall be located in a  
12 poorly drained or filled area, or in any area where seasonal  
13 flooding occurs.

14 4.2 No part of a disposal pit system shall be located within  
15 10 feet of a building, foundation or property line.

16 4.3 No part of a disposal pit system shall be located within  
17 50 feet of a public water supply line or within 10 feet of a  
18 private water supply system.

19 4.4 A disposal pit shall be located at least 50 feet from a  
20 private well or groundwater supply.

21 4.5 There shall be a minimum of three feet between the bottom  
22 of a disposal pit and seasonal groundwater or rock, shale or any  
23 other impermeable layer.

1 4.6 The evaluation of the site for installation of a disposal  
2 pit shall be based upon percolation test results. Percolation  
3 tests shall be performed in the following manner:

4 4.6.1 Location - At least two holes shall be placed over the  
5 selected site. The results of these two test holes will be  
6 averaged.

7 4.6.2 Holes shall be dug or bored from six to eight inches in  
8 diameter at the site where the disposal pit will be installed.  
9 The holes should be at least 24 inches in depth.

10 4.6.3 The bottom and sides of the holes shall be scratched  
11 with a sharp pointed instrument or wire brush to remove any  
12 smeared soil surfaces which interfere with the absorption of  
13 water into the soil.

14 4.6.4 Loose dirt shall be removed from the bottom of the test  
15 holes and two inches of coarse sand or fine gravel shall be  
16 placed into the holes to prevent sealing.

17 4.6.5 An eight or ten penny nail shall be placed in the wall  
18 of each hole exactly six inches above the level of sand or  
19 gravel.

20 4.6.6 The test hole shall be completely filled with water to  
21 ground level. Water in the hole shall be kept to a depth of at  
22 least 12 inches for a minimum period of four hours before  
23 beginning the percolation rate measurement.

24 4.7 Percolation rate measurement - Upon completion of the  
25 above, the water depth in the holes shall be adjusted to the

1 level of the nail. The number of minutes it takes for this six  
2 inches of water (all the water) to be absorbed into the soil  
3 shall be accurately determined. This time in minutes, divided by  
4 six, gives the rate of fall per inch. The average rate of fall  
5 must be between five minutes and 60 minutes."

6 (jj) The legislative rules filed in the state register on the  
7 eighth day of August, one thousand nine hundred ninety-one,  
8 modified by the commissioner of agriculture to meet the  
9 objections of the legislative rule-making review committee and  
10 refiled in the state register on the twenty-fourth day of  
11 September, one thousand nine hundred ninety-one, relating to the  
12 commissioner of agriculture (licensing of livestock dealers), are  
13 authorized.

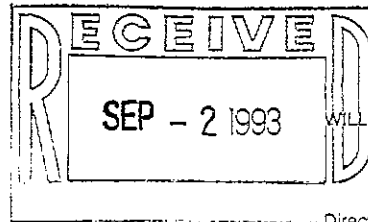
14 (kk) The legislative rules filed in the state register on the  
15 fifteenth day of September, one thousand nine hundred ninety-two,  
16 modified by the commissioner of agriculture to meet the  
17 objections of the legislative rule-making review committee and  
18 refiled in the state register on the nineteenth day of February,  
19 one thousand nine hundred ninety-three, relating to the  
20 commissioner of agriculture (general groundwater protection rules  
21 for fertilizers and manures), are authorized.

22

23 NOTE: The purpose of this bill is to authorize the  
24 Commissioner of Agriculture to promulgate legislative rules  
25 relating to general groundwater protection rules for fertilizers  
26 and manures.

27

1        Strike-throughs indicate language that would be stricken from  
2 the present law, and underscoring indicates new language that  
3 would be added.



KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

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Deputy Secretary of State

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(Plus all the volunteer  
help we can get)

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**STATE OF WEST VIRGINIA**

**SECRETARY OF STATE**

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Charleston, WV 25305-0770

FILED  
SEP 13 2 24 PM '93  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

TO: John Liggett

AGENCY: Department of Agriculture

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: August 30, 1993

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: 6C TITLE: 61 Department of Agriculture

\* 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: [Signature]

TITLE OF PERSON SIGNING: Assistant Director of Field Services

DATE: September, 9, 1993

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

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

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## STATE OF WEST VIRGINIA

### SECRETARY OF STATE

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help we can get)

FAX: (304) 558-0900

May 28, 1993

Bob Morris  
Agriculture  
Building 1, State Capitol  
Charleston, WV 25305

**HB 100** authorizing, **Title 61, Series 6C, General Groundwater Protection Rules for Fertilizer & Manures**, passed the Legislature on **May 26, 1993**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs HB 100, 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. Authorization for your legislative rule is cited in **HB 100** section **64-9-1(II)**. 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: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, PLEASE SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR 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 AND STRIKE-THROUGHS 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