



**DECEMBER**

**TENTATIVE AGENDA**  
**LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**  
**Sunday, December 13, 1998**  
**6 p.m. to 8 p.m.**  
**Senate Finance Committee Room M-451**

1. **Approval of Minutes** - Meeting of November 10, 1998
2. **Review of Legislative Rules:**
  - a. **Division of Culture and History**  
*Certified Local Government Program, 82CSR1*
  - b. **Division of Culture and History**  
*Standards and Procedures for Administering State Historic Preservation Programs, 82CSR2*
  - c. **Board of Barbers and Cosmetologists**  
*Schedule of Fines, 3CSR7*
  - d. **Insurance Commissioner**  
*Individual Accident and Sickness Insurance Minimum Standards, 114CSR12*
  - e. **Insurance Commissioner**  
*Aids Regulations, 114CSR27*
  - f. **Insurance Commissioner**  
*Individual and Employer Group Minimum Benefits Accident and Sickness Insurance Policies, 114CSR33*
  - g. **Insurance Commissioner**  
*Group Accident and Sickness Insurance Minimum Policy Coverage Standards, 114CSR39*
  - h. **Insurance Commissioner**  
*Recognizing Annuity Mortality Tables for use in Determining Reserve Liabilities for Annuities, 114CSR45*
  - i. **Insurance Commissioner**  
*Quality Assurance, 114CSR53*
  - j. **Insurance Commissioner**  
*Group Accident and Sickness Insurance Issuance, Portability and Marketing Requirements, 114CSR54*
  - k. **Insurance Commissioner**  
*Guaranteed Issue of Individual Accident and Sickness Insurance, 114CSR55*
3. **Other Business.**

f #

**Board of Acupuncture**

Fees of the Board of Acupuncture, 32CSR4

DAG goes to abstract, Board agrees to level modfications, DAG  
messages  
Dr. Samples, scribly & Board answers go

Ross - modfications - decrease initial <sup>(300)</sup> \$125 - do not increase \$125 (550)  
most cared - Board accepts

Ross

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

g #

**Board of Acupuncture**

Advertising By Licensed Acupuncturists, 32CSR5

DAG explains rule Board accepts level modfications

Ross

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

A #

**Board of Acupuncture**

Standards of Practice Of Acupuncture by Licensed Acupuncturists, 32CSR6

DAG explains rule, Board agrees w/ level modfications

Ross

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

DECEMBER INTERIM SCHEDULE  
Legislative Interim Meetings  
December 13, 14 and 15, 1998

Sunday, December 13, 1998

6:00 - 8:00 p.m.

Legislative Rule-Making Review Committee  
(Code §29A-3-10)

Earl Ray Tomblin, ex  
officio nonvoting member

Robert S. Kiss, ex  
officio nonvoting member

Senate

House

Ross, Chair ✓  
Anderson, Vice Chair ✓  
Bowman      
Macnaughtan ✓  
Boley ✓  
Buckalew ✓

Hunt, Chair ✓  
Linch, Vice Chair ✓  
Compton ✓  
Jenkins ✓  
Faircloth ✓  
Riggs ✓

I certify that the attendance as noted above  
is correct.

Debra Anderson  
Staff Person

Debra

December 13, 1998

6:00 p.m. - 8:00 p.m.

Legislative Rule-Making Review Committee  
(Code §29A-3-10)

Earl Ray Tomblin  
ex officio nonvoting member

Robert "Bob" Kiss  
ex officio nonvoting member

Senate

Ross, Chairman  
Anderson, Vice Chairman  
Boley  
Bowman (Absent)  
Buckalew  
Macnaughtan

House

Hunt, Chairman  
Linch, Vice Chairman  
Compton  
Faircloth  
Jenkins  
Riggs

The meeting was called to order by Mr. Hunt, Co-Chairman

The minutes of the November 10, 1998, meeting were approved.

Rita Pauley, Associate Counsel, stated that the rule proposed by the *Division of Culture and History-Certified Local Government Program, 82CSR1*, had been laid over from the previous meeting. Ms. Pauley explained the rule and stated that the Division has agreed to technical modifications.

Mr. Ross moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Pauley stated that the rule proposed by the *Division of Culture and History-Standards and Procedures for Administering State Historic Preservation Programs, 82CSR2*, had been laid over from previous meeting. Ms. Pauley reviewed her abstract and stated that the Division has agreed to technical modifications. Susan Pierce, Director of the Historic Preservation Office, responded to questions from the Committee.

Mr. Ross moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham stated that the rule proposed by the *Board of Barbers and Cosmetologists-Schedule of Fines, 3CSR7*, had been laid over. Ms. Graham explained the rule and stated that the Board has agreed to technical modifications. Larry Absten, Director of the Board, responded to questions from the Committee.

Mr. Linch moved that the proposed rule be moved to the foot of the agenda. The motion was adopted.

Ms. Pauley explained the rule proposed by the *Insurance Commissioner-Individual Accident and Sickness Insurance Minimum Standards, 114CSR12*, and stated that she had no technical modifications.

Mr. Ross moved that the proposed rule be approved. The motion was adopted.

Ms. Pauley reviewed her abstract on the rule proposed by the *Insurance Commissioner-Aids Regulations, 114CSR27*, and stated that she had no technical modifications.

Ms. Boley moved that the proposed rule be approved. The motion was adopted.

Ms. Pauley explained the rule proposed by the *Insurance Commissioner-Individual and Employer Group Minimum Benefits Accident and Sickness Insurance Policies, 114CSR33*, and stated that she had no technical modifications.

Mr. Ross moved that the proposed rule be approved. The motion was adopted.

Ms. Pauley reviewed her abstract on the rule proposed by the *Insurance Commissioner-Group Accident and Sickness Insurance Minimum Policy Coverage Standards, 114CSR39*, and stated that she had no technical modifications.

Ms. Boley moved that the proposed rule be approved. The motion was adopted.

Ms. Pauley explained the rule proposed by the *Insurance Commissioner-Recognizing Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities, 114CSR45*, and stated that she had no technical modifications. Keith Huffman, Counsel for the Insurance Commissioner, responded to questions from the Committee.

Mr. Ross moved that the proposed rule be approved. The motion was adopted.

Ms. Pauley reviewed her abstract on the rule proposed by the *Insurance Commissioner-Quality Assurance, 114CSR53*, and stated that the Commissioner has agreed to technical modifications. Donna Quesenberry, Counsel for the Insurance Commissioner, responded to questions from the Committee.

Mr. Ross moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Pauley explained the rule proposed by the *Insurance Commissioner-Group Accident and Sickness Insurance Issuance, Portability and Marketing Requirements, 114CSR54*, and stated that she had no technical modifications.

Mr. Ross moved that the proposed rule be approved. The motion was adopted.

Ms. Pauley reviewed her abstract on the rule proposed by the *Insurance Commissioner-Guaranteed Issue of Individual Accident and Sickness Insurance, 114CSR55*, and stated that she had no technical modifications.

Mr. Ross moved that the proposed rule be approved. The motion was adopted.

The meeting was adjourned

# WEST VIRGINIA STATE COLLEGE

Institute, West Virginia  
25112-1000



Department of History

STATE HISTORIC  
PRESERVATION  
OFFICE

DEC 2 1998

RECEIVED

The Honorable Ken Hechler  
Secretary of State  
State Capitol Building #1  
1900 Kanawha Boulevard East  
Charleston, WV 25305

Dear Secretary Hechler:

Greetings, Mr. Secretary. I hope the blessings of the Thanksgiving holiday were bountiful for you and yours. Christmas fast approaches with all its warmth and beauty.

Part of my duty as Chairman of the West Virginia Archives and History Commission is to inform your office of the commission's approval of changes in the Legislative Rules governing the Division of Culture and History. I have attached the relevant passages from our official minutes.


On June 21, 1996, the West Virginia Archives and History Commission approved proposed changes to the following Division of Culture and History Legislative Rules:

Title 82, Series 1: Certified Local Government Program  
Title 82, Series 2: Standards and Procedures for Administering State Historic Preservation Program

On another note, here at West Virginia State College our Division of Social Sciences has planned a special unit on the Executive Branch, as the enclosed attachment attests. I rather think it would be inappropriate to host such an academic session without your honored presence. I shall call you early in the year.

Keep up the good work, and as always, if I can help in any way, please do not hesitate to call upon me.

Your Obedient Servant.

  
C. Stuart McGehee  
Associate Professor  
Chair

CSM/jbg  
cc: Ms. Susan Pierce

*A Living Laboratory of Human Relations*



*A Land-Grant Institution Established in 1891*



REGISTRATION OF PUBLIC  
AT  
COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

Committee: Legislative Rule-Making Review Committee Date 12-13-98

*Please print or write plainly.*

NAME	ADDRESS	REPRESENTING	Please check (X) if you desire to make a statement.

Minutes Nov 10 approved.

Div. of Culture & History - Cert Local Govt

Rita explained

Approve as mod

Ross  
adopted

Div. of Culture & Hist - Stds & Procedures

Rita explained

Approve as mod

Ross  
adopted

Susan Pierce, Dir Historic Preservation Off. responded to questions

Barbers & Cosmetologists - Schedule of Fines

I explained

Larry Absten responded to questions

Foot of the agenda

Linch  
adopted

Insurance - Indiv Acc

Approve

Ross  
adopted

Ross  
adopted

Ins - Quality Mgt.  
Risk explained  
Unnecessary diff  
Donna Quessenburg responded to q's  
Approved as motion

Ross  
adopted

Ins Comm - Meritability Tables  
Risk explained  
Keith Hoffman responded to q's  
Approved

Ross  
adopted

Ins - Group Min. Acc.  
Risk explained  
Approved

Ross  
adopted

Ins - Ind. & Res.  
Risk explained rule being repealed  
Approved

Ross  
adopted

Ins - AIDS  
Risk explained  
Approved

Ins - Group Issuance

Rita explained

Approve

Ross  
adopted

Ins - Guaranteed

Approved

Ross  
adopted

**TENTATIVE AGENDA**

**LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

**Tuesday, December 15, 1998**

**1 p.m. to 3 p.m.**

**Senate Finance Committee Room M-451**

**1. Review of Legislative Rules:**

- a. **Board of Barbers and Cosmetologists**  
*Schedule of Fines, 3CSR7*
- b. **Division of Health**  
*Reportable Diseases, Events and Conditions, 64CSR7*
- c. **Division of Health**  
*Legally Unlicensed Health Care Homes, 64CSR50*
- d. **Division of Health**  
*Public Water Systems, 64CSR3*
- e. **Division of Health**  
*Residential Care Communities, 64CSR75*
- f. **Office of Air Quality**  
*Ambient Air Quality Standards for Carbon Monoxide and Ozone, 45CSR9*
- g. **Office of Air Quality**  
*To Prevent and Control Emissions from Hospital/Medical/Infectious Waste Incinerators, 45CSR24*
- h. **Office of Air Quality**  
*Acid Rain Provisions and Permits, 45CSR33*
- i. **Office of Air Quality**  
*Emissions Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 63, 45CSR34*
- j. **Office of Air Quality**  
*Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60, 45CSR16*

- k. **Office of Air Quality**  
*Requirements for Determining Conformity of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or The Federal Transit Laws, to Applicable Air Quality Implementation Plans (Transportation Conformity), 45CSR36*
  
- l. **Office of Air Quality**  
*To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities, 45CSR25*
  
- m. **Environmental Quality Board**  
*Requirements Governing Water Quality Standards, 46CSR1*

2. **Other Business .**

DECEMBER INTERIM SCHEDULE  
Legislative Interim Meetings  
December 13, 14 and 15, 1998

Tuesday, December 15, 1998

1:00 - 3:00 p.m.

Legislative Rule-Making Review Committee  
(Code §29A-3-10)

Earl Ray Tomblin, ex  
officio nonvoting member

Robert S. Kiss, ex  
officio nonvoting member

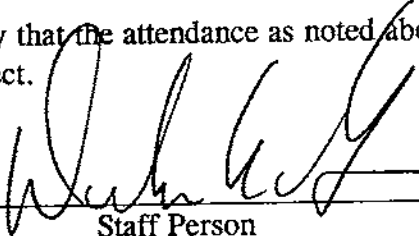
Senate

Ross, Chair ✓  
Anderson, Vice Chair ✓  
Bowman ✓  
Macnaughtan ✓  
Boley ✓  
Buckalew ✓

House

Hunt, Chair ✓  
Linch, Vice Chair ✓  
Compton ✓  
Jenkins ✓  
Faircloth ✓  
Riggs ✓

I certify that the attendance as noted above  
is correct.

  
\_\_\_\_\_  
Staff Person

Debra

December 15, 1998

1:00 - 3:00 p.m.

Legislative Rule-Making Review Committee  
(Code §29A-3-10)

Earl Ray Tomblin  
ex officio nonvoting member

Robert "Bob" Kiss  
ex officio nonvoting member

Senate

Ross, Chairman  
Anderson, Vice Chairman  
Boley  
Bowman  
Buckalew  
Macnaughtan (Absent)

House

Hunt, Chairman  
Linch, Vice Chairman  
Compton  
Faircloth  
Jenkins (Absent)  
Riggs

The meeting was called to order by Mr. Ross, Co-Chairman

Debra Graham, Committee Counsel, explained to the Committee that the rule proposed by the *Division of Health-Fees for Service, 64CSR51*, has been withdrawn by the Division.

Ms. Graham reviewed her abstract on the rule proposed by the *Board of Barbers and Cosmetologists-Schedule of Fines, 3CSR7*, and stated that this rule had been moved to the foot of the agenda at the December 13, 1998, meeting.

Mr. Linch moved that the rule be moved down the agenda. The motion was adopted.

Ms. Graham explained the rule proposed by the *Division of Health-Reportable Diseases, Events and Conditions, 64CSR7*, and stated that the Division has agreed to technical modifications. She, Loretta Haddy, Director, Division of Surveillance and Disease Control, and Randy Cox, representing the Health Maintenance Organization Association of West Virginia, responded to questions from the Committee.

Mr. Faircloth moved that the Committee invite a representative from the Secretary of State's office to the meeting of this Committee in January to address questions regarding the copying and distribution of legislative rules. The motions was adopted.

Mr. Hunt moved that the proposed rule be laid over. The motion was adopted.



Ms. Graham reviewed her abstract on the rule proposed by the *Division of Health-Legally Unlicensed Health Care Homes, 64CSR50*, and stated that the Division has agreed to technical modifications. Kathy Bauchamp, the Residential Program Manager, responded to questions from the Committee.

Mr. Anderson moved that section 6 of the proposed rule be modified to require legally unlicensed health care homes to keep daily records of meals served. The motion was adopted.

Mr. Hunt moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham explained the rule proposed by the *Division of Health-Public Water Systems, 64CSR3*, and stated that the Division has agreed to technical modifications. Frank Lambert, Director of the Office of Laboratory Services, responded to questions from the Committee.

Mr. Hunt moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Ross recommended that the rule proposed by the *Board of Barbers and Cosmetologists-Schedule of Fines, 3CSR7*, moved down on the agenda on a motion made by Mr. Linch be taken up at this time.

Mr. Linch moved that the proposed rule be modified as follows:

- Section 2.1 Eliminate \$50 fine and replace with a warning;
- Section 2.7 Eliminate \$200 fine and replace with a warning;
- Section 2.15 Eliminate \$50 fine and replace with a warning;
- Section 2.16 Eliminate \$50 fine and replace with a warning;
- Section 2.19 Eliminate \$50 fine and replace with a warning;
- Section 2.21 Eliminate \$50 fine and replace with a warning;
- Section 2.23 Eliminate \$150 fine and replace with a warning and send notice to the school the practitioner attended;
- Section 2.25 Eliminate \$100 fine and replace with a warning; and
- Section 2.55 Eliminate \$100 fine and replace with a warning.

The motion was adopted.

Mr. Riggs moved the Committee request that the Board withdraw the proposed rule. The motion was rejected.

Mr. Hunt moved that the proposed rule be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the *Division of Health-Residential Care Communities, 64CSR75*, and stated that the Division has agreed to technical modifications. Sandy Dobman, representing OFLAC, responded to questions from the Committee.

Mr. Hunt moved that the proposed rule be approved as modified. The motion was adopted.

Joseph Altizer, Associate Counsel, reviewed his abstract on the rule proposed by the *Office of Air Quality-Ambient Air Quality Standards for Carbon Monoxide and Ozone, 45CSR9*, and stated that the Office of Air Quality has agreed to technical modifications. Mr. Altizer distributed to the Committee copies of comments submitted by the U.S. Environmental Protection Agency, and he responded to questions from the Committee. John Benedict, from the Office of Air Quality, responded to questions from the Committee.

Mr. Hunt moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Altizer reviewed his abstract on the rule proposed by the *Environmental Quality Board-Requirements Governing Water Quality Standards, 46CSR1*, and stated that he had no technical modifications. Libby Chatfield, Technical Advisor to the Environmental Quality Board, responded to questions from the Committee.

Mr. Buckalew moved that the proposed rule be amended on page 20 by striking out all of subsection 8.5. The motion was adopted. Ms. Compton and Mr. Linch voted "No."

Mr. Hunt moved that the proposed rule be approved as amended. The motion was adopted by a roll call vote of 5 to 3. YEAS: Faircloth, Riggs Ross, Bowman, Buckalew. NAYS: Hunt, Linch, Compton.

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: 12/15/98

TIME: 3:00

NAME Present Absent Yeas Nays

HOUSE

Kiss, Robert, Speaker				
Hunt, Mark, Co-Chair				✓
Linch, Larry, Vice-Chair				✓
Compton, Mary Pearl				✓
Faircloth, Larry V.			✓	
Jenkins, Evan				
Riggs, Dale			✓	

SENATE

Tomblin, Earl Ray, President				
Ross, Michael, Co-Chair			✓	
Anderson, Leonard, Vice-Chair				
Boley, Donna				
Bowman, Edwin			✓	
Buckalew, Jack			✓	
Macnaughtan, Don				
TOTAL				

RE: Environmental Quality Bd - Regs Governing  
Water Quality Stds 46SR1

Strike-out § 8.5



**DIVISION OF ENVIRONMENTAL PROTECTION  
OFFICE OF AIR QUALITY**

CECIL H. UNDERWOOD  
GOVERNOR

John H. Johnston, Chief

MICHAEL P. MIANO  
DIRECTOR

August 4, 1998

Honorable Mike Ross, Co-Chair  
Legislative Rule-Making Review Committee  
Room MB49 - State Capitol  
Charleston, WV 25305

Honorable Mark Hunt, Co-Chair  
Legislative Rule-Making Review Committee  
Room MB49 - State Capitol  
Charleston, WV 25305

RE: 45CSR9 - "Rules Pertaining to Ambient Air Quality Standards for Carbon Monoxide and Ozone"

Dear Gentlemen:

The Office of Air Quality (OAQ) recently received comments from the U.S. Environmental Protection Agency (EPA) regarding the above-referenced rule (a copy of EPA's comments are attached for your information). EPA's comments were not received within the 30-day public comment period, and were consequently not addressed by the agency prior to its filing the agency-approved rule with Legislative Rule-Making Review Committee.

The OAQ has reviewed EPA's comments and has revised the rule in accordance with EPA's comments. The agency's proposed revisions to section 5 are included herein, for the Committee's consideration.

If you have any questions regarding this matter, please contact Karen G. Watson at (304) 558-1213.

Sincerely,

  
Karen G. Watson, Attorney

cc: Committee Members  
Debra A. Graham, Counsel  
Attachments

TITLE 45  
LEGISLATIVE RULE  
DIVISION OF ENVIRONMENTAL PROTECTION  
OFFICE OF AIR QUALITY

SERIES 9  
RULES PERTAINING TO AMBIENT AIR QUALITY STANDARDS FOR  
CARBON MONOXIDE, ~~NON-METHANE HYDROCARBONS,~~ AND OZONE

§45-9-1. General.

1.1. Scope. -- The purpose of ~~Series 9~~ this rule is to establish ambient air quality standards for carbon monoxide, ~~non-methane hydrocarbons,~~ and ozone, equivalent to those national primary and secondary ambient air quality standards established by the U.S. EPA.

National primary ambient air quality standards define levels of air quality which the Administrator of the U.S. EPA judges are necessary, with an adequate margin of safety, to protect the public health. National secondary ambient air quality standards define levels of air quality which the administrator of the U.S. EPA judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant. Such standards are subject to revision, and additional primary and secondary standards may be promulgated as the Administrator of the U.S. EPA deems necessary to protect the public health and welfare.

1.2. Authority. -- W. Va. Code §22-5-1 et seq.

1.3. Filing Date. -- ~~June 27, 1980.~~

1.4. Effective Date. -- ~~October 22, 1980.~~

§45-9-2. Anti-Degradation Policy.

2.1. In the best interests of the State of West Virginia, it is the objective of the Director to obtain and maintain the cleanest air possible, consistent with the best available technology.

2.2. Where the present ambient air is of better quality than the established standards, the Director will develop long-range plans to protect the difference between the present quality and the established standards. The plans will be based upon the best available forecasts of probable land and air uses in such areas of high air quality.

2.3. The air quality of these areas will not be lowered unless it has been clearly demonstrated to the Director that such a change is justifiable as a result of necessary economic or social development and will not result in "statutory air pollution". This will require that any industrial, public, or private project or development which could constitute a new source of air pollutants, within an area of such high air quality, provide the best practicable control available under existing technology as part of the initial project.

§45-9-3. Definitions.

3.1. "Air Pollutants" means solids, liquids, or gases which, if discharged into the air, may result in a statutory air pollution.

3.2. "Air Pollution", 'statutory air pollution', shall have the meaning ascribed to it in W. Va. Code §22-5-2.

~~3.3. [Reserved]~~

~~3.4. "Person" means any and all persons, natural or artificial, including the State of West Virginia or any other state, the United States of America, any municipal, statutory, public or private corporation organized or existing under the laws of this or any other state or country, and any firm, partnership or association of whatever nature.~~

~~3.5. "Hydrocarbons" means compounds whose molecules consist of atoms of hydrogen and carbon and exist in the atmosphere in the gas phase. Specifically excluded are hydrocarbons and other organics associated only with suspended particles in the atmosphere. For purposes of these air quality standards non-methane hydrocarbons shall be taken to be the difference between the reported total hydrocarbons and methane values obtained from an air sample.~~

~~3.63. "Ozone" means the triatomic oxygen molecule (O<sub>3</sub>), a very reactive form of oxygen.~~

~~3.7. "Standard Conditions" means for the purposes of this rule a temperature of 25 degrees C and a pressure of 760 mm of mercury column.~~

~~3.84. "Ambient Air Quality Standards" means the numerical expression of a specified concentration level for a particular air pollutant in the ambient air and the time averaging interval over which that concentration level is measured.~~

#### **§45-9-4. Ambient Air Quality Standards.**

4.1. The following ambient air pollutant concentrations shall not be exceeded:

##### 4.1.a. Carbon Monoxide

4.1.a.1. Maximum eight (8) hour concentration, ten (10) milligrams per cubic meter (9 ppm) - not to be exceeded more than once per year.

4.1.a.2. Maximum one (1) hour concentration, forty (40) milligrams per cubic meter (35 ppm) - not to be exceeded more than once per year.

##### 4.1.b. Ozone

~~4.1.b.1. Maximum one (1) hour concentration (highest single value per day), two hundred thirty five (235) micrograms per cubic meter (0.12 ppm). Violation of this standard shall occur when the average number of expected exceedances is greater than one per year based on three (3) years data. (Reference 1). The level of the~~

8-hour primary and secondary ambient air quality standards is 0.08 parts per million (ppm), daily maximum 8-hour average, attained when the average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm as determined in accordance with Appendix I of 40 CFR Part 50.

~~4.1.c. Hydrocarbons (Measured and Corrected for Methane)~~

~~Maximum three (3) hour concentration; one hundred sixty (160) micrograms per cubic meter (0.24 ppm) for the time period of 6:00 a.m. to 9:00 a.m. - not to be exceeded more than once per year.~~

~~The hydrocarbon standard is to be used as a guide in devising implementation plans to achieve ozone standards.~~

#### **§45-9-5. Methods of Measurement.**

5.1. Carbon Monoxide concentrations shall be ~~determined by nondispersive infrared (NDIR) methods or by such other methods approved as equally or more specific, accurate, sensitive, and reproducible by the Director measured in the ambient air by:~~

5.1.a. a reference method based on Appendix C of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53, or

5.1.b. an equivalent method designated in accordance with 40 CFR Part 53.

5.2. Ozone concentrations shall be determined by the chemiluminescence reaction of ozone with ethylene and calibrated by the UV photometric procedure (Reference 2); or by the boric acid potassium iodide (BAKI) method which may be used as the calibration procedure in place of the UV photometric method until August, 1980, or by such other detection and/or calibration methods approved as equally or more specific, accurate, sensitive, and reproducible by the Director measured in the ambient air by a reference method based on Appendix D of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53.

~~5.3: Hydrocarbon concentrations shall be determined by subtraction of methane concentrations from total hydrocarbons concentrations determined by the flame ionization technique or by such other methods approved as equally or more specific, accurate, sensitive, and reproducible by the Director.~~

~~5.4: Other less specific methods of measurement may be used provided an accurate method of conversion can be developed to express the results in terms of equivalence to those that would be expected using the above methods or other more specific, accurate, sensitive, and reproducible methods approved by the Director.~~

Tammy  
John B  
Karen  
7/24/98  
SK

John B



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

WV DIV OF ENVIR PROTECT  
OFFICE OF AIR QUALITY ANNEX

1998 JUL 21 A 10: 26

RECEIVED

July 15, 1998

Mr. John H. Johnston, Chief  
Division of Environmental Protection  
State of West Virginia  
1558 Washington Street East  
Charleston, WV 25311-2599

Dear Mr. Johnston:

EPA has reviewed the June 18, 1998 public hearing package pertaining to West Virginia's proposal to adopt the new National Ambient Air Quality Standards for ozone and carbon monoxide. EPA fully supports West Virginia's proposal with one major exception. The proposed West Virginia regulations contain a provision in § 45-9-5 in section 5.3 that allows director's discretion to alter the method of measurement for carbon monoxide and ozone. The measurement methods appropriate for carbon monoxide and ozone are contained Appendix D, 40 C.F.R. Part 50 and cannot be altered except by federal rulemaking. If this provision was adopted by the West Virginia Department of Environmental Protection, EPA would be unable to approve it.

Thank you for the opportunity to comment on your proposed regulations. If you have any questions, please contact me or have your staff contact Cynthia Stahl at 215-814-2180.

Sincerely,

*Marcia L. Spink*  
Marcia L. Spink, Associate Director  
Air Programs





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

July 29, 1998


Mr. John H. Johnston, Chief  
Division of Environmental Protection  
State of West Virginia  
1558 Washington Street East  
Charleston, WV 25311-2599

Dear Mr. Johnston:

It has come to EPA's attention that West Virginia's regulations at § 45-9-5, section 5.1 contains a director's discretion provision allowing the West Virginia air director to approve alternative methods of measurement for carbon monoxide. The measurement methods appropriate for carbon monoxide is contained Appendix D, 40 C.F.R. Part 50 and cannot be altered except by federal rulemaking. If this provision remains in the West Virginia regulations and is submitted to EPA for approval, EPA would not be able approve it.

If you have any questions, please contact me or have your staff contact Cynthia Stahl at 215-814-2180.

Sincerely,

  
Marcia L. Spink, Associate Director  
Office of Air Programs

REGISTRATION OF PUBLIC  
AT  
COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

Committee: Legislative Rule-Making Review Date 12-15-98  
Please print or write plainly.

NAME	ADDRESS	REPRESENTING	Please check (X) if you desire to make a statement.
Chris Gordon	Bldg 3, Room 518 Capitol Complex	WV BPH	
Joe Wyatt	815 Quamin St Suite 418	WV BPH	
Randy Cox <sup>REG 64527</sup>	Charleston	HIAA, HMO Assoc	X
John Benedict	Charleston	WV DEP - OAC	
Karon Watson	"	"	if called
Michael P. Miano	Nitro	WV DEP	
Bobby Payne	Charleston	Columbia Gas Transmission	
Libby Chaffler	"	Environmental Quality Board	

FRANK L. ANDERSON

LBMRC

December 15, 1998

Barbers and Cosmetologists - Schedule of Fines

Explained posture

Hinch  
adopted

To list of health rules

Bd of Health - Reportable Diseases

I explained & responded to G's

Loretta Haddy responded to G's

Dir Surveillance and Disease Control, DNHR

Randy Cox - addressed the C

Franklin  
adopted  
Institute SOS to appear in Jan regarding copy & dist of  
rules.

Hunt  
lay over til January

Bd of Health - legally Unlicensed

Kathy Beachum, BFLAC responded to G's

Anderson  
adopted

Records of Meals - modify Section 6 - document  
daily foods served

Hunt  
Approved as mod.

Div of Health - Public Water

Frank Lambert, Dir for office of L

Hunt  
Approved as mod

Barbers

linch	2.1	\$50	-	warning
mod. by adopted	2.7	200.	-	"
	2.15	50	-	"
	2.16	50	-	"
	2.19	50	-	"
	2.21	50	-	"
	2.23	150	-	" Notice to school
	2.25	100	-	"
	2.55	100	-	"

Larry Absters responded to 2.

Riggs w/draw  
rejected

Hunt Approve as mod  
adopted

Heath - Res Care

~~Heath~~

Sundy responded to 45  
Dobman  
DFHAE

Hunt Approve as mod  
adopted

OAQ - <sup>Ambient Air</sup> ~~Point & Outlet~~ ~~Plan~~

Joe explained

Hunt? Approve as mod  
adopted

EQB - Water Quality

Joe explained & responded for

W. G. ...  
Hunt  
Approve as amend  
Linda Compton "W. G."  
Libby Chatfield - Tech Adv. FRB.  
Buckalew strike out 85 on p 20  
Roll Call adopted 5-3  
amendment adopted

**TENTATIVE AGENDA**  
**LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**  
**Wednesday, December 16, 1998**  
**Beginning at 9:30 a.m.**  
**Senate Judiciary Room W-208**

**1. Review of Legislative Rules:**

- a. **Office of Air Quality**  
*To Prevent and Control Emissions from Hospital/Medical/Infectious Waste Incinerators, 45CSR24*
- b. **Office of Air Quality**  
*Acid Rain Provisions and Permits, 45CSR33*
- c. **Office of Air Quality**  
*Emissions Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 63, 45CSR34*
- d. **Office of Air Quality**  
*Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60, 45CSR16*
- e. **Office of Air Quality**  
*Requirements for Determining Conformity of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or The Federal Transit Laws, to Applicable Air Quality Implementation Plans (Transportation Conformity), 45CSR36*
- f. **Office of Air Quality**  
*To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities, 45CSR25*
- g. **State Tax Commission**  
*Valuation of Active and Reserve Coal Property for Ad Valorem Property Tax Purposes, 110CSR1I*
- h. **State Tax Commission**  
*Property Tax Valuation of Certain Manufacturing Property, 110CSR6F*
- i. **State Tax Commission**  
*Valuation of Public Utility Property for Ad Valorem Property Tax Purposes, 110CSR1M*
- j. **Department of Tax and Revenue**  
*Registration of Telemarketers, 119CSR301*

**2. Other Business.**

Special Meeting

December 16, 1998

9:30 a.m.

Legislative Rule-Making Review Committee  
(Code §29A-3-10)

Earl Ray Tomblin, ex  
officio nonvoting member

Robert S. Kiss, ex  
officio nonvoting member

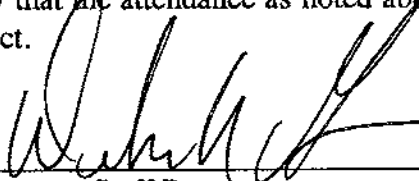
Senate

House

Ross, Chair ✓  
Anderson, Vice Chair ✓  
Bowman ✓  
Macnaughtan ✓  
Boley ✓  
Buckalew ✓

Hunt, Chair ✓  
Linch, Vice Chair ✓  
Compton ✓  
Jenkins ✓  
Faircloth ✓  
Riggs ✓

I certify that the attendance as noted above  
is correct.



Staff Person

Debra

December 16, 1998

9:30 a.m. - 1:30 p.m.

Legislative Rule-Making Review Committee  
(Code §29A-3-10)

Earl Ray Tomblin  
ex officio nonvoting member

Robert "Bob" Kiss  
ex officio nonvoting member

Senate

House

Ross, Chairman  
Anderson, Vice Chairman  
Boley  
Bowman  
Buckalew  
Macnaughtan (Absent)

Hunt, Chairman  
Linch, Vice Chairman  
Compton (Absent)  
Faircloth  
Jenkins  
Riggs

The meeting was called to order by Mr. Ross, Co-Chairman

Debra Graham, Committee Counsel, explained the rule proposed by the *Tax Commissioner-Property Tax Valuation of Certain Manufacturing Property, 110CSR6F*, and stated that the Commissioner has agreed to technical modifications.

Ms. Boley moved that the proposed rule be approved as modified. The motion was adopted.

Joseph Altizer, Associate Counsel, reviewed his abstract on the rule proposed by the *Office of Air Quality-To Prevent and Control Emissions from Hospital/Medical/Infectious Wast Incinerators, 45CSR24*, and stated that the Office of Air Quality has agreed to technical modifications. Mr. Altizer responded to questions from the Committee.

Mr. Hunt moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Altizer explained the rule proposed by the *Office of Air Quality-Acid Rain Provisions and Permits, 45CSR33*, and stated that he had no technical modifications.

Mr. Hunt moved that the proposed rule be approved. The motion was adopted.

Mr. Altizer reviewed his abstract on the rule proposed by the *Office of Air Quality-Emissions Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 63, 45CSR34*, and stated that the Office of Air Quality has agreed to technical modifications. He and Karen Watson, Counsel for the Office of Air Quality, responded to questions from the Committee.

Mr. Hunt moved that the proposed rule be approved as modified. The motion was adopted.



Mr. Altizer explained the rule proposed by the *Office of Air Quality-Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60, 45CSR16*, and stated that the Office of Air Quality has agreed to technical modifications. He distributed copies of proposed modifications proposed by the Office of Air Quality.

Mr. Hunt moved that the proposed rule be modified in accordance with the request of the Office of Air Quality. The motions was adopted.

Mr. Hunt moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Altizer reviewed his abstract on the rule proposed by the *Office of Air Quality-Requirements for Determining Conformity of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or The Federal Transit Laws, to Applicable Air Quality Implementation Plans (Transportation Conformity), 45CSR36*, and stated that the Office of Air Quality has agreed to technical modifications. He and John Benedict, from the Office of Air Quality, responded to questions from the Committee.

Mr. Hunt moved that the proposed rule be approved as modified. The motion was adopted.

Mr. Altizer explained the rule proposed by the *Office of Air Quality-To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities, 45CSR25*, and stated that the Office of Air Quality has agreed to technical modifications. He and Ms. Watson responded to questions from the Committee.

Ms. Boley moved to amend the proposed rule on page 20, Subdivision 5.12.1.c after the words "or terminate a permit." by inserting the following sentences: The final permit decision shall be issued within one year of closing of the public comment period. If the director fails to issue a permit decision within one year, the permit shall be considered approved. The motion was adopted.

Mr. Hunt moved that the rule be approved as modified and amended. The motion was adopted. Mr. Linch voted "No."

Ms. Graham explained the rule proposed by the *Department of Tax and Revenue-Registration of Telemarketers, 119CSR301*, and stated that the Department has agreed to technical modifications. She and Dale Steager, Counsel to the Department of Tax and Revenue, responded to questions from the Committee.

Mr. Ross moved that the proposed rule be laid over. The motion was adopted.

Ms. Graham stated that the rule proposed by the *State Tax Commissioner-Valuation of Active and Reserve Coal Property for Ad Valorem Property Tax Purposes, 110CSR11*, had been laid over from previous meeting. Ms. Graham distributed a booklet prepared by Resource Technology, Inc. to the Committee. Peggy Chesser-Sjoberg, a resident of Barbour County, addressed the Committee. Jerry Knight, Director of the Property Tax Division, Bill Raney, from the West

Virginia Coal Association, and Charles Lorensen, representing American Electric Power, addressed the Committee and responded to questions.

Mr. Ross moved to modify the proposed rule by requiring the Tax Commissioner to refile the rule in three years and to file an annual report with the Committee with the first report due by June 1, 1999, on the effects of the proposed rule on the tax base of counties and the school systems. The motion was adopted.

Mr. Faircloth moved to modify the proposed rule by billing only those properties appraised over \$1,000. After further discussion, Mr. Faircloth asked unanimous consent to withdraw his motion. There being no objection, the motion was withdrawn.

Mr. Ross moved that the proposed rule be approved as modified. The motion was adopted. Mr. Riggs voted "No."

Ms. Graham reviewed her abstract on the rule proposed by the *Tax Commissioner-Valuation of Public Utility Property for Ad valorem Property Tax Purposes, 110CSR1M*, and stated that the Commissioner has agreed to technical modifications. She and Mr. Knight respond to questions from the Committee.

Mr. Ross moved that the proposed rule be laid over. The motion was adopted.

The meeting was adjourned.

1.2. Authority. -- W.Va. Code §§22-5-1 et seq. and §§22-18-1 et seq.

1.3. Filing Date. -- May 1, 1998

1.4. Effective Date. -- May 1, 1998

1.5. Incorporation By Reference.

1.5.a. This rule incorporates by reference the provisions contained in the Code of Federal Regulations as listed in Table 25-A. Unless otherwise indicated, where reference to a federal regulation or standard appears in this rule, such regulation or standard will for purposes of this rule, be construed as that version which was in effect as of July 1, 1997.

1.5.b. This rule also incorporates by reference the provisions contained in 47 33 CSR 20, effective July 1, 1997, except for the provisions of 33 CSR 20 which incorporate by reference the Code of Federal Regulations.

and 1.5.c. In addition to Table 25-A, this rule also incorporates by reference the provisions of 40 CFR Part 264, 265 and 270, subparts AA, BB, CC, as amended on December 8, 1997, at Federal Register 64636.

40 CFR  
§ 264.15  
~~40 CFR~~  
§ 264.73(b)

§45-25-2. Definitions.

2.1. "Air Pollutants" means solids, liquids, or gases which, if discharged into the air, may result in statutory air pollution.

2.2. "Air Pollution", 'statutory air pollution' has the meaning ascribed to it in W. Va. Code §22-5-2.

2.3. "Air Pollution Control Equipment" means any equipment used for collecting or converting hazardous waste emissions for the purpose of preventing or reducing emissions of these materials into the open air from hazardous waste treatment, storage, or disposal facilities.

2.4. "BACT", 'Best Available Control Technology' means an emissions limitation based on the maximum degree of reduction for each pollutant which would be emitted from any hazardous waste treatment, storage or disposal facility which the Director, on a case-by-case basis, taking into account energy, environmental and economic impacts and other costs, determines is achievable for such facility through application of production processes or available methods, systems, or techniques. If the Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions

5.5.b.1. If the Director tentatively decides to modify or revoke and reissue a permit under 40 CFR §§270.41 or 270.42 (c), he or she shall prepare a draft permit under section 5.6, incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of a revoked and reissued permit, the Director shall require the submission of a new application.

5.5.b.2. In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

5.5.b.3. "Classes 1 and 2 Modifications" as defined in 40 CFR §270.42 (a) and (b) are not subject to the requirements of this subsection.

5.5.c. If the Director tentatively decides to terminate a permit under 40 CFR § 270.43, he or she shall issue a Notice of Intent to Terminate. A Notice of Intent to Terminate is a type of draft permit which follows the same procedures as any draft permit prepared under section 5.6.

5.5.d. The provisions of 40 CFR § 270.42(j) <sup>including Appendix I, and</sup> ~~and~~ 40 CFR §270.72(b)(8) shall apply to permit modifications for hazardous waste combustion units to meet standards under 40 CFR Part 63 subpart EEE as amended in 63 Federal Register 33781 (June 19, 1998).

## 5.6. Draft Permits.

5.6.a. Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit or to deny the application.

5.6.b. If the Director tentatively decides to deny the permit application, he or she shall issue a Notice of Intent to Deny. A Notice of Intent to Deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. If the Director's final decision is that the tentative decision to deny the permit application was incorrect, he or she shall withdraw the Notice of Intent to Deny and proceed to prepare a draft permit.

5.6.c. If the Director tentatively decides to issue a permit, he or she shall prepare a draft permit that contains the following information:

5.6.c.1. All conditions under 40 CFR §§270.30 and 270.32;

5.6.c.2. All compliance schedules under 40 CFR § 270.33;

45CSR25

TABLE 25-A

<u>Item No.</u>	<u>CFR No.</u>	<u>Part No.</u>	<u>Subpart No.</u>	<u>Title</u>
1.	40 CFR	264, 265	O	Incinerator
2.		270.19	B	Specific Requirements for Incinerators
		<u>270.42(j)</u>	<u>D</u>	<u>Permit Modification at The Request of the Permittee</u>
		<u>270,42</u>	<u>Appendix</u>	<u>Appendix I</u>
3.		270.62, 270.62(b)(6)	F	Hazardous Waste Incinerator Permits
		<u>270.62(d)</u>		
		<u>270.72(b)(8)</u>	<u>G</u>	<u>Changes During Interim Status</u>
4.	40 CFR	264	X	Miscellaneous Units
5.		270.23	B	Specific Requirements for Miscellaneous Units
6.	40 CFR	264, 265	AA	Air Emission Standards for Process Vents
7.		270.24	B	Specific Requirements for Process Vents
8.	40 CFR	264, 265	BB	Air Emission Standards for Equipment Leaks
9.		270.25	B	Specific Requirements for Equipments Leaks
10.	40 CFR	264, 265, 270 - <u>264.179, 265.178</u> <u>264.200, 265.202</u> <u>264.232, 265.231</u> <u>265</u>	CC I I K <u>Appendix</u>	Organic Air Emission Standards for Tanks Surface Impoundments, and Containers <u>Appendix VI</u>

<u>Item No.</u>	<u>CFR No.</u>	<u>Part No.</u>	<u>Subpart No.</u>	<u>Title</u>
11.	40 CFR	<u>270.14(b)(5)</u> <u>270.27</u>	B	<u>Specific Requirements for Air Emissions Control for Tanks, Surface Impoundments and Containers</u>
1+ 2.	40 CFR	265	P	Thermal Treatment
12 3.	40 CFR	266	H	Hazardous Waste Burned in Boilers and Industrial Furnaces
			<u>Appendices</u>	<u>Appendix I to XIII</u>
13 4.	40 CFR	270.22	B	Specific Requirements for Boilers and Industrial Furnaces Burning Hazardous Wastes
14 5.	40 CFR	270.66 <u>270.66(d)(3)</u> <u>270.66(g)</u>	F	Permits for Boiler and Industrial Furnaces Burning Hazardous Waste
15 6.	40 CFR	279.23	C	On-site Burning In Space Heater
16 7.	40 CFR	279.60 279.61 279.62 279.63	G	Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery
17 8.	40 CFR	270.14(b)(22) - <u>270.24(b)(5)</u> = <u>270.1(c)(viii)(C)</u>	B A	Part B application General Requirements General Information
18 9.	40 CFR	270.30(m)	B	Information repository
20.	40 CFR	<u>261.6(c)(1)</u>	A	<u>Requirements for Recyclable Materials</u>
21.	40 CFR	<u>262.34(a)(1)(i) &amp; (ii)</u>	C	<u>Accumulation Time</u>
22.	40 CFR	<u>260.11</u>	B	<u>References</u>

REGISTRATION OF PUBLIC  
AT  
COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

Committee: \_\_\_\_\_

Date 12-16-98

Please print or write plainly.

NAME	ADDRESS	REPRESENTING	Please check (X) if you desire to make a statement.
Russ Radin		DHHR - OEHS	
Jae Wyatt		DHHR - OEHS	
Jerry A. Knight		State Tax Commission	
Charles Lorenson		American Electric Power	X ←
Robert Morgenstern		WUSA	
Peggy Jensen-Sjoberg		Proposed Rule 110-1I Self	X

ITEM  
i

Hunt adapted

IOE explained  
Approve as mod.  

---

OAG - Stats of Perf

Hunt

Karen Watson responded to Q's  
IOE explained  
Approve as mod

IOE explained  
Approve as mod.  

---

OAG - Emission Stats

Hunt

IOE explained  
Approve  

---

OAG - Acid Rain

Hunt adapted

IOE explained  
Approve as mod.  

---

OAG - Hosp / Med

Boley adapted

I explained  
Approve as mod.  

---

Iat - Manuf.

LRMRD

December 16, 1998



DRQ - Transportation

Joe explained  
John Benedict responded to questions  
Approve as mod

Hunt adapted

DRQ - Hazardous Waste

Joe explained  
Approve as mod & amended

Hunt adapted

1<sup>st</sup> day issuance of permit & otherwise issued  
Karen Watson responded to questions.  
Kind voted "No"

Boley amended adapted

Tax - Telemarketing

I explained & responded to questions  
Dale Steger responded to q

Gross adapted

Log over

Review def

Tax - Coal

Peggy Shover? addressed the Q & said q's  
Jerry Knight, Dir. Prop. Tax Div. responded to q's  
Bill Brancy, WVA Coal Assn responded to q's from

Charlie Lorenson

Approve as mod

Riggs

"No"

Mod - reflect 3 yrs annual report to log on tax base of

adapted

Gross

Gross

adapted

Centers & school systems.

Bob Hoffman addressed the Q



116

my

**TENTATIVE AGENDA**  
**LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**  
**Tuesday, November 10, 1998**  
**Beginning at 9:30 a.m.**  
**Senate Finance Committee Room M-451**

1. *Hunt clod metg 1 ad*  
**Approval of Minutes** Meetings of October 19 and 20, 1998

**2. Review of Legislative Rules:**

a. **West Virginia State Treasurer's Office**

*DAG review abstract, agreed 1 level mod/cas*  
*Mr Perdue moved go 2 com (trava ofe)*  
 Rule for Enforcement of the Uniform Unclaimed Property Act, 112CSR5

Ross Moved the rule be:  
 Laid over  
 Approved  
 Approved w/modifications  
 Approved w/amendments

b. **State Tax Commission**

*DAG explains rule, lead 0 2 1st metg, mers go 2 com*  
*Jerry Knight, dir. property tax dept, answers go 2 com*  
*Andron - moves 1 to court pt mod/cas in appropriate*  
*plac. motion adopted*  
*Andron: move 1 amend to rule as previously stcl*  
*not carried*  
 Value of Timberland and Managed Timberland, 110CSR1H

Ross Moved the rule be:  
 Laid over  
 Approved  
 Approved w/modifications  
 Approved w/amendments

c. **Governor's Committee on Crime Delinquency and Correction**

Law Enforcement Training Standards, 149CSR2

DAG reviews abstract, agency agreed to several modifications  
be not a major re-write,

Ross moves prop. modifications P / rule - re-write next  
yr. - mos carried - agency accepts modifications

Buckalew

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

d. **State Tax Commission**

Valuation of Active and Reserve Coal Property for Ad Valorem Property Tax  
Purposes, 110CSR11

DAG explains rule - rule w/ moved to ft of agenda  
/ last meeting. DAG's notes go  
Bob Hoffmann, st by cms, notes go to cms

Ross moves rule to ft of agenda - counsel to go later w/ by cms -  
if proof to value to by cms - include amendment to proposal -  
mos carried

Repp

- Moved the rule be:
  - Laid over
  - Approved
  - Approved w/modifications
  - Approved w/amendments
- } approved

→ Jaidot move to item H

0. **State Tax Commission**

Tax Credits for New Value-Added Wood Manufacturing Facilities, 110CSR13M

DAG explains rule, cms to agreed to several modifications, notes go  
Keith Larson, legal doc to by cms, notes go to cms

Boley

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

P 4

**State Tax Commission**

Tax Credits for New Steel, Aluminum or Polymer Manufacturing Operations, 110CSR13N

DAG explains rule, Comd agrees & modifies

Boley

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

P 4

**State Tax Commission**

Electronic Data Processing System Network for Property Tax Administration, 110CSR2

DAG explains the rule, comd agrees & amend modifications  
Jerry Knight, direct property tax dept, needs go to comd

Boley moves rule left & agenda away from info on costs & county - most adopted  
Jerry Knight brought in the info request

Buckalew

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

P 4

**Board of Acupuncture**

Applications for Licensure to Practice Acupuncture, 32CSR3

DAG goes to abstract, board agrees & amend modifications

Faurcloth

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

} carried

i #

**Board of Acupuncture**

Disciplinary and Complaint Procedures for Acupuncturists, 32CSR7

DAG explains rule, Board agrees w/ several modifications  
DAG message L rule

Rose

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

) adopted

j #

**Board of Acupuncture**

Continuing Education Requirements, 32CSR9

DAG explains rule, Board agrees w/ several modifications,

Rose

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

k #

**Board of Acupuncture**

Code of Ethics for Licensed Acupuncturists, 32CSR10

DAG explains rule, Board agrees w/ several modifications  
re. sample answers for L rule

Andres - mod: - O.T. committee modifications rule language in  
to rule

Rose

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

adopted

Call Ronald Forren 558-2981  
Loretta Haddu 558-5358



10.

**Board of Acupuncture**

Education Requirements, 32CSR11

DAG explains to rule, Board agrees to level modification

Ross

Moved the rule be:

- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

7 adp'd

11.

**Board of Acupuncture**

Tutorial Education Requirements, 32CSR12

DAG explains to rule, Board agrees to level modification  
DAG moves to 2 cmte  
Dr. Samples moves to 2 cmte

Ross

Moved the rule be:

- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

adp'd

12.

**Board of Acupuncture**

Formation and Approval of Professional Limited Liability Companies, 32CSR13

DAG explains to rule, Board agrees to level modification

Ross

Moved the rule be:

- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

7 adp'd

first stack ends here

54

**Division of Natural Resources**

Recycling Assistance Fund Grant Program, 58CSR5

Gpa explains rule, agency agrees to technical modifications,  
Gpa moves for 2<sup>nd</sup> com  
Jim Hill, recycling coordinator, moves for 2<sup>nd</sup> com  
Buckalew moves modification P.D.N.F. can be met up w/rule  
re-rule - adp'd

Hunt

Moved the rule be:

- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

} adp'd

+

**West Virginia Division of Environmental Protection**

Sewage Sludge Management Rule, 33CSR2

Gpa explains to rule, find out - report Camp of sewage  
sludge odor rule, agency agrees to technical  
modifications

Buckalew

Moved the rule be:

- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

} adp'd

+

**West Virginia State Board of Registration for Professional Engineers**

Rules of the West Virginia State Board of Registration for Professional Engineer, 7CSR1

DAG explains to rule, Board agrees to technical modification(?)  
DAG moves for  
Frank Gaddy (sp?) moves for 2<sup>nd</sup> com

\*ask Nebra abt the amendment

Hunt

Moved the rule be:

- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

} adp'd



u. **Division of Health, Department of Health and Human Resources**  
**General Sanitation, 64CSR18**

DAG explains rule, agreed to local modifications

Boley

Moved the rule be:

Laid over

Approved

Approved w/modifications

Approved w/amendments

v. **Division of Health, Department of Health and Human Resources**  
**Tuberculosis Control, 64CSR76**

DAG explains rule, agrees to local modifications

Hunt

Moved the rule be:

Laid over

Approved

Approved w/modifications

Approved w/amendments

w. **Division of Health, Department of Health and Human Resources**  
**Lead Abatement Licensing, 64CSR45**

DAG explains rule, agrees to local modifications  
Randy Curtis, Bureau of Public Health, mess  
gs LR comle

Boley

Moved the rule be:

Laid over

Approved

Approved w/modifications

Approved w/amendments

x. **Division of Health**

**Interstate Compact on Mental Health, 64CSR72**

DAG explains the rule, agency agrees to several modifications

Boley

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

7 adopted

y. **Division of Health, Department of Health and Human Resources**

**Radon Licensure, 64CSR78**

DAG explains rule, agrees to several modifications, more questions

Randy Curtis more questions & comment

more questions & comment (on DAG's side)

~~Hand~~

Hand

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

z. **Division of Health, Department of Health and Human Resources**

**Fees for Services, 64CSR51**

DAG explains the rule, agree to several modifications, more questions

Gary Thompson, for sit report, more questions & comment

Chris Gordon - more questions & comment

Hand move to strike fees (modifications) -

Hand

- Moved the rule be:
- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

7 adopted

off v agenda

aa. **Division of Culture and History**  
Certified Local Government Program, 82CSR1

*Rep explains to rule, agency agrees to amend modifications  
msc of*

Hunt

Moved the rule be:

- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

*bes clg + history did not h archives prop  
off of rule*

bb. **Division of Culture and History**  
Standards and Procedures for Administering State Historic Preservation  
Programs, 82CSR2

Hunt

Moved the rule be:

- Laid over
- Approved
- Approved w/modifications
- Approved w/amendments

*move back to*

3. **Other Business.**

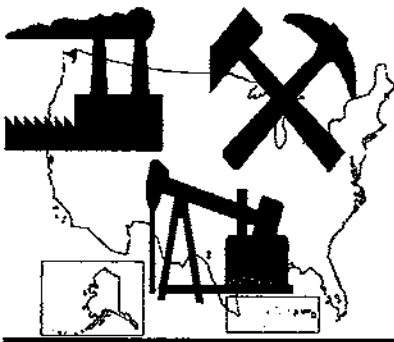
*Ann All da melg ← Dec 16 9:30am  
(send lr to Ala ask) prms*



# Natural Resource Taxation

Presentation before the  
West Virginia Legislature  
and  
Legislative Review Committee





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**RESOURCE TECHNOLOGIES CORPORATION**

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December 15, 1998

Honorable Mike Ross  
Honorable Mark A. Hunt  
Chairpersons  
Legislative Rulemaking Review Committee  
West Virginia Legislature  
Charleston, West Virginia

Mr. Chairperson;

Representatives and consultants from the Department of Tax and Revenue have made presentations before your committee comparing the performance of the proposed Reserve Coal Valuation Model to the current methodology used to value reserve coal for *ad valorem* tax purposes. You are now considering the passing of the proposed rules to implement the new valuation procedure. This memorandum and attachments are provided to aid you in this task.

Provided are the following:

- A summary of the development of the proposed Reserve Coal Valuation Model (RCVM).
- A summary of results of the proposed RCVM and a comparison of these results to the current methodology. This document consists of a summary, five tables, and a synopsis of each of the five tables.
- A copy of the full presentation made to the Committee on November 10, 1998.

A copy of the full presentation made to the West Virginia Legislature in October, 1997 is also available.

We would be pleased to answer any questions you may have concerning these data.

Respectfully submitted,

Jeffrey Kern, President  
Resource Technologies Corp.

Thomas Torries  
Torries and Associates



## Development of the Proposed Reserve Coal Valuation Model

Coal properties have historically been assessed for property taxation purposes in the state of West Virginia. This assessment has been founded on constitutional mandates, statutory law, and legislative rule. Property tax assessment roles, maintained by the various county assessment officers, include more than 180,000 coal properties in nearly every county of the state. These records include both mineral-only and fee properties containing coal in various contexts:

- Coal actively being mined
- Active coal reserves included in mine plans
- Reserves of coal likely to be mined in the predictable future
- Reserve coal being held in reserve for future mining
- Reserve coal that may or may not be mined or even be amenable to mining

Reserve coal properties have value. These properties are bought, sold, traded, and used as collateral on the open market by land companies, coal companies, as well as individuals. Market research shows that prices for coal reserve properties vary widely (less than \$100 per acre to more than \$10,000 per acre). Obviously, the presence of coal can also increase the value of many fee estates.

Based on the law and appraisal ethics, a fair and equitable assessment should consider all attributes of a property that affect value including coal value. To standardize the assessment procedure the Department undertook a statewide coal assessment task.

To assign a value to all reserve coal properties, the Department originally used a regional valuation process, by which all coal within a multicounty region was assigned the same per acre value. The state was divided into five regions. Per acre values were estimated every year by averaging the per acre value of sales of land containing coal or coal properties. However, the process did not take into account such factors as

- Marketability of the coal
- Coal quality
- Coal bed thickness and quantity on a site
- Property and environmental characteristics
- Transportation and mining issues

This procedure was expected to provide a reasonable estimate of the unique value of more than 180,000 diverse properties from only 100 or so recorded coal property transactions. Establishment of confidence in the comparative sales base proved to be difficult at best. Application of this "sales base" to individual properties proved to be even more difficult.

In 1994 controversies developed concerning the appraisal of reserve coal properties. A suit, *Lawson v. Paige*, focused on:

- Uniformity of appraisal procedures and results
- Accuracy of the appraisal results
- Equity of the tax burden among all coal and other tax payers

Plaintiffs in the suit, including Common Cause of West Virginia, The West Virginia Education Association, the United Mine Workers, and others, claimed that the regional assessment used by the Department of Tax and Revenue was not valid or constitutional. The suit was settled by the Department agreeing to investigate the improvement of the assessment procedures. The court retained jurisdiction in the case.

The Department, through its consultants, determined that the existing reserve coal assessment procedures were not adequate. The consultants ascertained that the contested procedures were not statistically sound nor did they reflect market conditions. Further, the consultants concurred that the existing procedures were not accurate, did not provide for uniformity, and did not provide for equity among tax payers.

To overcome the shortcomings of the existing system, the Department developed a mass appraisal system to estimate the relative value of all properties. The system was designed to use Geographic Information System technology that was being developed by the West Virginia Geological and Economic Survey (WVGES), the Department of Tax and Revenue, and West Virginia University Technical Center. The system was designed to use indicators of market values such as:

- History of mining records
- Current market interest in coal beds and locations
- Current mining and permitting activity of coal beds in specific locations
- Previous mining including depletion and sterilization of coal beds at specific locations
- Environmental conditions likely to affect potential mining at specific locations
- Coal characteristics including percent sulfur, ash, volatility, and Btu
- Actual prices paid for mined coal in the open market
- Quantity of coal on any property including area and thickness

Considerable effort was expended in reviewing potential sources of data, establishing data collection and maintenance and information analysis procedures. With an objective of reducing the reporting requirements from taxpayers, the Department established the use of publicly available information as a goal. The Department, through its consultants, developed cooperative procedures with the Department of Conservation Labor, and Environmental Resources, West Virginia Geological and Economic Survey, the Public Service Commission, and the West Virginia University.

Proposed rules were developed and submitted to the legislature. The rules submitted were designed to overcome the complaints as detailed in the suit and to satisfy the goals of accuracy, equity, and uniformity. Given that coal value and coal and property characteristics are geographically related the system developed was a geologic, geographic and economic model.

The Legislature reviewed the rules. To facilitate implementation, a five year phase-in procedure was developed. The rule was combined with all other Tax and Revenue rules. Included in the



combined rules was a controversial Bingo rule. Because of the controversy surrounding the Bingo rule, the combined rules were not passed by the legislature.

Through its first test, the model proved successful. Inaccuracies uncovered in the first tests were determined to be related to inadequate information describing some properties throughout the state. It was determined that a second trial run would be used to produce notices to each taxpayer. These notices would furnish the tax payer with a listing of the descriptive information about an individual property and a comparison of the existing assessment and tax to the proposed assessment and tax. Each taxpayer was invited to supply information that would correct any errors concerning specific property records. It must be emphasized that:

- No new tax records have been created by this process.
- Descriptive data about individual properties have been obtained from existing assessment records.
- Properties included in the project have been assessed for coal value for the last 135 years. To date, all of the properties records included in this effort have been assessed under the regional system for the last seven years.
- Information supplied by tax payers in response to the notices will be used to improve the assessment records.

Litigation concerning the coal assessment procedures remains pending. Counsel for plaintiffs in *Adkins v. Capehart* asked the lower court to rule on constitutionality of the current system. The current procedure can not be sustained – the procedure assigns a single rate for mineable reserves to all properties in each region. While sales in the market vary from \$1 to \$10,000 per acre, in Region 5, for example, the current approach places a value of \$550 per acre on all mineable properties regardless of condition, coal content, or situation. This process grossly overvalues some properties and grossly undervalues others.

The Department has embraced the new procedure allowing the assessor to determine a relative value for each unique property more closely related to actual market conditions. The procedure is designed to be compatible with the WVGES GIS program, satisfy the demands of the court case, accomplish the requirements of equity, uniformity, and fairness, and fulfill the objectives for ease of administration and ease of compliance.

The attached documents are copies of the slide presentations used to brief the Legislature on the progress development of the new procedures. Department personnel and the consultants are available to answer your questions. Use of the new procedures will:

- Quell the pending lawsuit.
- Result in lowering the tax burden on many small properties that are not likely to be mined.
- Allow the tax department to differentiate between high value coal tracts and low value tracts.
- Facilitate state and county management of taxes and coal property records:
  - Adding heretofore unrecorded properties to the assessment inventory.
  - Removing valueless properties from current inventory.



## Summary of Results of the Proposed Reserve Coal Valuation Methodology

Jeffrey Kern, Resource Technologies Corporation  
Thomas Torries, Torries and Associates

December 15, 1998

There has been considerable confusion in the press and the West Virginia Legislature regarding the nature of the results of the proposed Reserve Coal Valuation Model (RCVM) developed for the Department of Tax and Revenue as compared to current valuations. There is also confusion concerning the costs of initiating and administering the RCVM. The purpose of this packet of materials and this memo is to eliminate this confusion.

### Distribution of Tax Payments by Property Class

The RCVM was not designed to achieve any preconceived notion of distribution of tax payments by property owners. There was no attempt to increase or decrease the tax burden of any class of tax payer. Changes in the tax burden are solely a result of the inputs and the internal workings of the model.

It has been claimed that the proposed RCVM increases the tax burden of small individual property owners to the benefit of large coal property owners. It is also claimed that these results show that the model does not work correctly. Neither claim is true.

The proposed RCVM significantly decreases the tax burden on small individual property owners and places a greater tax burden on large coal property owners near existing coal mining operations and in areas of relatively high coal property demand. These results are shown in detail in the attached summary Tables 1 through 5 and are described in the summary description of the tables.

In part, the confusion concerning small property owners arose from the notices recently mailed to all taxpayers recorded by the county assessment offices as owning coal properties. These notices furnish the tax payer with a listing of the descriptive information about an individual property and a comparison of the exiting assessment and tax to the proposed assessment and tax. Each taxpayer has been invited to supply information which would correct any errors concerning specific property records. No new records were created. Coal and coal properties have been taxed for the last 135 years.

### Does the Model Give Correct Answers?

It is claimed that the RCVM does not work correctly since the tax burden is shifted to small property owners. Since this is not so, does it not follow that the RCVM does work correctly since it actually shifts the tax burden to large property owners?

The answer is, not necessarily. The performance of the model and its robustness to yield reasonable results under a variety of conditions is not judged solely by the overall redistribution pattern of taxes, but on the reasonableness of many other model results. For

December 15, 1998

example, the model is judged to be working correctly when the value of thick low sulfur coal is determined to be higher than the value of thinner higher sulfur coal with other factors being held constant. Similarly, the model is judged to be working correctly when it places higher values on coal properties near existing mining operations than properties removed from existing or historical mining operations.

### **Cost of Initiating and Maintaining the RCVM**

Through fiscal year 1997-1998, the Department has expended approximately \$675,000 in the development of the Reserve Coal Valuation Model. The Department anticipates expenditures of approximately \$700,000 during fiscal year 1998-1999 to complete the development and to place the model into production for tax year 2000 appraisals. Half of the fiscal year 1998-1999 expenditures are contained in a supplemental appropriation passed during the 1998 legislative session. The remaining half is being requested in the form of a supplemental appropriation for this fiscal year. These expenditure will provide a model with tax index map resolution on fee owned parcels and 1/9 of a quadrangle resolution on severed coal ownership.

### **Increasing the Efficiency of Reserve Coal Taxation**

There are 181,777 total reserve coal properties. Of these, nearly 60,000 properties are less than 10 acres in size. These 60,000 properties generate only \$88,000 in taxes, or \$1.47 per property. The cost of administering these properties is greater than the generated tax revenues. This suggests that it may be in the State's best financial interest to not tax these small properties as long as they are not part of larger reserve coal aggregations. While this would not eliminate the valuation, it would remove the taxation and tax administration of a third of the reserve coal properties.

Not taxing the smaller properties also eliminates a major source of confusion, concerns, and complaints among these property owners.

## Summary Description of Tables 1 through 5

The following paragraphs describe the attached seven tables which provide more detailed results of the results of the RCVM compared to the current valuation. Each descriptive paragraph is keyed to the number of the table. The assumptions implicit in the results are summarized at the bottom of each table.

The total RCVM value of reserve coal is \$1.22 billion, which is larger than the current value of \$1.05 billion because of the inclusion of some properties that were previously classified as part of the total active coal appraisals. The total value of reserve plus active coal has not changed. Correspondingly, the total tax receipts increased from \$15.3 million to \$17.9 million. The percent increase in taxes is slightly larger than the percent increase in appraised value because of a change in distribution of property values among counties with different levy rates.

### **As shown on Table 1, Reserve Property Value Distribution By Value Group:**

- 98% of the total RCVM value is accounted for by properties with RCVM values greater than \$1000:
  - The total value of the properties with current appraisal values less than \$100 is significantly lower using the RCVM.
  - The total value of properties with current appraisal values greater than \$1000 is significantly higher using the RCVM.

### **As shown on Table 2, Total Reserve Property Value Distribution By Property Size:**

- 96% of the total RCVM value is accounted for by properties larger than 50 acres:
  - The total value of smaller properties (less than 50 acres) as estimated by the RCVM is less than the current total value of these properties.
  - The total value of larger properties (greater than 50 acres) as estimated by the RCVM is greater than the current total value of these properties.

### **Table 3, Reserve Property Value Distribution By Value Group:**

- The RCVM average value per property for all lower value properties is significantly less than the current value. The average current value of the lowest value properties is \$20 for the RCVM and \$170 for the current valuation.
- There are only 23,802 properties that had a value in excess of \$1000. The average value of these highest value properties is \$50,000 for the RCVM and \$37,000 for the current valuation.

### **Table 4, Reserve Property Tax Distribution By Value Group shows potential changes in levied taxes:**

- The average taxes levied for each property value group decreased significantly except for properties with appraised values greater than \$1,000.

- The average RCVM tax for the lowest valued properties decreased to \$0.36 compared the current tax of \$2.49.
- The average RCVM taxes on the next two highest property value groups are \$2.96 and \$9.47 compared to current taxes of \$27.30 and \$81.85 respectively.
- The average RCVM tax on the highest property value group is \$739.18 compared to current tax of \$538.36 .

**Table 5 (Property Tax Distribution by Property Size) shows:**

- The total levied taxes on reserve coal using the RCVM is \$17.9 million on 181,777 properties.
- The total levied taxes using the RCVM for large properties of reserve coal (greater than 100 acres) is \$16.3 million involving 32,108 properties. Taxes on these properties constitute 91% of the total levied taxes.
- The levied taxes on reserve coal for greater than 10 acres is \$17.8 million on 121,904 properties. Taxes on these properties constitute 99.5% of the total levied taxes.
- The levied taxes on reserve coal for small properties (less than 10 acres) is \$88,000 on 59,873 properties. This represents an average tax of only \$1.47 per property and suggests that more is spent on collecting the tax than is received by the State. The 59,873 properties represent a third of all reserve coal properties.

**Summary of Salient Facts**

- The results suggest that coal properties not part of larger coal reserve with a levied tax less than the administrative cost of taxation (generally less than 10 acres and less than \$1,000 in value) should not receive a tax notice. This would reduce the administrative overhead of managing over 60,000 tax bills. It would also eliminate a considerable amount of confusion among the owners of these small properties. However, these properties must be assessed and maintained in the valuation system.

<b>Table 1</b>			
<b>Reserve Property Value Distribution By Value Group</b>			
<b>Value Group</b>	<b># of Properties</b>	<b>Current Total \$</b>	<b>RCVM Total \$</b>
<b>Property Value</b>			
<b>\$0 to \$100</b>	105,934	\$18,000,000	\$2,600,000
<b>\$100 to \$400</b>	36,521	\$68,000,000	\$7,400,000
<b>\$400 to \$1,000</b>	15,520	\$86,000,000	\$10,000,000
<b>\$1,000 and up</b>	23,802	\$874,000,000	\$1,200,000,000
<b>Total</b>	<b>181,777</b>	<b>\$1,046,000,000</b>	<b>\$1,220,000,000</b>

1) Unit Value calculated at 12.5%  
2) Continuation of current market  
3) Continuation of only existing mine operations  
4) No change in mining patterns

5) Continuation of 165 million tpy  
6) No change in coal prices  
7) Property Inventory as of March 1998  
8) Valuation as of September 1998

Values are based on averages, individual property values will vary  
**Market is dynamic, changes in outcome are expected**

<b>Table 2</b>			
<b>Total Reserve Property Value Distribution By Property Size</b>			
<b>Size Group</b>	<b># of Properties</b>	<b>Total Current Value</b>	<b>Total Model Value</b>
<b>Property Size (in acres)</b>			
<b>0 to 10</b>	59,873	\$6,000,000	\$6,000,000
<b>10 to 50</b>	56,007	\$59,000,000	\$44,000,000
<b>50 to 100</b>	33,789	\$28,000,000	\$60,000,000
<b>100 and up</b>	32,108	\$953,000,000	\$1,110,000,000
<b>Total</b>	<b>181,777</b>	<b>\$1,046,000,000</b>	<b>\$1,220,000,000</b>

1) Unit Value calculated at 12.5%  
2) Continuation of current market  
3) Continuation of only existing mine operations  
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5) Continuation of 165 million tpy  
6) No change in coal prices  
7) Property Inventory as of March 1998  
8) Valuation as of September 1998

Values are based on averages, individual property values will vary  
**Market is dynamic, changes in outcome are expected**

Value Group Property Value	# of Properties	Average Value per Property	
		Current	RCVM
\$0 to \$100	105,934	\$170	\$20
\$100 to \$400	36,521	\$1,900	\$200
\$400 to \$1,000	15,520	\$6,000	\$1,000
\$1,000 and up	23,802	\$37,000	\$50,000
<b>Total</b>	<b>181,777</b>	<b>\$6,000</b>	<b>\$7,000</b>

1) Unit Value calculated at 12.5%  
2) Continuation of current market  
3) Continuation of only existing mine operations  
4) No change in mining patterns  
5) Continuation of 165 million tpy  
6) No change in coal prices  
7) Property Inventory as of March 1998  
8) Valuation as of September 1998

Values are based on averages, individual property values will vary  
**Market is dynamic, changes in outcome are expected**

Value Group Property Value	Count	Taxes			
		Current		RCVM	
		Total	Average	Total	Average
\$0 to \$100	105,934	\$264,000	\$2.49	\$38,000	\$0.36
\$100 to \$400	36,521	\$997,000	\$27.30	\$108,000	\$2.96
\$400 to \$1,000	15,520	\$1,261,000	\$81.25	\$147,000	\$9.47
\$1,000 and up	23,802	\$12,814,000	\$538.36	\$17,594,000	\$739.18
<b>Total</b>	<b>181,777</b>	<b>\$15,336,000</b>	<b>\$84.37</b>	<b>\$17,887,000</b>	<b>\$98.40</b>

1) Unit Value calculated at 12.5  
2) Continuation of current marke  
3) Continuation of only existing mine operations  
4) No change in mining patterns  
5) Continuation of 165 million tpy  
6) No change in coal prices  
7) Property Inventory as of March 1998  
8) Valuation as of September 1998  
9) Tax estimate is based on 60% assessment and average levy rate of: 2.444

Values are based on averages, individual property values will vary  
**Market is dynamic, changes in outcome are expected**



Size Group Property Size (in acres)	Count	Taxes			
		Current		RCVM	
		Total	Average	Total	Average
0 to 10	59,873	\$88,000	\$1.47	\$88,000	\$1.47
10 to 50	56,007	\$865,000	\$15.44	\$645,000	\$11.52
50 to 100	33,789	\$411,000	\$12.16	\$880,000	\$26.04
100 and up	32,108	\$13,972,000	\$435.16	\$16,274,000	\$506.85
<b>Total</b>	<b>181,777</b>	<b>\$15,336,000</b>	<b>\$84.37</b>	<b>\$17,887,000</b>	<b>\$98.40</b>

1) Unit Value calculated at 12.5%  
2) Continuation of current marke  
3) Continuation of only existing mine operations  
4) No change in mining patterns  
5) Continuation of 165 million tpy  
6) No change in coal prices  
7) Property Inventory as of March 1998  
8) Valuation as of September 1998  
9) Tax estimate is based on 60% assessment and average levy rate of: 2.444

Values are based on averages, individual property values will vary  
Market is dynamic, changes in outcome are expected

NOVEMBER 10, 1998  
Presentation

# Reserve Coal Tax Model

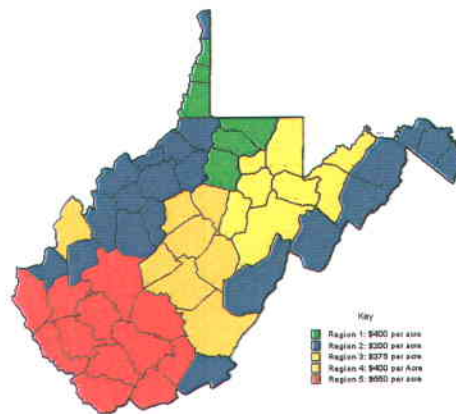
Presentation to the Legislative Rules  
Committee

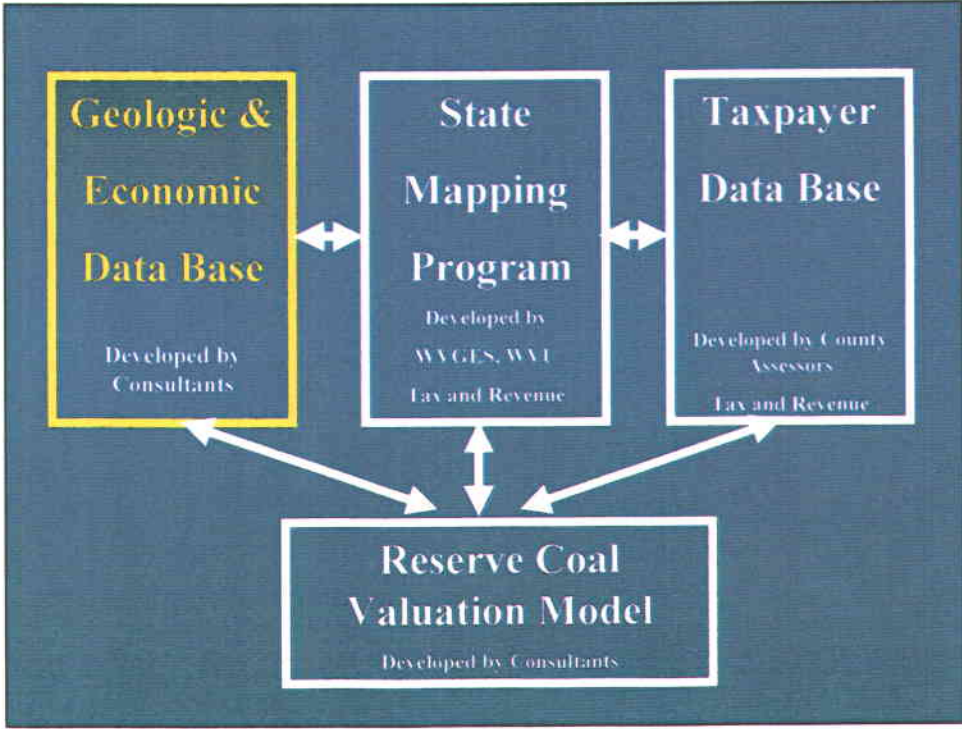
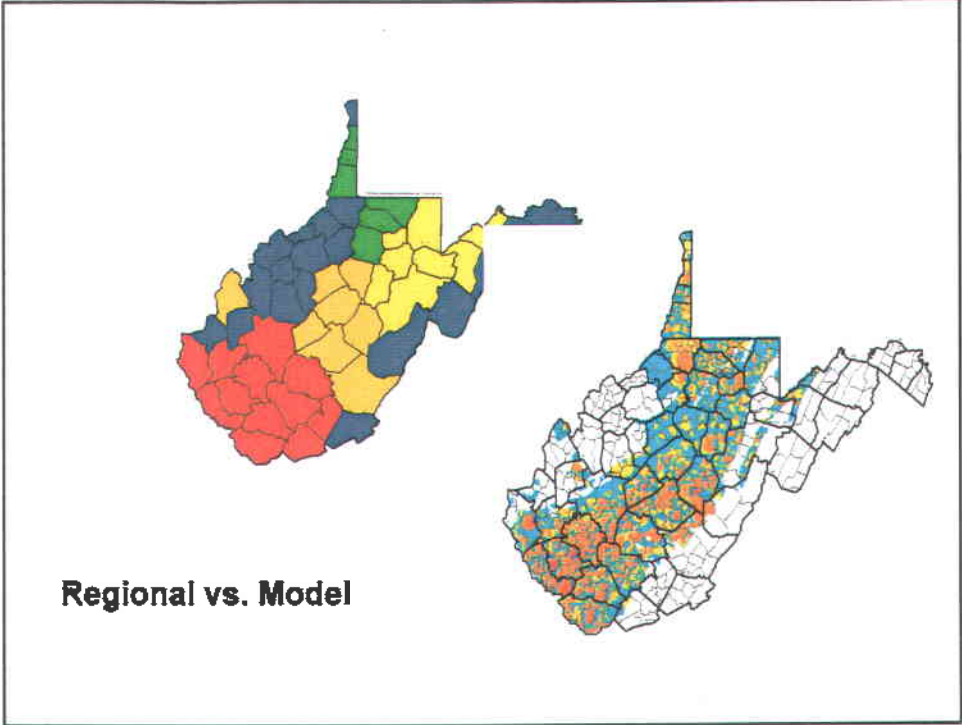
October 20, 1998

## Overview

- Review what has been done.
- Identify why so many taxpayer calls about impact notice.
- Identify solutions to problems.
- Effects on taxpayer tax bills.
- Effects on revenue.

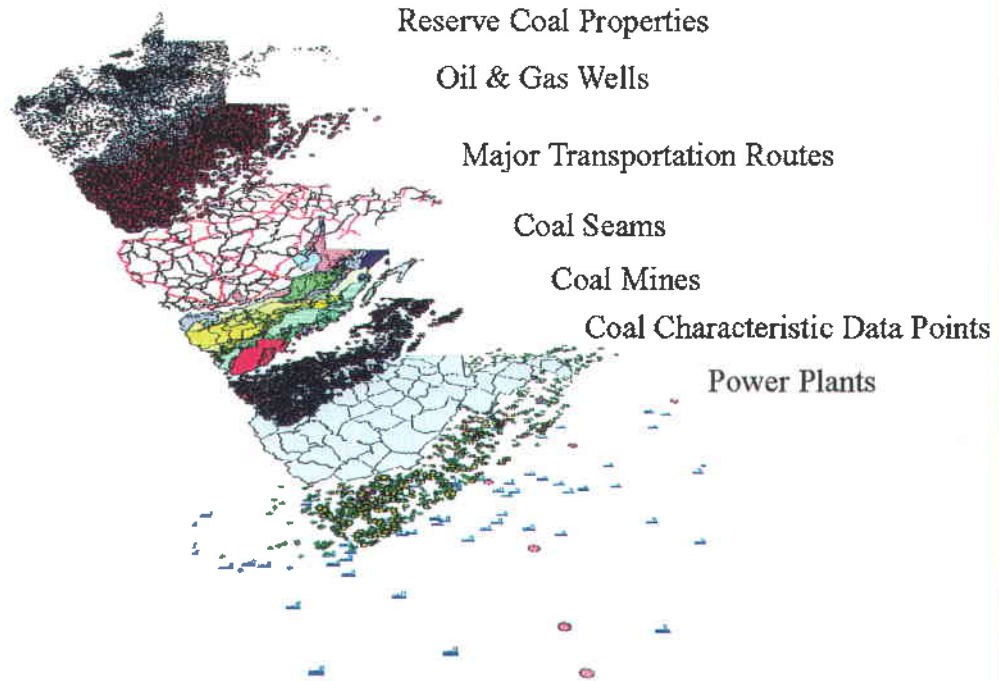
## Current Regional Tax Assessments



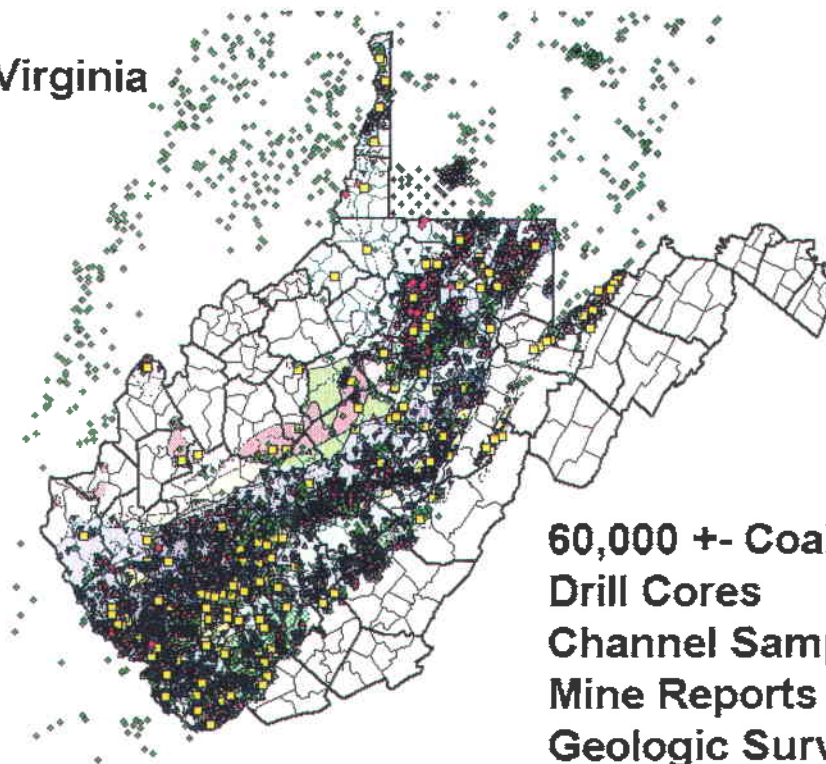




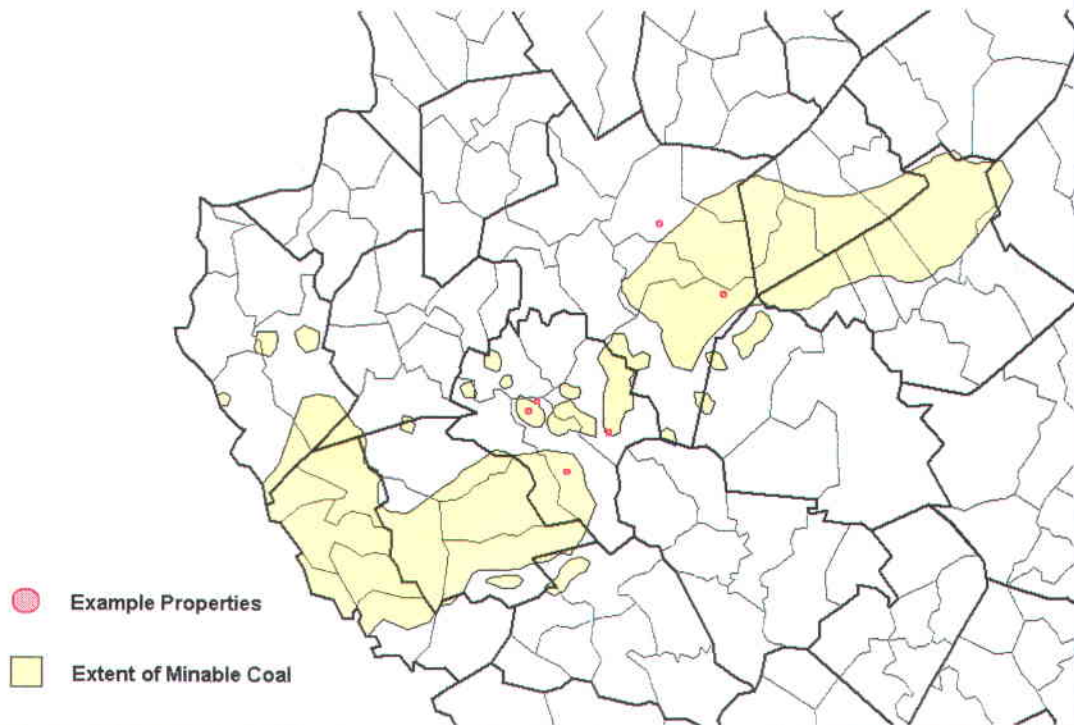
# Data Layers Used For Valuation Model



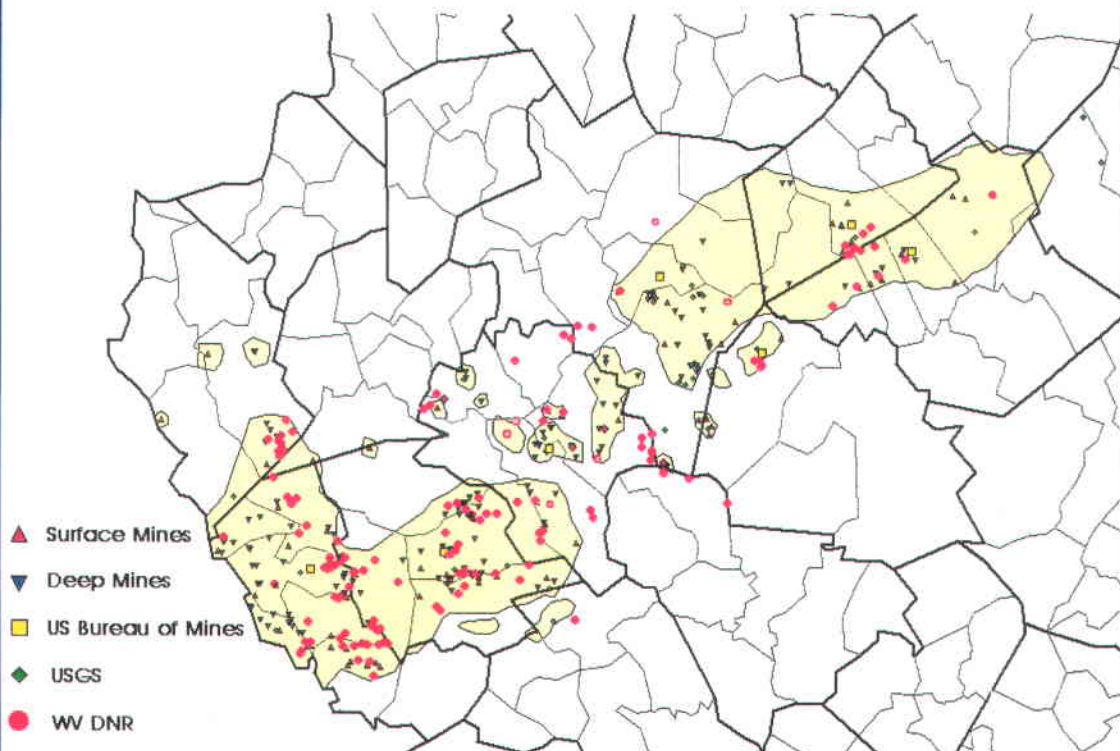
## West Virginia



## Historically Determined Extents of Minable Coalburg Seam

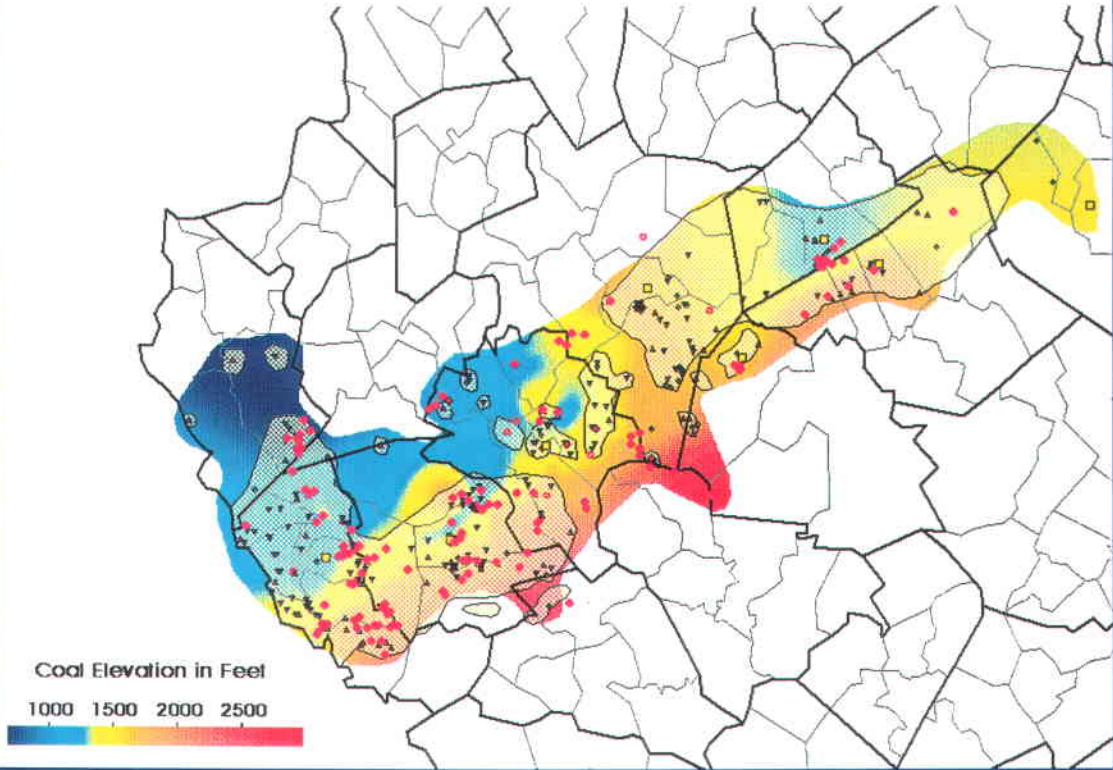


## All Data Points for Coalburg Seam

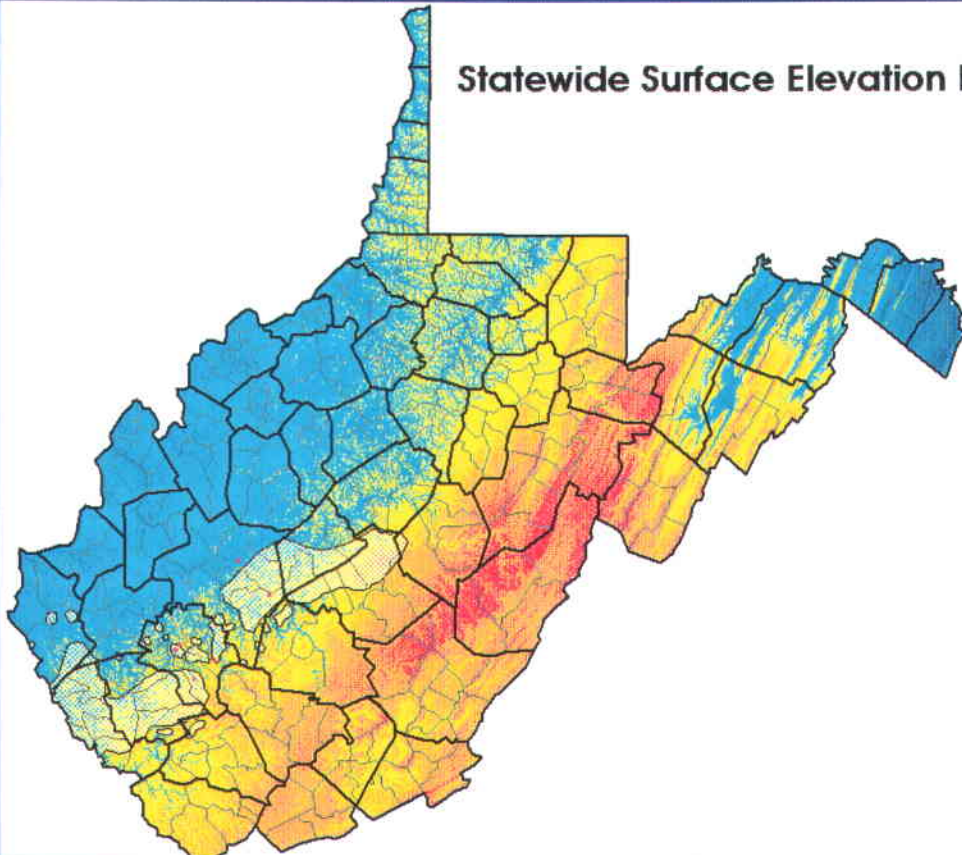




### Continuous Coal Elevation Surface Derived from Data Points

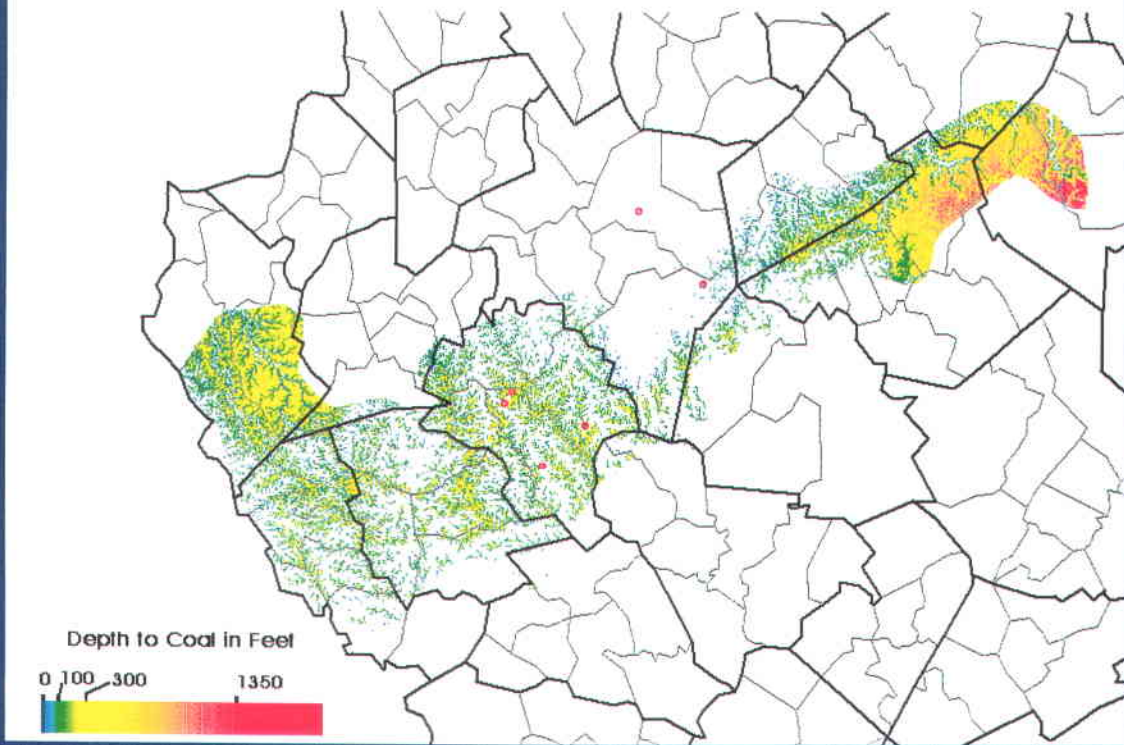


### Statewide Surface Elevation Model

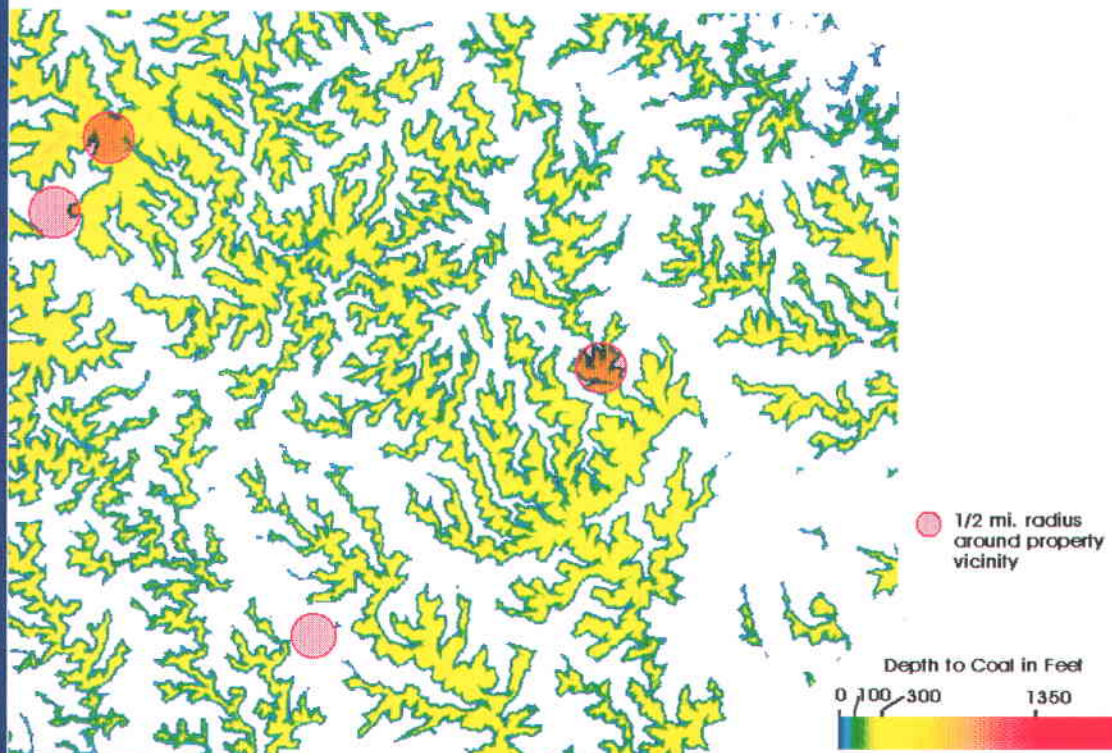




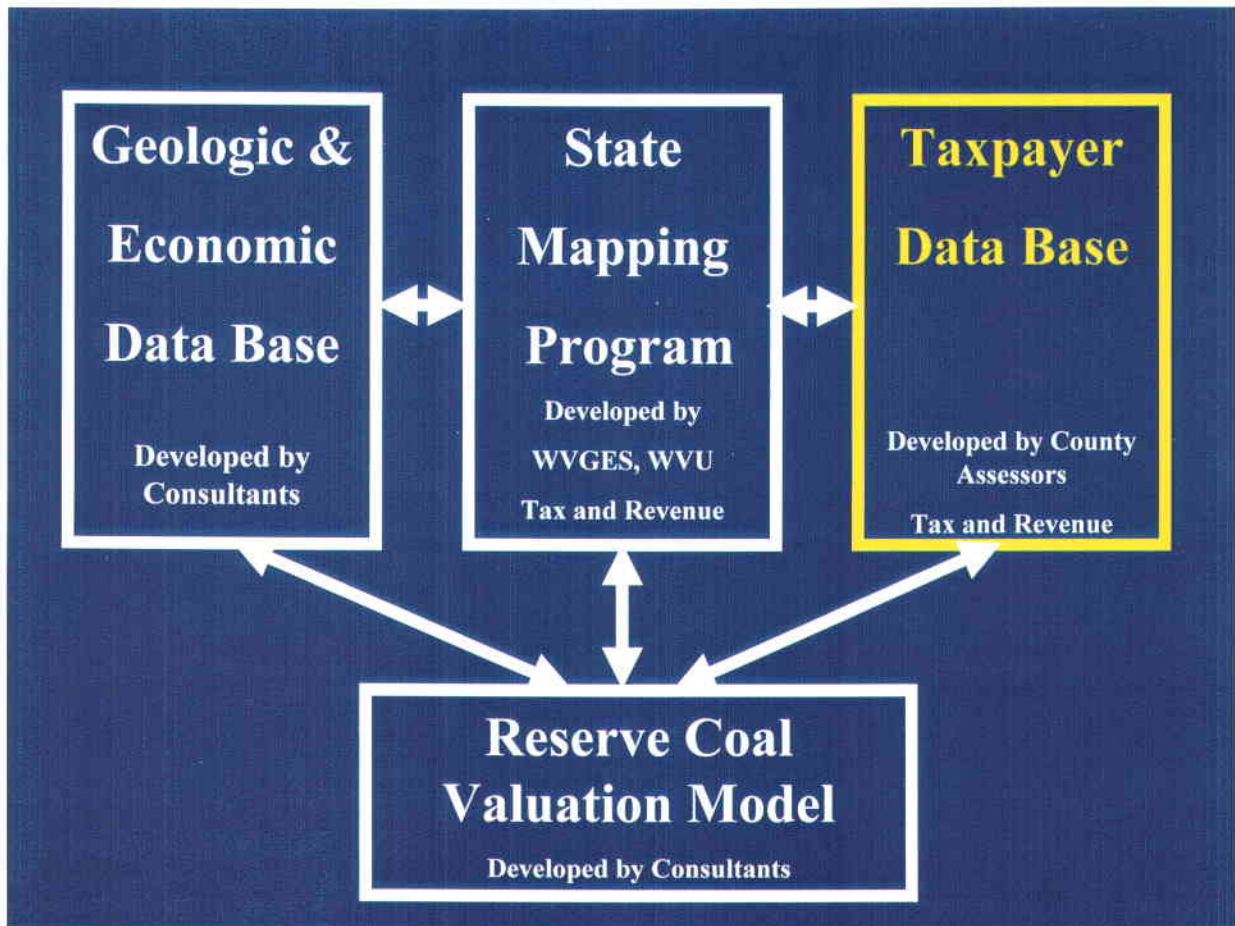
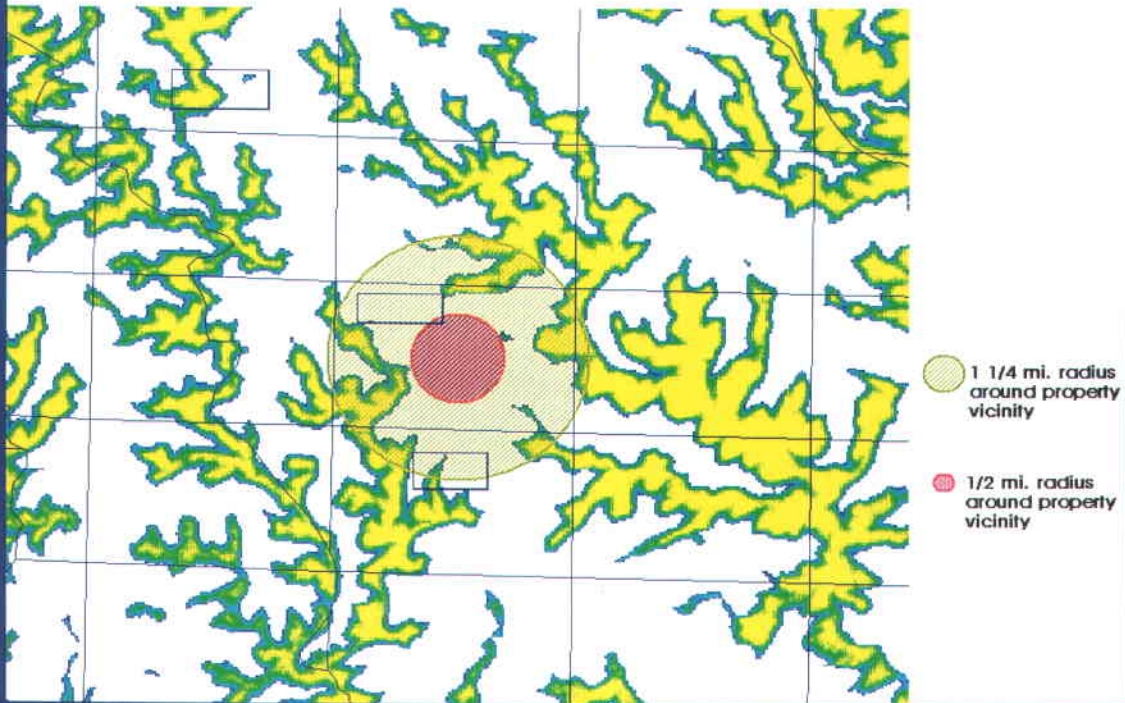
### New Coalburg Seam Extents Resulting from Elevation Model Calculations



### Some Properties That Were Previously Within Coal Extents No Longer Are



**Low-Precision Property Location Yields  
Imprecise Assessment Result**





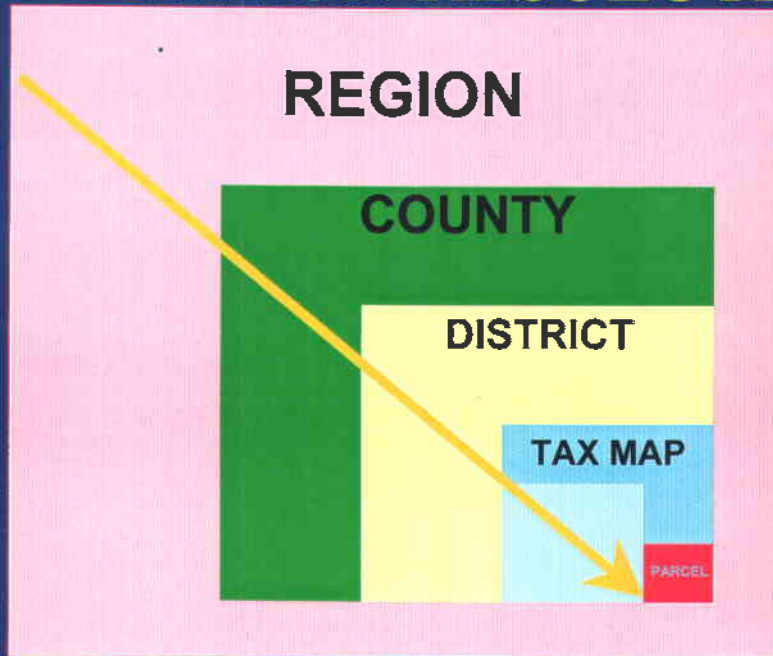
## Current Problems

- New methodology found many existing problems in Tax and Revenue Property Data Base - accumulated over years:
  - Property location
  - Omissions
  - Contradictory data
  - Lack of formal legacy
  - Inconsistent nomenclature

## Proposed Solutions

- Repair the property data base
  - correct names and addresses
  - solicit property information from taxpayers
    - ownership
    - coal information
    - location
  - correct and standardize legal description
- Map properties at better resolution (MLMP)

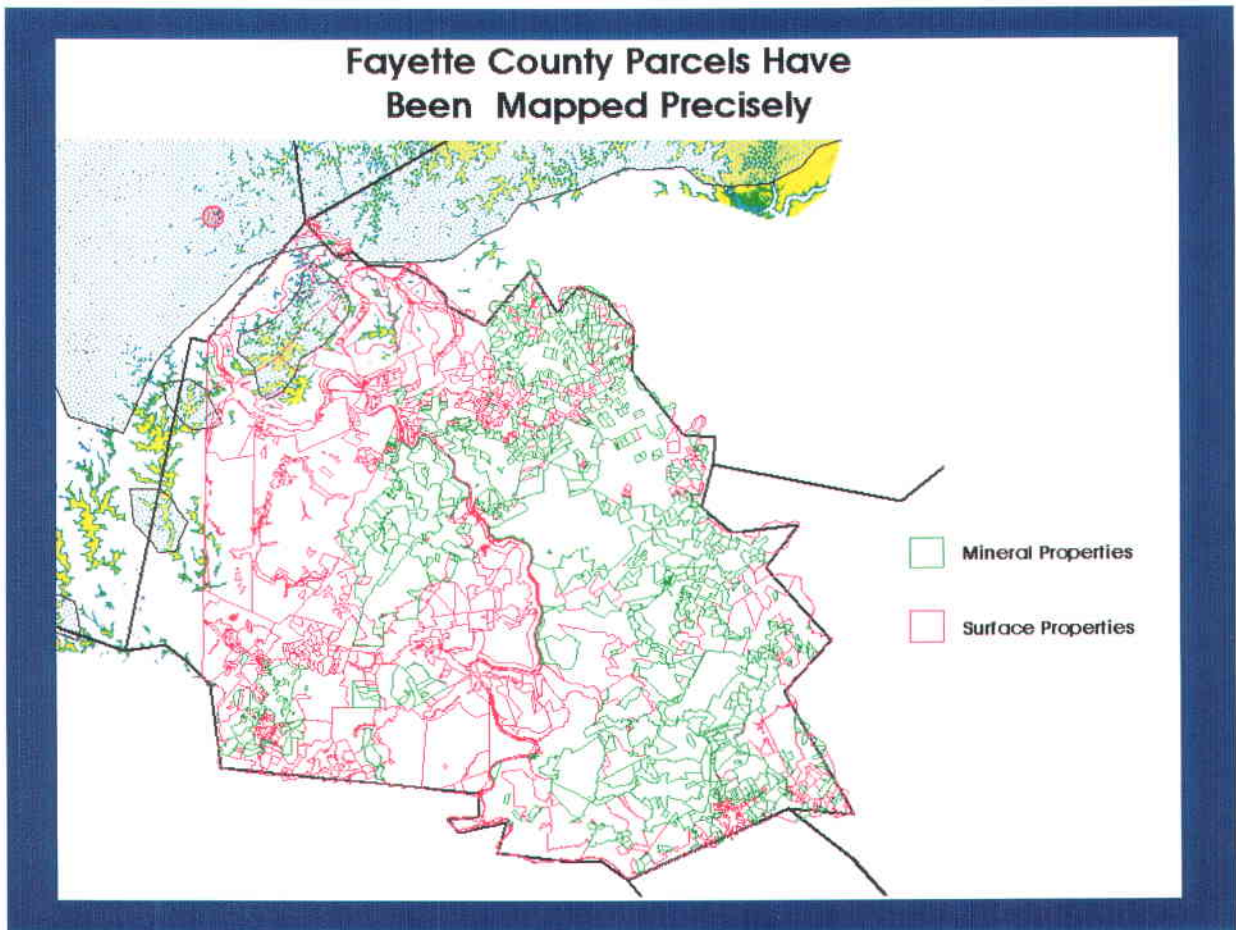
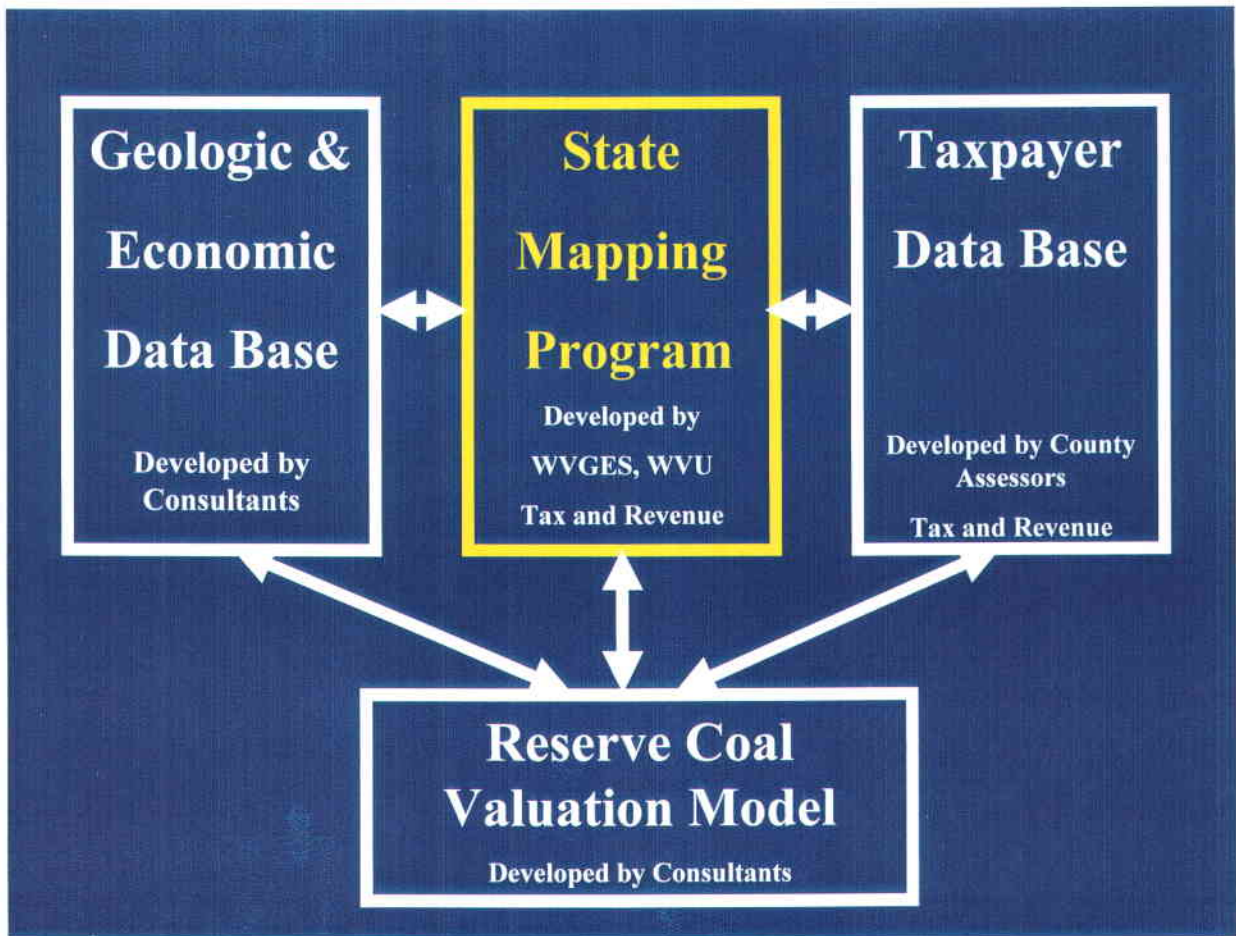
# VALUATION RESOLUTION



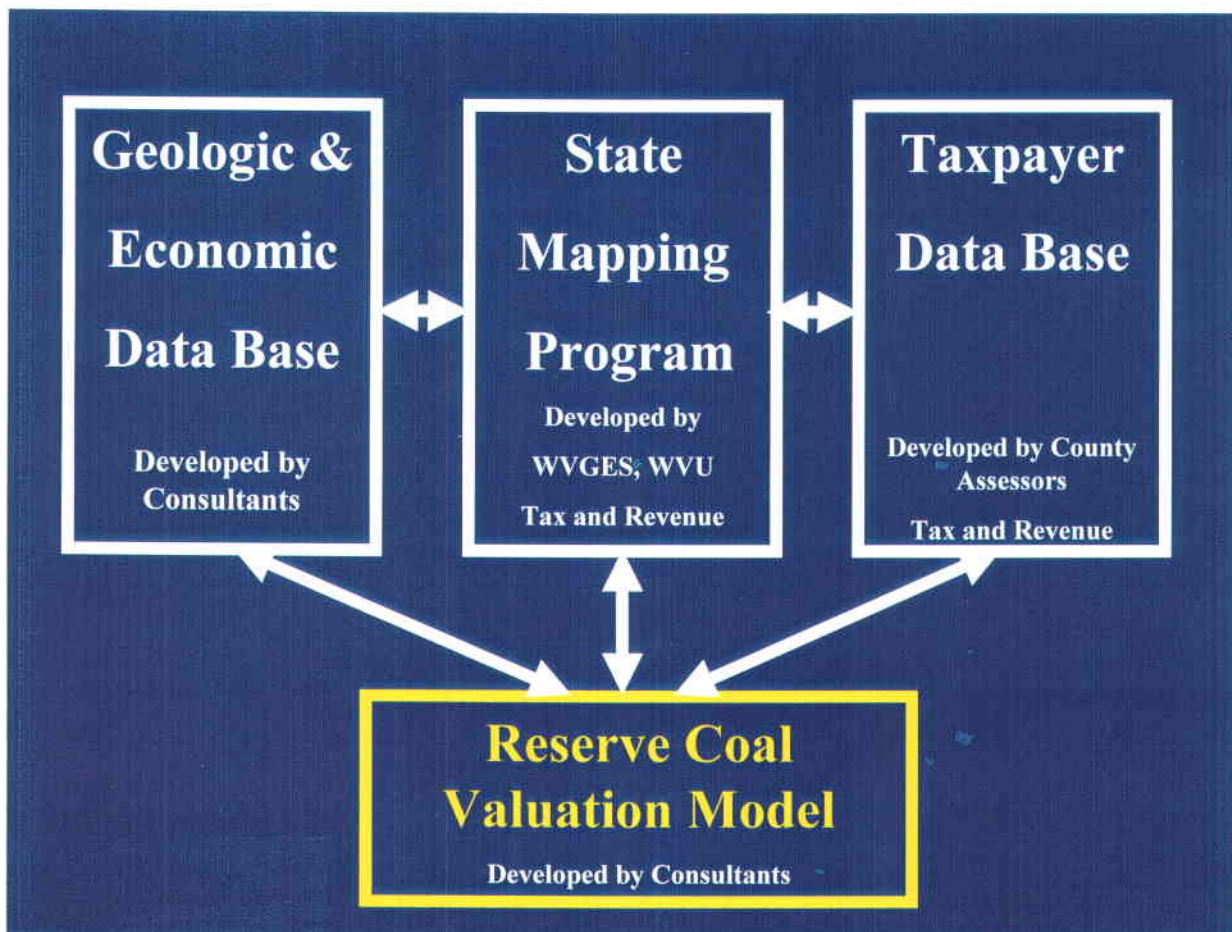
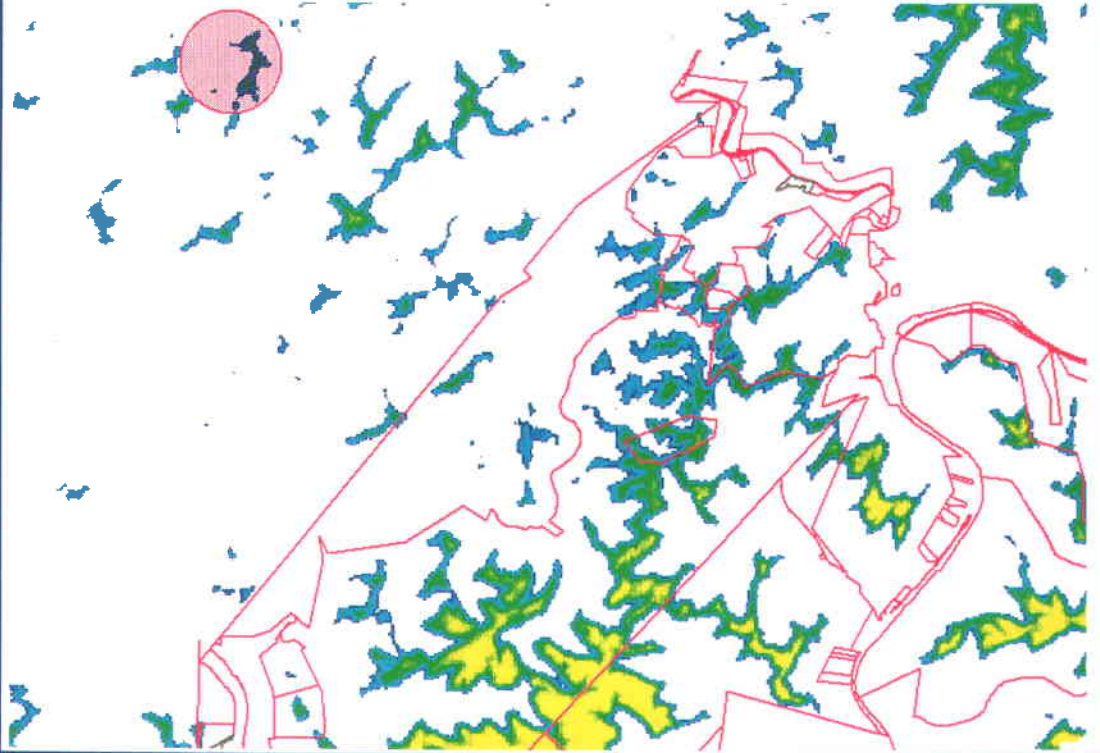
## Observation

- Finding the problems is good, not bad.
- Problems are there regardless if RCVM is accepted or not.
- RCVM provided a means to identify the problems and to correct them.





## Fayette County Parcels Have Been Mapped Precisely

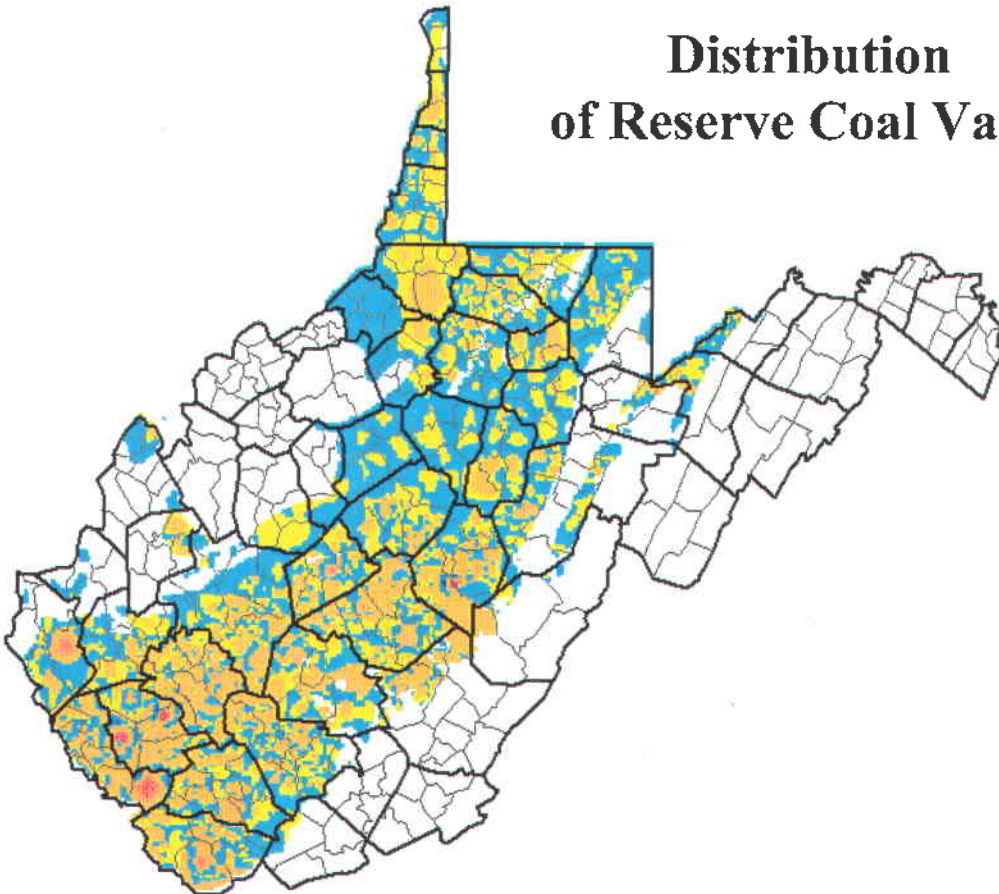




## Observation

- The goal of RCVM is to improve appraisal.
- By definition, changes in appraised value are expected.
- Future improvements in RCVM and data bases are also expected.

**Distribution  
of Reserve Coal Value**



## Cumulative Values by Value Group

(rounded)

Value Group	# of Properties	Current Total \$	Model Total \$
< \$100	105,934	\$18,000,000	\$2,600,000
< \$400	142,455	\$86,000,000	\$10,000,000
< \$1,000	157,975	\$172,000,000	\$20,000,000
> \$1000	23,802	\$896,600,000	\$1,201,000,000
<b>Total</b>	<b>181,777</b>	<b>1,070,000,000</b>	<b>\$1,200,000,000</b>

## Conclusions

- The RCVM works.
  - Observed changes make common sense
  - Problems in data bases being resolved
- Results
  - More accurate property appraisals
  - Decreasing Value on Less Valuable Properties
  - Increasing Value on More Valuable Properties



## Conclusions (continued)

- Changed notification procedure
  - little or no change no notice
  - negative change no notice
  - modified notice for higher than \$400 value change
- Revised coal boundary
- Remapped eastern front

## Conclusions (continued)

- Structure now in-place for effective RCVM appraisals as well as other natural resource appraisals.
- Model provides necessary interface with GIS program

## Conclusions (continued)

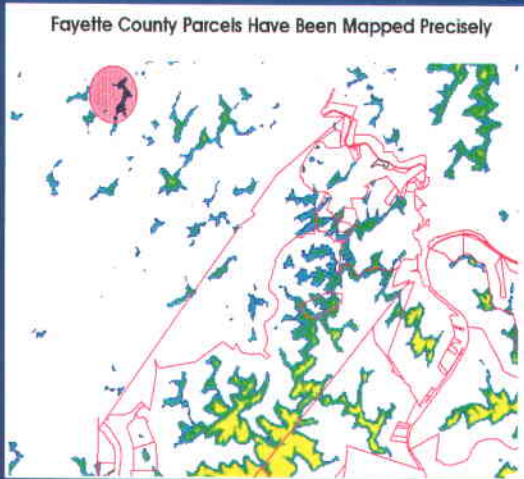
- Currently working with CLT to improve data processes
  - Taxpayer data problems need to be fixed regardless.
- Procedure set-up to integrate MLMP data into model and into MLMP efforts. (2-way street)

## Conclusions (continued)

- Have proposed procedures to make tax method more efficient.
  - Appraise all, tax all
  - Appraise all, tax \$400 and above
  - Appraise all, tax \$1,000 and above

## Conclusions (continued)

- Identified data base problems must be fixed



- Move to GIS is inevitable
- Existing model is superior to old model





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