EMERGENCY RULE FILING

(For Legislative Rules Only)

- ✓ An emergency rule is any legislative rule filed by an agency finding that the rule must be in effect before the time needed to complete the full Legislative cycle. For full requirements, please see W. Va. Code §§29A-3-15, 29A-3A-16, or 29A-3B-10.

- ✓ It is not a stand-alone rule type. It is a condition of its companion legislative rule that is going through the full rule-making process. The emergency filing sits in place while the Legislative rule goes through the process.

- ✓ An emergency rule can take effect any time between the day it is filed and up to forty-two (42) days later. For most emergency filings, the Secretary of State has 42 days to consider if an emergency truly exists and that the agency has statutory authority to promulgate the rule. If no action is taken, it automatically goes into effect on the 42nd day.

- ✓ An emergency rule can remain in effect for fifteen (15) months or until the companion legislative rule goes into effect.

- ✓ Although an emergency rule filing can be made at any time during the rule-making process, the 15 months should be considered when deciding when to do the emergency filing. If not timed correctly, the emergency rule could expire before the legislative rule goes into effect.

- ✓ The emergency rule filing should be identical to the companion legislative rule. If it is an amendment to an existing rule, it will contain strike-throughs and underlines. If it a new rule, it will be completely underlined.

- ✓ The emergency filing will expire (and cannot be re-filed as an emergency) if:
    - The agency does not file a Notice of Public Comment Period for the companion legislative within thirty (30) days of filing the rule as an emergency.
    - The agency does not file a Notice of Agency Approval for the companion legislative rule within (90) days of filing the rule as an emergency.

PROCESS FOR FILING THE RULE

1. Log in to your eRules account.
2. Depending on where you are in the rule-making process, you will either make the request for a new rule version or new series number; or
3. Go to “Your Agencies (In-Progress) Rules” and click on “Edit/Upload/View”.
4. Find the correct rule file and click on “Edit/Upload/View”. This opens the “Documents” page.
5. Go to the “Emergency” field, click on “Upload File” and choose “Browse”. Find the rule to be submitted from where you have saved it on your computer and upload it in either Word or WordPerfect.
6. Go to the rule that was just uploaded and click on “View”.
7. The “Actions” bar will be displayed. Click on “Attach Form”.
8. There will only be 1 form in the “Select Form Type” drop down.
9. Select the form and click on “Attach Form” to begin.
10. Fill out the form completely.
11. When completed, be sure to click the box marked “Attach Form” to add it to the rule filing.
12. After attaching the form, click on “Return to Document” to complete the filing.
13. Once the filing is complete and accurate, click on “Submit to Agency Head” located on “Actions” bar where forms are attached.
14. Be sure to follow up with the agency head to ensure that action is taken.
15. The agency head will log into eRules, review the filing and click on “Submit to SOS”.

PROCESS FOR FILING SUPPORTING, INCORPORATED BY REFERENCE, OR OTHER DOCUMENTS

1. This is an additional filing to the rule only <u>if</u> the agency has other documents to be considered with the rule filing.
2. The document should be filed as a pdf document.
3. All of the same steps listed above will be followed with a couple of differences:
    a. The document will be uploaded to the “Supporting Documents”, “Incorporated by Reference”, or “Other” field.
    b. The document can be a pdf file.

CHECKING A RULE OUT FOR CORRECTIONS

If corrections need to be made to the rule either before it is submitted or if it gets rejected by the Agency Head or the Secretary of State’s office, the rule can be checked out. This process allows the form to remain in place with no need to fill it out again.

1. Log in to eRules and find the rule.
2. Click on “Edit/Upload/View”.

3. Find the correct file on the “Documents” page and click on “View”.
4. This will display the “Actions” bar. Click on “Check Out”.
    a. Right click where indicated and use “save target as”, name it and save.
    b. The previous screen returns. Select “confirm check out”.
5. When all work is done, go back to the “Actions” bar.
6. Click on “Check In”.
    a. Click on “Browse”.
    b. Find the corrected rule and upload.
7. You can now “Submit to Agency Head”, and from agency head “Submit to SOS”.