

October 2

## AGENDA

### LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

SUNDAY, OCTOBER 2, 1994, 1:00 - 3:00 P.M.

SENATE FINANCE COMMITTEE ROOM - M-451

1. Approval of Minutes - Meeting August 9, 1994
2. Review of Legislative Rules:
  - a. West Virginia Board of Medicine  
Fees for Services Rendered by the Board of Medicine
  - b. Division of Natural Resources  
Minimum requirements for handling and firing of handguns
  - c. Division of Natural Resources  
Regulations concerning prohibitions when hunting and trapping
  - d. Division of Natural Resources  
Special Fishing Rule
  - e. Division of Natural Resources  
General Hunting Regulations
  - f. Division of Natural Resources  
Wild Turkey Regulations
  - g. Division of Natural Resources  
West Virginia Wildlife Management Areas
  - h. Division of Natural Resources  
Special Bear Hunting Regulations
  - i. Division of Natural Resources  
Wild Boar Hunting Regulations
  - j. Division of Corrections  
Recording of Inmate Telephone Calls
  - k. Division of Corrections  
Employment of Displaced Correctional Employees
  - l. Division of Corrections  
Furlough Program for Inmates Under the Custody and Control of the Commissioner of Corrections
  - m. Jail and Correctional Facility Standards Commission  
WV Minimum Standards for Construction, Operation and Maintenance of Jails

- n. Division of Labor  
West Virginia Manufactured Housing Construction and  
Safety Standards Board
- o. Division of Labor  
Regulations of Trade, Weights and Measures
- p. Department of Agriculture  
Labeling of Dairy Products for rBST or rBGH
- q. Department of Agriculture  
Regulations Governing Inspection of Nontraditional,  
Domesticated Animals
- r. Department of Agriculture  
West Virginia Aquaculture Farm Rules
- s. Department of Agriculture  
West Virginia Fish Processing Rules

3. Other Business:

Sunday, October 2, 1994

1:00 - 3:00 p.m.

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

Keith Burdette  
ex officio nonvoting member

Robert "Chuck" Chambers,  
ex officio nonvoting member

Senate

House

Manchin, Chairman  
Grubb  
Anderson  
Macnaughtan  
Minard  
Boley

Gallagher, Chairman  
Douglas  
Compton  
Huntwork (absent)  
Burk  
Faircloth

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

The minutes of the August 9, 1994, meeting were approved.

Debra Graham, Committee Counsel, told the Committee that the rule proposed by the West Virginia Board of Medicine, Fees for Services Rendered by the Board of Medicine, had been laid over at the August meeting to allow the Board to provide the Committee with information concerning the fiscal impact of the proposed rule. Deborah Roedecker, Counsel for the Board, told the Committee that they should have received a memorandum from Ronald Walton, Executive Director to the Board, setting forth the requested information. Mr. Walton answered questions from the Committee.

Mr. Manchin requested that the Board withdraw the proposed rule. Mr. Walton stated that he did not have the authority to withdraw the proposed rule without the Board's approval.

Mr. Manchin moved that the Committee recommend that the proposed rule be withdrawn. A roll call was demanded and the demand was sustained. The motion was rejected on a vote of 5 "Nays" and 5 "Yeas".

Mr. Minard moved that the proposed rule lie over until the Committee's next meeting. Ms. Douglas called for a point of order regarding whether or not the proposed rule could be laid over. Mr. Gallagher ruled that the point was well taken in that the proposed rule had been laid over previously and Committee rules only allow a rule to be laid over one time. He ruled the motion out of order.

Mr. Burk moved that the Committee reconsider its action whereby it recommended that the Board withdraw the proposed rule. After some

discussion, Mr. Burk requested unanimous consent to withdraw his motion. There being no objection, the motion was withdrawn.

Mr. Manchin moved that the proposed rule be placed at the foot of the agenda. The motion was adopted.

Ms. Graham stated that the rule proposed by the Division of Natural Resources, Minimum requirements for handling and firing of handguns, had also been laid over at the August meeting to allow the Division to provide the Committee with estimated costs of the training program and the fees charged by other groups for a similar training program. Major Bill Daniel, of the Division's Law Enforcement Section, told the Committee that entities offering similar programs charge between forty and one hundred dollars. He said that most charge seventy-five dollars. He answered questions from the Committee.

Ms. Douglas 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 Natural Resources, Regulations concerning prohibitions when hunting and trapping, and stated that the Division has agreed to technical modifications.

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

Ms. Graham explained the rule proposed by the Division of Natural Resources, Special Fishing Rule, and stated that the Division has agreed to technical modifications. Bernie Dowler, representing the Division's Fishing Section, responded to questions from the Committee.

Ms. Douglas 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 Natural Resources, General Hunting Regulations, and stated that the Division has agreed to technical modifications. Gordon Robertson, representing the Division's Wildlife Resources Section, and Major Daniel answered questions from the Committee.

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

Ms. Graham explained the rule proposed by the Division of Natural Resources, Wild Turkey Regulations, and stated that the Division has agreed to technical modifications. Charles Felton, Director of the Division and Mr. Robertson responded to the Committee's questions. James Pack, representing the Wildlife Association and Jeff D'Agostino,

WV Chapter of the National Wild Turkey Federation, addressed the Committee and answered questions.

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

Ms. Graham reviewed her abstract on the rule proposed by the Division of Natural Resources, West Virginia Wildlife Management Areas, and stated that the Division has agreed to technical modifications.

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

Ms. Graham explained the rule proposed by the Division of Natural Resources, Special Bear Hunting Regulations, and stated that the Division has agreed to technical modifications. Mr. Robertson addressed the Committee regarding the proposed rule and he and Richard Hall, representing the Wildlife Resources Section, responded to the Committee's questions.

Mr. Anderson 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 Natural Resources, Wild Boar Hunting Regulations, and stated that the Division has agreed to technical modifications.

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

Ms. Graham explained the rule proposed by the Division of Corrections, Recording of Inmate Telephone Calls, and stated that the Division has agreed to technical modifications. Rita Stuart, Counsel to the Division, answered questions from the Committee.

Ms. Douglas 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 Corrections, Employment of Displaced Correctional Employees, and stated that the Division has agreed to technical modifications. Ms Stuart responded to the Committee's questions.

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

Ms. Graham explained the rule proposed by the Division of Corrections, Furlough Program for Inmates Under the Custody and Control of the Commissioner of Corrections, and stated that the Division has agreed to technical modifications. She also stated that

she felt that the proposed rule did not go far enough in that it authorized the Commissioner to promulgate further rules relating to furloughs in addition to the proposed rule. She stated that she had been unable to discuss the issue with the Division. Ms. Stuart answered questions from the Committee.

Ms. Douglas moved that the proposed rule lie over until the Committee's next meeting to allow Counsel and Ms. Stuart to discuss Counsel's concerns. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the Jail and Correctional Facility Standards Commission, WV Minimum Standards for Construction, Operation and Maintenance of Jails, and stated that the Commission has agreed to technical modifications. She responded to questions from the Committee.

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

Ms. Graham explained the rule proposed by the Division of Labor, West Virginia Manufactured Housing Construction and Safety Standards Board, and stated that the Division has agreed to technical modifications. Leff Moore, Executive Director of the Manufactured Housing Association, addressed the Committee regarding the proposed rule and answered questions from the Committee.

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

Mr. Macnaughtan moved that the Committee take the rule proposed by the West Virginia Board of Medicine, Fees for Services Rendered by the Board of Medicine, up for immediate consideration. The motion was rejected.

Ms. Graham reviewed her abstract on the rule proposed by the Division of Labor, Regulations of Trade, Weights and Measures, and stated that the Division has agreed to technical modifications.

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

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: Oct 2, 1994

TIME: 1:00-3:00 p.m.

<u>NAME</u>	<u>Present</u>	<u>Absent</u>	<u>Yeas</u>	<u>Nays</u>
Chambers, Robert "Chuck", Speaker				
Brian Gallagher, Co-Chair	✓			
Burk, Robert W., Jr.	✓			
Faircloth, Larry V.	✓			
Douglas, Vickie	✓			
Compton, Mary P.	✓			
Huntwork, John				
Burdette, Keith, President				
Joe Manchin, III Co-Chair	✓			
Anderson, Leonard	✓			
Grubb, David	✓			
Minard, Joseph	✓			
Macnaughtan, Don	✓			
Boley, Donna	✓			
TOTAL				

RE: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
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REGISTRATION OF PUBLIC  
AT  
COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

COMMITTEE: Leg. Rule-Making Review

DATE: Oct 2, 1994

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
✓ JEFF D'AGOSTINO	1150 Emerald Rd. Chas WV <sup>25314</sup>	WV Chapter (Secretary) National Wild Turkey Federation	X
JOHN STARLITER	5509 Big Tyler Rd Chas WV	WV Chapter (President) Nat'l Wild Turkey Federation	
✓ Richard L. Hall	P.O. Box 67 Elkins WV	WV DNR - Wildlife	
✓ Gordon Robertson	Charleston	WV DNR - Wildlife Resources	
✓ Bill DANIEL	CHARLESTON	WV DNR - LAW ENFORCEMENT	
WARDEN CHARMINSKI	CHARLESTON	WV DEPT. OF AGRICULTURE	
✓ James C. Pack	P.O. Box 67 Elkins WV	WV DNR - Wildlife Res.	
✓ Bernie Dowler	1900 Kanawha Blvd. E. WV DNR - Wildlife Char.	"	
FRANK G. SNUMAKER	REGIONAL JAIL AUTHORITY		
John Liggett	1900 Kanawha Blvd. E.	WV Dept. of Agriculture	
Bill Warnick	Rt 3 Box 5L Weston, WV	WV Dept. of Agriculture	
CHRIS QUASEBARTH	CHARLESTON	WV DIVISION OF LABOR	
Raul Anally	Nitra WV	WV Div. of Labor	
Andy Bran	Char.	WV Div. of Labor	
RONALD WALTON	CHAS.	WV Bd. of Medicine	

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: 10/2/94

TIME: 1:25

<u>NAME</u>	<u>Present</u>	<u>Absent</u>	<u>Yeas</u>	<u>Nays</u>
Chambers, Robert "Chuck", Speaker				✓
Brian Gallagher, Co-Chair				✓
Burk, Robert W., Jr.				✓
Faircloth, Larry V.			✓	
Douglas, Vickie				✓
Compton, Mary P.				✓
Huntwork, John				
Burdette, Keith, President				
Joe Manchin, III Co-Chair			✓	
Anderson, Leonard			✓	
Grubb, David			✓	
Minard, Joseph				✓
Macnaughtan, Don			✓	
Boley, Donna				
TOTAL				

RE: Bd of Medicine - Fees

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Rec'd at meeting  
Oct 7, 1994



R. Curtis Arnold, D.P.M.  
South Charleston

Bruce L. Berry, M.D.  
Charleston

Eileen Catterson, M.D.  
Pineville

H. Darrel Darby, D.P.M.  
Huntington

Ahmed D. Faheem, M.D.  
Beckley

Mr. Stephen P. Goodwin  
Charleston

Michael Grome, P.A.-C.  
Hamlin

Mr. George G. Guthrie  
Charleston

Mrs. Mary Boyd Kearse  
Martinsburg

Phillip B. Mathias, M.D.  
Glen Dale

Sarjit Singh, M.D.  
Weirton

Joseph Smith, M.D.  
Dunbar

# State of West Virginia

West Virginia Board of Medicine  
101 Dee Drive  
Charleston West Virginia 25311  
Telephone (304) 558-2921  
Fax (304) 558-2084

## M E M O R A N D U M

**TO:** All Members, Legislative Rule-Making Review Committee  
**FROM:** Ronald D. Walton, Executive Director *RDW*  
**DATE:** September 8, 1994  
**SUBJECT:** Proposed Rule, Fees For Services Rendered by  
The Board of Medicine

In response to questions raised by some members of the Legislative Rule-Making Review Committee at its meeting on August 9, 1994, when the above referenced proposed rule was before the Committee and I was not present to answer questions, I am pleased to provide the following information.

In fiscal year 1993-94, West Virginia Board of Medicine revenue was \$755,414.25. In fiscal year 1993-94, West Virginia Board of Medicine disbursements were \$705,452.64. The Board does not believe it to be safe and in the public interest, which by law the Board is required to protect, to operate this agency with a surplus of less than \$50,000. If the proposed rule is approved, we project that the increases in fees should bring in an additional amount on an annual basis of \$65,700.

lsc

pc: Debra A. Graham, Counsel

PRESIDENT  
Jesus T. Ho, M.D.  
Moundsville

VICE PRESIDENT  
A. Paul Brooks, Jr., M.D.  
Parkersburg

SECRETARY  
William T. Wallace, Jr., M.D., M.P.H.  
Charleston

COUNSEL  
Deborah Lewis Rodecker  
Charleston

EXECUTIVE DIRECTOR  
Ronald D. Walton  
Charleston

The Honorable Joe Manchin, III  
Co-Chairman  
1543 Fairmont Avenue  
Fairmont, WV 26554

The Honorable Brian A. Gallagher  
Co-Chairman  
P.O. Box 4146-5C  
Morgantown, WV 26504

The Honorable Leonard W. Anderson  
Route 87, Box 6  
Hinton, WV 25951-9400

The Honorable Robert W. Burk, Jr.  
P.O. Box 287  
Parkersburg, WV 26102-0287

The Honorable Donna J. Boley  
Route 2, Box 72  
St. Marys, WV 26170

The Honorable Mary Pearl Compton  
P.O. Box 23  
Union, WV 24983

The Honorable David Grubb  
1564 Virginia Street East  
Charleston, WV 25311

The Honorable Vickie Douglas  
1003 Chestnut Drive  
Martinsburg, WV 25401

The Honorable Don Macnaughtan  
P.O. Box 148  
Proctor, WV 26055

The Honorable Larry Faircloth  
P.O. Box 477  
Inwood, WV 25428

The Honorable Joseph M. Minard  
510 Heymond Highway  
Clarksburg, WV 26301-3876

The Honorable John C. Huntwork, M.D.  
501 West Whitaker Boulevard  
Huntington, WV 25701

October 4

AGENDA

LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Tuesday, October 4, 1994, 12:00 Noon - 2:00 p.m.

Senate Finance Committee Room - M-451

1. Approval of Minutes - Meeting October 2, 1994
2. Review of Legislative Rules:
  - a. West Virginia Board of Medicine  
Fees for Services Rendered by the Board of Medicine
  - b. Division of Corrections  
Furlough Program for Inmates Under the Custody and Control of the Commissioner of Corrections
  - c. Department of Agriculture  
Labeling of Dairy Products for rBST or rBGH
  - d. Department of Agriculture  
Regulations Governing Inspection of Nontraditional, Domesticated Animals
  - e. Department of Agriculture  
West Virginia Aquaculture Farm Rules
  - f. Department of Agriculture  
West Virginia Fish Processing Rules
  - g. Solid Waste Management Board  
Rules for the Disbursement of Grants to Solid Waste Authorities
  - h. Real Estate Commission  
Requirements in Licensing Real Estate Brokers, Associate Brokers and Salespersons and the Conduct of Brokerage Business
  - i. Dept. of Health and Human Resources  
Public Water Systems
  - j. Division of Health  
Wastewater Treatment Works and Operators
  - k. Bureau of Environment  
Underground Storage Tanks
  - l. Division of Personnel  
Administrative Rule of the Division of Personnel

- m. Secretary of State  
Combined Voter Registration and Driver Licensing Fund
- n. Division of Banking  
Notice and Treatment of Joint Accounts
- o. Division of Banking  
Legal Lending Limit
- p. State Fire Commission  
State Building Code
- q. State Fire Commission  
State Fire Code

3. Other Business

Tuesday, October 4, 1994

Noon - 2:00 p.m.

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

Keith Burdette  
ex officio nonvoting member

Robert "Chuck" Chambers,  
ex officio nonvoting member

Senate

House

Manchin, Chairman  
Grubb  
Anderson  
Macnaughtan (absent)  
Minard  
Boley

Gallagher, Chairman (absent)  
Douglas  
Compton  
Huntwork  
Burk  
Faircloth

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

The minutes of the October 2, 1994, meeting were approved.

Mr. Manchin stated that the Commissioner of Banking had other commitments, therefore the rules relating to the Commissioner would be taken up first.

Ms. Graham explained the rule proposed by the Division of Banking, Notice and Treatment of Joint Accounts. Tim Winslow, the Division's General Counsel, also explained the proposed rule and responded to questions from the Committee.

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

Ms. Graham reviewed her abstract on the Division of Banking, Legal Lending Limit, and stated that the Division has agreed to technical modifications. Sharon Bias, Banking Commissioner, addressed the Committee and responded to their questions.

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

Debra Graham, Committee Counsel, told the Committee that the rule proposed by the West Virginia Board of Medicine, Fees for Services Rendered by the Board of Medicine, had been placed at the foot of the agenda at the Committee's last meeting and that the Committee adjourned without taking action on the proposed rule. She informed the Committee that there was no action pending on the proposed rule.

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



Ms. Graham explained that the rule proposed by the Division of Corrections, Furlough Program for Inmates Under the Custody and Control of the Commissioner of Corrections, had been laid over at the Committee's last meeting to allow the Division's Attorney to meet with her regarding some problems with the proposed rule. She stated that they had agreed to modify the proposed rule. Rita Stuart, the Division's General Counsel, responded to questions from the Committee.

Ms. Compton moved that the proposed rule be approved as modified. After further discussion, she asked for unanimous consent to withdraw her motion. There being no objection, the motion was withdrawn.

Ms. Douglas moved that the proposed rule be placed at the foot of the agenda. The motion was adopted.

Ms. Graham explained the rule proposed by the Department of Agriculture, Labeling of Dairy Products for rBST or rBGH, and stated that the Department has agreed to technical modifications.

Mr. Anderson moved that the proposed rule be placed at the foot of the agenda. The motion was adopted.

Ms. Graham reviewed her abstract on the Department of Agriculture, Regulations Governing Inspection of Nontraditional, Domesticated Animals, and stated that the Department has agreed to technical modifications. Dr. Warren Charminski, Director of the Department's Meat Inspection Division, answered questions from the Committee.

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

Ms. Graham explained the rule proposed by the Department of Agriculture, West Virginia Aquaculture Farm Rules, and stated that the Department has agreed to technical modifications. John Liggett, Assistant Director of the Department's Regulatory Protection Division, answered questions from the Committee.

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

Ms. Graham reviewed her abstract on the Department of Agriculture, West Virginia Fish Processing Rules, and stated that the Department has agreed to technical modifications. Mr. Liggett responded to questions from the Committee.

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

Joe Altizer, Associate Committee Counsel reviewed his abstract on the rule proposed by the Solid Waste Management Board, Rules for the Disbursement of Grants to Solid Waste Authorities. Charlie Jordan,

Executive Director of the Board, responded to the Committee's questions.

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

Mr. Anderson asked unanimous consent that the rule proposed by the Department of Agriculture, Labeling of Dairy Products for rBST or rBGH, be taken up for immediate consideration. There being no objection, the proposed rule was placed before the Committee.

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

Ms. Graham explained the rule proposed by the Real Estate Commission, Requirements in Licensing Real Estate Brokers, Associate Brokers and Salespersons and the Conduct of Brokerage Business, and stated that the Commission has agreed to technical modifications. Richard Strader, Executive Director of the Commission, answered questions from the Committee.

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

Ms. Graham explained the rule proposed by the Division of Health, Wastewater Treatment Works and Operators, and stated that the Division has agreed to technical modifications. Kay Howard, Director of Regulatory Services for the Division, responded to questions from the Committee. Karen Price, West Virginia Manufacturers Association, distributed a letter containing comments on the proposed rule and requested that the Committee modify the proposed rule to make it clear that industrial facilities are excluded from coverage under the proposed rule.

Mr. Faircloth moved that the proposed rule be placed on the agenda after the rule proposed by the Division of Personnel to allow the association and the Division to work out language for the modification. The motion was adopted.

Ms. Graham reviewed her abstract on the Department of Health and Human Resources, Public Water Systems, and stated that the Department has agreed to technical modifications.

Mr. Anderson moved that the proposed rule lie over until the Committee's next meeting. The motion was adopted.

Ms. Graham reviewed her abstract on the Bureau of Environment, Underground Storage Tanks. Gil Satler, Underground Storage Tank Program Manager, responded to questions from the Committee.

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

Ms. Graham explained the rule proposed by the Division of Personnel, Administrative Rule of the Division of Personnel, and stated that the Division has agreed to technical modifications. She responded to questions from the Committee.

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

Mr. Burk moved that the rule proposed by the Division of Health, Wastewater Treatment Works and Operators, be approved as modified. The motion was adopted.

Ms. Graham reviewed her abstract on the Secretary of State, Combined Voter Registration and Driver Licensing Fund, and stated that the Secretary of State has agreed to technical modifications. She responded to questions from the Committee.

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

Ms. Graham explained the rule proposed by the State Fire Commission, State Building Code, and stated that the Commission has agreed to technical modifications. Walter Smittle, Fire Marshal, responded to questions from the Committee.

Mr. Faircloth moved that the proposed rule lie over until the Committee's next meeting to allow the Commission and the Committee's Counsel the opportunity to determine if the proposed rule is in compliance with a court decision handed down in Berkeley County. The motion was adopted.

Mr. Altizer reviewed his abstract on the State Fire Commission, State Fire Code, and stated that the Commission has agreed to technical modifications.

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

Ms. Douglas moved that the meeting be adjourned. The motion was adopted.

The meeting was adjourned.

ROLL CALL - LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

DATE: Oct 4, 1994

TIME: 12:00 Noon

<u>NAME</u>	<u>Present</u>	<u>Absent</u>	<u>Yeas</u>	<u>Nays</u>
Chambers, Robert "Chuck", Speaker				
Brian Gallagher, Co-Chair				
Burk, Robert W., Jr.	✓			
Faircloth, Larry V.	✓			
Douglas, Vickie	✓			
Compton, Mary P.	✓			
Huntwork, John	✓			
Burdette, Keith, President				
Joe Manchin, III Co-Chair	✓			
Anderson, Leonard				
Grubb, David	✓			
Minard, Joseph	✓			
Macnaughtan, Don				
Boley, Donna	✓			
TOTAL				

RE: \_\_\_\_\_  
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 \_\_\_\_\_  
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REGISTRATION OF PUBLIC  
AT  
COMMITTEE MEETINGS  
WEST VIRGINIA LEGISLATURE

COMMITTEE: Leg. Rule-Making Review

DATE: Oct. 4, 1994

NAME	ADDRESS	REPRESENTING AGENCY - Title	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
<u>Please print or write plainly</u>			
Karen Price	Chas.	WV Manufacturers Assn.	X
Tim Winslow	Bldg 3 Rm 311	Div of Banking	if needed
Deborah Lewis Rodeck	Chas	WV Bd. of Med	if needed
Iris McChesock Crouse	Chas.	Div. of Personnel	if requested
Charlie Jordan	Chas.	Dir SWMB	if REQUESTED
Ray Howard	Chas	DHHR	if needed
Bob Amess	Charleston	W. V. Home Bldg Assn	Building code
Bill L. Spencer	clarksburg	WVA. State Fire Comm.	Fire/building code
Walter Smittle III	Charleston	State Fire Marshal	
Francis Guffey, FAIA	CROSS LANE	AMERICAN INSTITUTE OF ARCHITECTS	X <del>Business cards</del>
Lloyd W. Miller	CHAR.	N VISIONS ARCHITECTS	
GREG SLIGER	CHARLESTON	LANTZ JONES NEBRASKA	
Richard Strader	Charleston	Real Estate Comm.	
Francis Perry	CHARLESTON	KEEPS/KEEPS ARCH.	
Mary Rutledge	"	Sec of State	if needed
Warren Charonowski	Chas.	Dept. of Agriculture	
John Tuppitt	Charleston	Dept. of Agriculture	

*Dist. meet Oct 4, 1994*



**WEST VIRGINIA  
MANUFACTURERS ASSOCIATION**

SUITE 503  
405 CAPITOL STREET  
CHARLESTON, WV 25301  
TELEPHONE (304) 342-2123

October 4, 1994

Members of the Legislative Rule-Making  
Review Committee

Re: Division of Health Wastewater Treatment Works  
Operators Proposed Rule

Dear Senators and Delegates:

The WVMA has reviewed the Division of Health's responses to public comments including those filed by the WVMA on the proposed Wastewater Treatment Works Operators Rule, 64 CSR 14. We strongly urge the LRRC to modify the rule to reflect the intended application of the rules; that is, the rule does not apply to industrial facilities.

The proposed regulation defines wastewater as "water containing human, animal or domestic waste", and wastewater treatment works as "a facility for treating and discharging wastewater". These definitions are clearly broad enough to encompass not just municipal wastewater treatment operators but also industrial wastewater treatment operators. Historically, it has been understood that this regulation was intended to cover all such facilities, although DEP would regulate industrial wastewater treatment discharges separately. In its response to comments, the agency stated that Section 3.9 and 3.10 "exclude industrial waste" from their definitions. The agency further stated that industrial wastewater operator certification is "a department of Environmental Protection responsibility."

Based on these comments, we believe that the Division of Health does not intend for this regulation to apply to industrial wastewater facilities. WVMA members have expressed concern and confusion over whether this regulation is intended to apply to them. In light of the agency's clear posture that it does not, we recommend that the proposed definitions of "wastewater" and "wastewater treatment works" clearly exclude industrial facilities from their scope. We would propose that the agency's response to Comment 3, which clearly explains intended application of the regulation, be included within the body of the regulation itself as follows:

§ 64-5-2. Application and Enforcement.

2.1. Application - This rule is not intended to apply to industrial wastewater treatment works and wastewater treatment work operators regulated by the Division of Environmental Protection.

3.9. Wastewater - Non-industrial water containing human, animal or domestic waste.

3.10. Wastewater treatment works - A non-industrial facility for treating and discharging wastewater.

The WVMA respectfully requests the LRRC adopt the proposed change as a modification to the rule. We would be pleased to answer any questions.

Very truly yours,

Karen Price

KP:cdl

c: Ms. Debra Graham, Esquire  
Mr. Joe Altizer, Esquire

Dist. meet Oct. 4, 1994

# West Virginia Bankers Association, Inc.

Suite 1212 • Commerce Square • Charleston, WV 25301-1780 • (304) 343-8838

Thomas A. Winner  
President and CEO

August 10, 1994

## *Hand Deliver*

West Virginia Division of Banking  
State Capitol Complex  
Building 3, Room 311  
Charleston, WV 25305-0240  
Attn: Commissioner Bias

Re: Amended Rule Pertaining  
to the Legal Lending Limit,  
Series No. 9, Title 106

Dear Commissioner Bias:

The West Virginia Bankers Association represents commercial banks and their parent companies within this State. In connection with that role, the West Virginia Bankers Association monitors the legislative rule making process in order to ascertain matters of issue to its constituents.

The Association's comments with respect to the proposed rules concern the definition of unimpaired capital and unimpaired surplus. The definition found in Section 2.3 of the proposed Rule references unrealized gains and losses on the bank's securities and loan portfolios. While the proposed rule references GAAP, we suggest some clarification. GAAP requires that only unrealized gains and losses on securities classified as available-for-sale be reported in a separate component of shareholder's equity. Unrealized gains and losses on securities classified as held-to-



# *West Virginia Bankers Association, Inc.*

Sharon Bias, Commissioner  
August 10, 1994  
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maturity are not reported in the financial statements until realized or until a decline in fair value below cost is deemed to be other than temporary and unrealized gains and losses on securities classified as "held-for-trading" are included in earnings.

GAAP does not require the recognition of unrealized gains and losses on the loan portfolio in a bank's Financial Statement. If a bank classifies a portion of its loan portfolio as held for sale, unrealized gains and losses on this portfolio are reported in earnings.

We suggest that the final Rule specifically define unrealized gains and losses that are to be reported as a component of shareholders' equity consistent with GAAP. We suggest deletion of the reference to the loan portfolio in Section 2.3.

We suggest that Section 3.1 be modified to reflect that the general limitation calculation be made at the time the loan is made, not "for the period" of the loan. Otherwise, subsequent events, not material in nature, could result in a violation, if for example a loan was made right at the lending limit. This would be inconsistent with current law that if a loan is made in compliance, subsequent events would not generally result in noncompliance.

We also note that the proposed Rule adds the concept of a mandated correction, in certain circumstances, where a loan was originally in compliance with the legal lending limit criteria but a change in circumstance leads to a situation where the loan ceases to meet criteria. The circumstances include a significant decrease in capital, or, in the case of warehoused goods collateral and livestock

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collateral, a decrease in collateral value. The circumstances warrant regulatory attention; however, the Association believes that the regulation should make clear that in these situations where the loan was originally in compliance, no personal liability will exist for directors as a result of a subsequent lending limit violation.

If you have any questions about these suggestions, please call me. You may also contact David McClure, Senior Manager, in Ernst & Young's Financing Service Group at 343-8971. Thank you for your consideration of these comments.

Very truly yours,



Thomas A. Winner

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