

JANUARY 6

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, January 6, 2003
9 a.m. to 11 a.m.
Senate Finance Committee Room, M-451

1. Approval of Minutes - December 15 and 16, 2002
2. Review of Legislative Rules:
 - a. State Fire Commission
State Building Code, 87CSR4
 - b. Oil and Gas Conservation Commission
Rules of the Commission, 39CSR1
 - c. Board of Funeral Service Examiners
General Provisions, 6CSR1
 - d. Board of Funeral Service Examiners
Crematory Requirements, 6CSR2
 - e. West Virginia Development Office
*Community Development Assessment and Real Property Valuation
Procedures for Office of Coalfield Development, 145CSR8*
 - f. Division of Motor Vehicles
Examination and Issuance of Driver's Licenses, 91CSR4
 - g. Division of Motor Vehicles
Motor Vehicle Inspection Manual, 91CSR12
 - h. Division of Health
Uniform Credentialing of Health Care Practitioners, 64CSR89
 - i. Division of Juvenile Services
*West Virginia Minimum Standards for Structure, Operation and
Maintenance of Juvenile Detention and Correctional
Facilities, 101CSR1*
 - j. DEP-Mining and Reclamation, Division of
Surface Mining Reclamation Rule, 38CSR2

k. DEP-Mining and Reclamation, Division of
Coal Related Dam Safety Rule, 38CSR4

3. Other Business

Monday, January 6, 2003

9 a.m. to 11 a.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		Mahan, Chairman	
Anderson, Vice Chairman	Absent	Wills, Vice Chairman	Absent
Minard		Cann	
Snyder	Absent	Kominar	
Boley		Faircloth	Absent
Miner		Riggs	Absent

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

The minutes of the December 15 and 16, 2002, meetings were approved.

Joseph Altizer, Associate Counsel, reviewed his abstract on the rule proposed by the *DEP-Division of mining and Reclamation -Surface Mining Reclamation Rule, 38CSR2*, explained modifications proposed by the Division, and stated that the Division has agreed to technical modification. Mr. Altizer; Chris Hamilton, representing the West Virginia Coal Association; and Matthew Crum, Director of the Division; responded to questions from the Committee.

Mr. Minard moved that the proposed rule be laid over until the Committee's January 7, 2003, meeting. The motion was adopted.

Debra Graham, Committee Counsel, explained that the rule proposed by the *State Fire Commission-State Building Code, 87CSR4*, had been laid over from the Committee's December 15, 2002, meeting, state that the Commission has agreed to technical modifications, and explained modifications proposed by the Commission.

Ms. Mahan moved that the Commission's proposed ;modifications be approved. The motion was adopted.

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

Dan Kimble, Associate Counsel, explained that the rule proposed by the *Board of Funeral Service Examiners-General Provisions, 6CSR1*, had been moved to the foot of the agenda at the Committee's December 16, 2003, meeting, and that the Board has agreed to technical modifications. Mr. Kimble explained additional modifications proposed by the Board.

Ms. Mahan moved that the Board's proposed modifications be approved. The motion was adopted.

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

Mr. Kimble explained that the rule proposed by the *Board of Funeral Service Examiners-Crematory Requirements, 6CSR2*, had been moved to the foot of the agenda at the Committee's December 16, 2003, meeting. Mr. Kimble explained additional modifications proposed by the Board.

Mr. Minard moved that the Board's proposed modifications be approved. The motion was adopted.

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

Mr. Kimble reviewed his abstract on the rule proposed by the *West Virginia Development Office-Community Development Assessment and Real Property Valuation Procedures for the Office of Coalfield Development, 145CSR8*, and stated that the Office has agreed to technical modifications.

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

Ms. Graham explained the rule proposed by the *Division of Motor Vehicles-Examination and Issuance of Driver's Licenses, 91CSR4*. She and Steve Dale, Assistant to the Commissioner, responded to questions from the Committee.

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

Ms. Graham reviewed her abstract on the rule proposed by the *Division of Motor Vehicles-Motor Vehicle Inspection Manual, 91CSR12*. Mr. Dale responded to questions from the Committee.

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

Connie Bowling, Associate Counsel, explained the rule proposed by the *Division of Health-Uniform Credentialing of Health Care Practitioners, 64CSR89*, and stated that the Division has agreed to technical modifications. She also explained that there was a conflict in the Code concerning the rule.

Ms. Mahan moved that the Committee direct staff to draft a bill to remove the conflict in the Code. The motion was adopted.

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

Mr. Altizer reviewed his abstract on the rule proposed by the *DEP-Division of Mining and Reclamation-Coal Related Dam Safety, 38CSR4*, and stated that the Division has agreed to technical modifications. Mr. Altizer explained additional modifications proposed by the Division.

Ms. Mahan moved that the Division's proposed modifications be approved. The motion was adopted.

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

Mr. Altizer explained that the rule proposed by the *Oil and Gas Conservation Commission-Rules of the Commission, 39CSR1*, had been laid over from the Committee's December 15, 2002, meeting, and that the Commission has agreed to technical modifications. He; Brett Loflin, member of the Board; and Charlie Byrd, representing the Independent Oil and Gas Association; responded to questions from the Committee.

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

The meeting was adjourned.

JANUARY INTERIM ATTENDANCE
Legislative Interim Meetings
January 5, 6 and 7, 2003

Monday, January 6, 2003

9:00 - 11:00 a.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Robert S. Kiss, ex
officio nonvoting member

Senate

Ross, Chair
Anderson, Vice Chair
Minard
Snyder
Boley
Minear

✓

✓

✓

✓

House

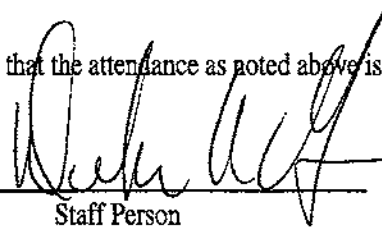
Mahan, Chair
Wills, Vice Chair
Cann
Kominar
Faircloth
Riggs

✓

✓

✓

I certify that the attendance as noted above is correct.



Staff Person

Rule-Making Review Committee
Terri Anderson

****Please return to Brenda as soon as meeting is over, due to payroll purposes.**

Changes to the Coal Dam Rule Package

3.4.c. Hazard Evaluation

3.4.c.1. Downstream Hazard: In evaluating the hazard potential of a dam in order to determine its hazard classification, a complete evaluation of the downstream area, which will be affected in the event of dam failure, must be performed. A sudden flooding of inhabited land, a water flow with damaging velocity, a wall of water, or the flooding of inhabited structures will all be deemed to have the potential to result in a loss of human life. The planned or potential future development of downstream areas must also be considered when evaluating hazard classification.

3.4.c.2. Dam Break Analysis: A downstream breach analysis must be performed to evaluate and map the downstream inundation area under assumed normal conditions and overtopping failure conditions. The Secretary may waive the downstream breach analysis for Class A or Class B dam where downstream conditions prevent any future introduction of new facilities or residences that thereby change the hazard classification of the dam.

3.4.c.3. Assessment of Hazards and the Consequences of Failure. All new applications and expansions to existing impoundments must submit a complete Assessment of Hazards and Consequences of Failure (AHCF), certified by a Registered Professional Engineer (RPE), that addresses all potential risks and impacts that could occur from the construction and/or operation of the facility. The AHCF shall be in narrative form, addressing all potential failure modes and consequences. (note renumber rest of section)

3.4.c.3. Risk Assessment: The Secretary may consider a risk assessment for justifying a reduced structure hazard classification based upon failure of the dam by overtopping. The applicant for a certificate of approval must demonstrate through appropriate calculations that all affected dwellings will be inundated and evacuated prior to the dam failure and that property damage and potential loss of human life resulting from the dam failure will not be significantly increased from that which occurred immediately prior to the dam failure.

3.4.c.4. Emergency Planning: For a Class C high hazard structure or if a dangerous condition exists, notification and action procedures shall be formulated by the operator or owner, for public protection and remedial action in the event of an emergency. All emergency procedures must be submitted and approved.

7.1.n. Use of Corrugated Metal Pipes -Corrugated metal pipes, whether coated or uncoated, shall not be used in new dams. Corrugated metal pipes in existing dams must be either replaced with new pipe or retrofitted with an appropriate liner if the director determines that the existing pipe constitutes a hazard to the proper operation of the dam because the pipe has developed leaks, has deteriorated, or has otherwise ceased to function properly.

Changes to the Coal Dam Rule Package

§38-4-8. Subsidence Evaluation.

8.1. A subsidence evaluation of the site and the dam and its storage area will be required considering past and proposed mining. No dams shall be constructed over underground workings or other voids unless those underground workings or other voids have been stabilized or it has been demonstrated that coal pillars including floor are strong enough to withstand the superincumbent weight of the strata above the workings. Each pillar of every seam underneath shall be analyzed and cumulative impacts of subsidence due to multi coal seam shall also be considered. ~~The pillars will provide a long-term safety of not less than 2.5.~~

7.2. No plan shall be approved unless there is a minimum safe cover to be determined by the Secretary, based on test holes drilled by the applicant in a manner to be prescribed by the Secretary. Such permits shall require in accordance with a plan to be approved by the Secretary, a safety zone be established beneath and adjacent to the impoundment storage area.

8.2.a. Basin. There shall be no underground mining in a safety zone that extends horizontally 200 feet from the high water mark of an impoundment and vertically to a depth that provides for a minimum thickness of 100 feet of solid strata between the bottom of the pool and any mining. The presence of any mine workings within this safety zone is prohibited unless the potential subsidence effects are mitigated by injection grouting or otherwise filling the mine related voids completely. Alternately, such risk can be mitigated by providing a combination of constructed barriers and grouting to establish equivalent distances that will comply with the safety zone dimensions. Coal extraction of 80 percent or more is prohibited unless at a depth greater than 60 times the coal extraction thickness or at a depth where the maximum tensile strain at original ground is less than 5.0 mm/m (0.5%), whichever is greater. The Secretary impose other limitations as specified by BM IC 8741, barrier analysis, other pertinent analysis or due to conditions such as fracturing, which may require a larger safety zone or further limitations in coal extraction.

8.2.b. Embankment. There shall be no mining in a safety zone under the structural embankment measured outward 200 feet in all directions, downward 350 feet and then outward at a dip of 65° from the horizontal, unless acceptable pillar stability and/or strain effects are confirmed by a design evaluation to be certified by an RPE. Also, the related AHCF must clearly demonstrate that the facility will have a low risk of impact to the public and the environment. Existing mine workings within this safety zone having the potential to cause significant subsidence impacts are prohibited unless those effects are mitigated by grouting or filling the mine related voids completely. Additional underground mining may be subsequently approved in the embankment safety zone only if a design evaluation, certified by an RPE, demonstrates that no significant impacts from subsidence can result.

Changes to the Coal Dam Rule Package

8.2.c. Existing Impoundments. Existing impoundments that currently have mining within the safety zones must be evaluated in accordance with this section and analyzed for all types of potential failures. Remedial measures shall be implemented as necessary to eliminate or reduce the potential impact on the public and/or the environment. Remedial measures may include, but are not limited to, constructed barriers, grouting of underground works and back stowing of mines.

8.3 . Safety Factor

Applicable to new, revised, and existing impoundment facilities - a detailed engineering design evaluation of the embankment and impoundment basin areas shall be conducted to assure protection of the environment and public. The engineering design analysis shall demonstrate that appropriate safety factors exist. Major design components of this engineering analysis are embankment stability, pillar design, outcrop barrier design, and any other design aspect as necessary to manage risk. The adequacy of calculated safety factors should be determined by applying appropriate regulatory standards. For design applications where regulatory standards do not exist, the AHCF should be the basis used to derive acceptable safety factors.

Changes to the Coal Surface Mining Rule Package

Page 24 - 3.12.a.1. A survey that identified, on a topographic map of a scale of 1" = 1,000' or less, structures, location and type of water supplies, perennial and intermittent streams lakes reservoirs, ponds, wetlands, rivers and springs or renewable resource lands and a narrative indicating whether or not subsidence could cause material damage or diminution of value or use of such structures, ~~or~~ renewable lands, perennial streams or wetlands.

Page 25 - 3.12.a.6. A description of the measures to be taken, in accordance with subdivision 16.2.a, 16.2.c, 16.2.d. and 16.2.e of this rule, to mitigate or remedy any material damage or diminution in value or foreseeable use that may occur to surface lands, structures, ~~or~~ facilities, perennial streams or wetlands due to subsidence;

Page 25 - 3.12.a.7. An acknowledgement that if subsidence causes material damage or reduces the value or reasonably foreseeable use of the surface lands, perennial streams or wetlands, then the operator shall restore the land, perennial stream or wetland to a condition capable of supporting uses it was capable of supporting before subsidence regardless of the right to subside;

Page 26 - 3.12.a.8.D. Taking measures on the surface to prevent material damage or lessening of the value or reasonably foreseeable use of the surface lands, perennial streams or wetlands.

Page 170 - 16.2.e. Protection of Perennial Streams and Wetlands. Underground mining activities shall not be conducted beneath or adjacent to perennial streams or wetlands unless it has been demonstrated to satisfaction of the Secretary that underground mining has been planned and will be conducted in a manner which maintains the value and reasonably foreseeable uses of perennial streams or wetlands, such as aquatic life; water supply; and recreation, as they existed prior to coal extraction beneath the perennial stream or wetland. The Secretary may, if necessary to minimize the potential for material damage of perennial streams or wetlands, limit the percent of coal extraction underneath or adjacent to such features. If the Secretary finds that the underground mining has caused material damage to a perennial stream or wetland, the operator shall correct the damage to a perennial stream or wetland, to the extent technologically and economically feasible, by restoring the perennial stream or wetland to a condition capable of maintaining the value and reasonably foreseeable uses it was capable of supporting prior to coal extraction beneath the perennial stream or wetland. In addition, the Secretary may suspend mining under or adjacent to such features until the subsidence control plan is modified or other data to demonstrate that future underground mining will not caused material damage to the perennial stream or wetland.

Page 199 - 22.4.i.6. Use of Corrugated Metal Pipes -Corrugated metal pipes, whether coated or uncoated, shall not be used in new impoundment. Corrugated metal pipes in existing impoundment must be either replaced with new pipe or retrofitted with an appropriate liner if the

Changes to the Coal Surface Mining Rule Package

Secretary determines that the existing pipe constitutes a hazard to the proper operation of the impoundment because the pipe has developed leaks, has deteriorated, or has otherwise ceased to function properly.

Bring in \$3000/annual

6CSR2

TITLE 6
LEGISLATIVE RULE
BOARD OF FUNERAL SERVICE EXAMINERS

SERIES 2
CREMATORY REQUIREMENTS

§6-2-1. General.

1.1 Scope. - This rule relates to the minimum requirements of crematories and crematory operators.

1.2 Authority. - WV Code §30-6-1 et. seq.

1.3 Filing Date. -

1.4 Effective Date. -

§6-2-2. Definitions.

For the purposes of this rule, the following terms have the following meaning unless the context in which they are used requires a different meaning.

2.1. "Advertise" and "advertising" means the use of radio, television, billboards, stationery, contracts, price lists, calendars, fans and novelty advertising, or any other advertising method or medium.

2.2. "Agent" means a person who acts as a representative of the crematory.

2.3. "Arrangements conference" means the time spent with the next-of-kin, or other duly or legally authorized person or representative, planning and making financial arrangements for the cremation of a dead human body.

2.4. "Authorized representative" means a person legally authorized or entitled to order the cremation of the deceased.

2.5. "Board" means the West Virginia Board of Funeral Service Examiners.

2.6. "Cash advance item" means an item of service or merchandise described to a purchaser as a "cash advance item," "accommodation," "cash disbursement," or similar term. It also means an item obtained from a third party and paid for by the crematory on the purchaser's behalf, including but not limited to cemetery services, obituary notices, and death certificates.

2.7. "Casket" means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic or other material, and ornamented and lined with fabric.

2.8. "Cremated remains" means all human remains recovered after the completion of the cremation process and may include residue from the cremation container itself and other incinerated materials.

2.9. "Cremation" means any mechanical or thermal process whereby a dead human body is reduced to ashes and bone fragments. Cremation also includes any other mechanical or thermal process whereby human remains are pulverized, burned, recremented, or otherwise further reduced in size or quantity.

2.10. "Cremation chamber" or "retort" means the enclosed space of a cremation unit in which the initial reduction of a dead human body by intense heat and flame takes place.

2.11. "Cremation container" or "alternative container" means an unfinished wood box or other non-metal receptacle or enclosure which is designed for the encasement of a dead human body for purposes of cremation and which is made of fiberboard, pressed wood, composition material with or without an outside covering, or like materials and which is combustible and resistant to leakage of bodily fluids. If the authorized representative desires, a traditional wood-base casket may serve as a cremation container.

2.12. "Cremation unit" means professionally manufactured equipment designed specifically for the initial reduction of a dead human body to ashes and bone fragments by intense heat and flame, containing one or more cremation chambers, and which meets all state and federal safety requirements.

2.13. "Crematory" means a place of business maintained and operated for the sole purpose of reducing dead human bodies to ashes and bone fragments by cremation.

2.14 "Crematory operator" means a person certified by the board to operate a crematory.

~~2.14:~~ 2.15. "Dead human body" means the lifeless body of a human being for which a death certificate must be issued or individual body parts for which a medical institution or the medical examiner has given permission to cremate.

~~2.15. "Direct cremation" means a disposition of a dead human body by cremation; without formal viewing, visitation or ceremony with the body present.~~

~~2.16:~~ 2.16. "Direct supervision" means the physical presence of a certified crematory operator in charge for specific activities requiring more than general supervision.

2.17. "General supervision" means the general oversight or overall responsibility for an activity by a certified crematory operator in charge.

2.18. "Funeral goods" means the goods or merchandise which are sold or offered for sale

directly to the public for use in connection with funeral services or final disposition, including but not limited to caskets, outer burial containers, alternative containers, cremation containers and cremated remains containers. It shall not include cemetery lots, markers, memorials, permanently constructed vaults, concrete lawn crypts, or monuments.

2.19. "Licensee" means a person who holds a crematory license, pursuant to W.Va. Code §30-6-20 and this rule.

2.20. "Mechanical processor" means professionally manufactured equipment designed specifically for the secondary reduction of a dead human body's ashes and bone fragments into smaller fragments by crushing, pulverizing or grinding, and which meets all state and federal safety requirements.

2.21. "Non-combustible materials" means metals or other materials which do not incinerate in a cremation chamber or can not be processed in a mechanical processor, such as casket handles, screws, nails, wires, medical devices, artificial limbs and joints, or other medical implants.

2.22. "Person" means an individual, partnership, association, corporation or other organization.

2.23. "Registrant" means a person who holds crematory operator certificate, pursuant to W.Va. Code §30-6-11 and this rule.

§6-2-3. Prohibited acts.

3.1. A crematory, or its agents, assistants or employees shall not:

3.1.1. offer funeral arrangements, funeral services or memorial services; or,

3.1.2. offer embalming services.

§6-2-4. Crematory operator requirements.

4.1. New applicants.

4.1.1. An applicant for a crematory operator registration shall attend a Board-approved course of at least eight (8) contact hours on crematory operation, prior to registering, which includes training on:

a. terminology used by the crematory industry;

b. principles of combustion;

c. environmental and air quality issues;

d. basic procedures for operating cremation equipment;

- e. handling bodies and packaging cremated remains; and
- f. exposure control.

4.1.2. An applicant for a crematory operator registration shall attend a seminar sponsored and presented by the Board on state crematory regulation, prior to registering. The Board may charge a fee of twenty five dollars (\$25) to each participant.

4.2. Crematory operators prior to July 1, 2003.

4.2.1. A person acting as a crematory operator prior to July 1, 2003 shall apply for registration as a crematory operator on or before July 30, 2003.

4.2.2. An applicant shall be subject to the provisions of subsection 4.1.2. of this section, but shall be exempt from the provisions of subsection 4.1.1. of this section.

4.2.3. An applicant shall submit verification of employment as a crematory operator within twenty one (21) days of the date of application, such verification to be on a form created and supplied by the Board.

4.2.4. If an applicant fails to comply with any provision of this subsection, the Board shall deny the application. If the applicant applies at a later date, he or she shall be considered a new applicant and shall comply with the provisions of subsection 4.1. of this section.

4.2.5. An applicant who applies after July 30, 2003 shall be considered a new applicant, pursuant to the provisions of subsection 4.1. of this section.

4.3. Registered crematory operators.

4.3.1. Registered crematory operators shall be required to obtain continuing education under the following conditions:

a. when the crematory operator will be operating new cremation equipment, such training to take place prior to use of new equipment and to be conducted by a person who has a comprehensive knowledge on the operation of the equipment; or

b. when the Board determines that industry regulation has changed significantly enough to merit additional training. The Board shall give notice to crematory operators that additional training is necessary and that the training must be completed within nine (9) months of the date of notification, such training to be conducted by the Board or another entity or person who has comprehensive knowledge on industry regulation. Participants shall be charged no more than twenty five dollars (\$25) for this training.

4.3.2. Registered crematory operators shall maintain records of continuing education and submit such records at the time he or she renews his or her registration.

4.4. Course Providers.

4.4.1. A person or entity who wishes to become a Board-approved provider of crematory operator training shall submit an application for each type of training course at least 45 days before the training is scheduled, such training course to include subject matter outlined in subsection 4.1.1 of this section.

4.4.2. The Board shall thoroughly screen an applicant to ensure that the applicant conducts quality programs based on the presenter's educational qualifications and experience, adequate resources, past performances, and general program content. The Board shall approve a training course biennially. The Board shall not charge a fee for this application, except under the provisions of subsection 4.4.3 of this section.

4.4.3. The Board may revoke the approval for a training course immediately if the Board determines that the provider can not deliver a quality course. The Board may consider reinstatement of certification if the applicant can show cause for reinstatement, by providing proof of qualifications and documentation of improvement. The applicant shall pay a reinstatement fee of two hundred dollars (\$200) before the Board reinstates certification.

§6-2-5. Control of Dead Bodies.

5.1. Gaining permission to assume control.

A registrant or licensee, or his or her agents, assistants or employees shall not assume control of any dead body without first gaining permission from the authorized representative, or a medical examiner, health officer or other public official legally authorized to give the permission to release the body.

5.2. Honoring instructions from authorized persons.

5.1.1. A licensee or licensee's agents, assistants or employees who have assumed control of a dead body shall honor all instructions, from authorized persons, as to matters relating to the handling of the body, including all steps in preparation; autopsy; viewing; photographing; clothing; casket; box or vault; cremation; time, location and type of ceremonies; and burial or other customary disposal, insofar as considerations of public health, legal requirements and customary respectful handling of the dead may permit.

5.2.2. A licensee may establish a general policy which requires embalming by a licensed embalmer for public viewings of dead human bodies as a matter of public health. A licensee may conduct a public viewing of an unembalmed body, provided that he or she shall provide a disclosure of the risks to every person viewing the body, pursuant to subsection 6.3 of this rule.

5.3. Embalming and public viewings.

5.3.1. A crematory may establish a general policy which requires embalming for public viewings of dead human bodies as a matter of public health, provided that the embalming

is conducted by a licensed embalmer in a licensed funeral establishment. A licensee may permit a public viewing of an unembalmed body, provided that he or she or a registrant shall provide a disclosure of the risks to every person viewing the body, pursuant to subsection 6.3 of this rule.

5.3.2. If a question exists to whether the condition of a body may pose a hazard to public health which would be eliminated by embalming, the crematory shall get a written certification of the condition along with a request that the body be embalmed from a public health officer prior to allowing the licensed embalmer to embalm the body.

5.3.3. If the crematory is unable to contact the next of kin or other authorized representative of the decedent, the crematory shall follow procedures outlined in subsection 17.1. of this rule relating to storage and disposal of unclaimed human remains.

5.4. Unauthorized embalmings.

A person or persons authorized to give permission to embalm a body shall not be responsible for the payment of any fee in connection with an unauthorized embalming.

5.5. Obtaining signatures.

A crematory, crematory operator and his or her agents shall get signatures of the appropriate persons on all documents required by §30-6-1 et. seq., this rule, or any other article or rule pertaining to the disposition of a dead human body.

§6-2-6. Health Requirements.

6.1. Statutes and rules.

A registrant or licensee and his or her agents shall comply with all federal and state laws and rules related to health. State laws include, but are not limited to §§16-1-1 et. seq. related to state public health, §§16-2-1 et. seq. related to local public health, §§16-5-1 et. seq. related to vital statistics, 64CSR18 related to general sanitation, 64CSR32 related to vital statistics, 64CSR56 related to infectious medical waste, and 64CSR64 related to aids-related medical testing and confidentiality.

6.2. Bodies of individuals affected with infections or contagious diseases.

A crematory operator who knows that a body is affected with infections or contagious diseases shall closely and directly supervise the body. The body shall be encased in an heavy pouch, transfer case or sealed casket until cremation occurs.

6.3. Viewing, public or otherwise, of unembalmed bodies.

A licensee or registrant shall provide a written disclosure to individuals who wish to view an unembalmed body. This disclosure shall contain relevant information pertaining to the potential spread of infectious or contagious disease or other possible hazards. The licensee or registrant shall thoroughly discuss these risks with the individual wishing to view the body and

may require the legally authorized representative or other individuals who will view an unembalmed body to sign a statement which releases the licensee or registrant and his employer from any liability, only after discussing the potential hazards.

§6-2-7. Evidence of Crime.

7.1. ~~Embalming~~; Removal, cremation.

The licensee or registrant, or a licensee's or registrant's agents, assistants or employees shall get permission from a medical examiner or other qualified law enforcement official before removing or cremating a body when they have information of or suspect a crime or intentional violence in connection with the cause of death.

7.2. Information of crime.

A licensee or registrant or his or her agents who have information of a possible crime shall immediately file a formal report of that information to a proper law enforcement officer, if the possible crime has not yet been reported. If the body is to be embalmed, the licensee or registrant or his or her agents shall also notify the embalmer prior to embalming the body.

7.3. Concealment of crime.

A licensee or registrant or his or her agents shall not knowingly do any act that would conceal evidence of a crime.

§6-2-8. Price Lists.

A crematory shall maintain type-written price lists and statements of goods and services prescribed in this section for all products and services offered for sale; provided that if the crematory also operates as a licensed funeral establishment pursuant to W.Va. Code §30-6-1 et. seq., the crematory may include price information on the funeral establishment's required price lists, pursuant to 6CSR1, section 8 instead of maintaining a separate price list for available cremation services, as described below, so long as the information required by this section is included on the funeral establishment's price lists.

8.1. General Price List.

8.1.1. A General Price List, otherwise known as a "GPL," shall contain:

- a. The caption: "General Price List;"
- b. The effective date of the GPL;
- c. Itemized list of all cremation services offered for sale, including exact prices or price ranges, from least expensive to most expensive;
- d. Name of the crematory, the crematory operator in charge, full location

and mailing address, and telephone number; and

e. Four disclosures, which include:

1. The consumer's right to select only the services desired;
2. The consumer's right to use alternative containers;
3. Basic non-declinable service fees for such things as delivery of goods express shipping, etc. or other service charges. The crematory shall disclose this as a separate charge or disclose this as a charge included in the price of the goods; and,
4. The availability of a separate Cremation Container Price List, if the crematory sells cremation containers.

8.1.2. The crematory shall give the GPL ~~to keep~~ to anyone for retention that asks for it, or inquires about the services or goods offered for sale, in a face-to-face meeting with a representative of the crematory. Telephone inquiries are not considered face-to-face meetings.

8.1.3. During a telephone inquiry about the services or goods offered for sale, the crematory or its representative shall inform the caller that the GPL exists and that it is available at the crematory. The crematory is not required to mail the GPL to the caller.

8.1.4. The crematory shall not charge a fee for the GPL.

8.2. Cremation Container Price List.

8.2.1. A Cremation Container Price List, otherwise known as a "CCPL" shall contain:

- a. The caption: "Cremation Container Price List;"
- b. The effective date of the Cremation Container Price List;
- c. Name of the crematory; and
- d. The retail price of each cremation container or other container or caskets offered for sale for use in cremations, that does not require special ordering, with enough information to identify it, such as the gauge of metal or type of wood, the exterior trim, and interior fabric, manufacturer name, or model number. A photograph or model number alone is not sufficient. Special ordering means purchasing of a casket or container that is not part of the regular offerings to customers.

8.2.2. The CCPL shall contain the following disclosure, with a listing of cremation containers sold by the crematory at the end of the last sentence of the disclosure:

"West Virginia law requires the use of a cremation container as a matter of

public health. You may choose a traditional wood casket or choose a less expensive alternative container which encases the body and is made of materials like fiberboard or composition material (with or without an outside covering). The containers we provide are _____."

8.2.3. The CCPL shall be made available for review to anyone who, in a face-to-face meeting, asks about caskets or cremation containers offered for sale or inquires about prices. The CCPL must be given to the consumer prior to showing these items to the consumer. Individual price cards placed on the caskets or cremation containers may be utilized, but only in addition to the CCPL.

8.2.4. If the crematory also offers for sale caskets which are used for burial, a separate Cremation Container Price List shall not be required, provided that the crematory maintains a Casket Price List, pursuant to Federal Trade Commission's Trade Regulation Rule for Funeral Industry Practices, 16 CFR Part 453, and which Casket Price List contains the content also required by subsections 8.2.1.d and 8.2.2 of this section.

8.3. Statement of Goods and Services.

8.3.1. A Statement of Goods and Services, otherwise known as the "SGS," shall contain:

- a. Itemized list of good(s) and service(s) to be purchased;
- b. The cost(s) of each good or service to be purchased;
- c. Any cash advances for cash advance goods or deposits to be made toward purchase(s);
- d. Total cost of purchase(s);
- e. Final total cost after deduction of cash advances or deposits; and
- f. Two disclosures, which include:

1. For legal requirements, "Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or funeral establishment to use any items, we will explain the reasons in writing below." The crematory shall write these reasons somewhere on the SGS.

2. For cash advance items, "We charge you for our services or goods in obtaining the following cash advance items below:" The crematory shall list these items somewhere on the SGS, if any exist.

8.3.2. The crematory shall give the SGS to the consumer at the end of discussion of the proposed purchase(s) prior to signing a contract to provide the goods and services contained on the SGS:

8.4. Telephone Price Disclosures.

8.4.1. The crematory shall give accurate information regarding goods and services offered for sale to the consumer who telephones the crematory inquiring about the goods and services and the associated prices. The crematory shall provide the information based on the current GPL and CCPL.

8.4.2. A crematory, or any of its agents, shall not require a caller to disclose his or her name, address, or telephone number and shall not require the caller to come to the crematory to get price information.

8.4.3. The board shall not require a crematory to respond to telephone inquiries after normal business hours. However, if the crematory practice is to sell goods and services during non-business hours for at-need situations, then the Board may require telephone inquiries be answered during non-business hours.

8.4.4. A crematory's agent may take a message if working on another sale. However, the agent shall return the phone call immediately thereafter.

8.5. Other Misrepresentations.

8.5.1. Protective Features.

A crematory or its agent, shall not tell consumers that goods, including but not limited to caskets, have protective features that will protect the body if not true.

8.5.2. Product Warranties.

A crematory or its agents shall provide warranty information to consumers inquiring of or purchasing goods or services for any good or service which has a warranty. The crematory shall inform the consumer about the warranties and who is providing the warranties, the manufacturer or the crematory.

8.5.3. Cash Advance Items.

A crematory or its agents shall inform the consumer that the price of the cash advance item is not the same as the crematory's cost, if the crematory or its agents receives and keeps a rebate, commission, or trade or volume discount. The crematory shall disclose this verbally and in writing on the SGS.

§6-2-9. Advertising.

9.1. All advertising shall comply with the requirements set forth in W. Va. Code §30-6-1 et.seq.

9.2. A licensee, registrant or any other person, persons or business organization associated or in any way connected with a crematory shall not use or sponsor the use of any false,

misleading, untrue or deceptive advertising in any manner.

9.2.1. If the words "Free," "Without Charge" or other words with similar connotations have the effect of misleading the public, the Board may consider the advertisement to be false and misleading.

9.2.2. Solicitation.

a. A licensee, registrant or any other person, persons or business organization associated or in any way connected with a crematory shall not solicit business or offer any inducement, pecuniary or otherwise for employing solicitors, agents, canvassers or other persons for the purpose of securing or attempting to secure business, pursuant to W. Va. Code §30-6-23(a)(9), §30-6-23(a)(12) and §30-6-23(a)(13). These persons shall not call upon, telephone, write or cause, directly or indirectly, advertising literature to be sent to a sick or dying person as would tend to be considered non-general, selective or soliciting advertisements. A licensee, registrant or any other person, persons or business organization associated or in any way connected with a crematory shall not offer or accept bribes or kickbacks, direct or indirect.

b. The board shall not prohibit generalized advertising in newspapers, flyers, bulletins, pamphlets, leaflets, brochures, circulars, on television or radio, or on billboards; provided, that such generalized advertising shall not target sick or dying persons or a specific population or group.

9.2.3. The contents of the advertising shall include the name of the crematory, its address and telephone number and the name of the certified crematory operator in charge. The advertisement may also include a description of the types of services available and their prices and the service facilities of the advertiser as well as general information pertaining to his or her business.

9.2.4. A crematory which advertises any merchandise used in connection with his or her business shall carry in his stock a sample of the merchandise for a period of not less than thirty (30) days after advertisement publication and shall be able to meet any and all demands for such items, with no increase in price, for the stated period of not less than thirty (30) days.

9.3. Exceptions to subsection 9.2.3 of this section.

9.3.1. Advertising medium which is notably small in size is exempt from subsection 9.2.3 of this rule, including but not limited to pens, pencils, or other items smaller than 1.5 inches in diameter.

9.3.2. A business card is exempt from subsection 9.2.3. of this rule.

9.3.3. A licensee may request additional exemptions based on the size of the advertising medium by filing a written request in the Board office, before ordering the items. The Board shall approve or deny the request within thirty (30) days of receipt of the request.

§6-2-10. Confidentiality.

10.1. Preserving confidentiality.

A licensee or registrant or his or her agents shall not divulge any confidential or private information relating to the domestic life in any home wherein they may be called upon to serve. This prohibition, however, shall not prevent divulging information to any person legally authorized to receive the information.

10.2. Exception.

Should any form of child abuse, child neglect, or elder abuse be suspected or divulged, the licensee or registrant shall notify proper authorities, including but not limited to local office of the West Virginia Department of Health and Human Resources and local law enforcement. Failure to do so shall result in disciplinary action, pursuant to W .Va. Code §30-6-1 et seq.

§6-1-11. Supervision.

11.1. Certified crematory operator in charge.

A crematory shall employ a certified crematory operator in charge of and responsible for the day-to-day operation of the crematory. The crematory operator in charge shall be a full time employee of the crematory.

11.2. Absence in excess of thirty (30) days.

A crematory shall not go without the supervision of a crematory operator in charge for a continuous period in excess of thirty (30) days. The crematory shall notify the Board in writing within five (5) days of a change in the status of the crematory operator in charge.

11.3. Arrangements conference.

11.3.1. A certified crematory operator shall be responsible for and generally supervise an arrangements conference.

11.3.2. A crematory shall not be responsible for arrangement conferences conducted by a licensed funeral establishment.

§6-2-12. Necessary Equipment.

12.1. A crematory shall have the equipment for the conduct of cremating includes but is not limited to:

12.1.1. at least one commercially manufactured cremation unit, equipped with an interlock, maintained in good working condition, and in accordance with the division of environmental protection legislative rules 45CSR13;

12.1.2. at least one commercially manufactured mechanical device or processor for grinding, crushing, or pulverizing cremated remains maintained in good working condition;

and

12.1.3. an appropriate holding facility for dead human bodies awaiting cremation.

12.2. A crematory shall also maintain the following:

12.2.1. sanitary flooring in the room which houses the cremation unit and in any room where a dead human body may be stored or prepared for cremation;

12.2.2. sanitary instruments and appliance used in preparing a dead human body for cremation;

12.2.3. running hot and cold water with a lavatory sink for personal hygiene;

12.2.4. sanitary plumbing connected with a sewer, cesspool, septic tank or other Department of Health and Human Resources approved system;

12.2.5. adequately screened or covered doors and windows in all rooms where a dead human body may be stored, prepared for cremation or cremated to prevent viewing from outside this room;

12.2.6. covered and sealed containers for refuse, trash and soiled linens;

12.2.7. first aid kit;

12.2.8. a "private sign" posted on any door entering all rooms where a dead human body may be stored, prepared for cremation or cremated;

12.2.9. documentation which shows that all waste materials, refuse, used bandages, and cotton are destroyed by reducing to ashes by incineration, or are removed by a licensed medical waste dispenser, or are removed and transported by the owner in accordance with the provisions of 64CSR56;

12.2.10. personal protective equipment in which every person, while engaged in actually preparing a dead human body for cremation, is attired with impervious rubber gloves and a clean smock or gown covering the person from the neck to below the knees;

12.2.11. sanitary blankets or other coverings to be used to shield a dead human body to show proper care and dignity at all times;

12.2.12. if the crematory serves the public directly, restroom facilities in compliance with all federal, state, and local health requirements;

12.2.13. if the crematory serves the public directly, office space for making arrangements; and

12.2.14. if the crematory displays caskets or alternative containers for sale, a separate room set aside for this purpose.

12.3. Failure to comply with this section shall result in disciplinary action as outlined in W.Va. Code §30-6-1 et. seq.

§6-2-13. Permission to cremate, disclosure for unclaimed cremated remains, removing objects from body.

13.1. Written permission to cremate.

13.1.1. A crematory shall get a permit for cremation from the authorized representative who has the legal right to authorize the cremation, pursuant to W.Va. Code §30-6-21(a). If contracted by a funeral establishment to provide a cremation, the crematory may get a copy of the permit to cremate from the funeral establishment contracted with the authorized representative, as the funeral establishment is responsible for performing this duty, pursuant to Title 6, Series 1 of these rules.

13.1.2. A crematory shall get a permit for cremation from the county medical examiner, assistant county medical examiner, or the county coroner in whose county jurisdiction death takes place as stated on the death certificate. If contracted by a funeral establishment to provide a cremation, the crematory may get a copy of the permit from the funeral establishment as the funeral establishment is responsible for performing this duty, pursuant to Title 6, Series 1 of these rules. The crematory may obtain authorization directly from the office of the chief medical examiner if:

a. the crematory has concerns following authorization by county personnel regarding the identity or cause of death of the decedent;

b. in cases where the crematory is unable to contact the county medical examiner, assistant county medical examiner, or county coroner of the county in which death takes place as stated on the death certificate, pursuant to the provisions of W.Va. Code §61-12-1 et. seq. and §30-6-1 et. seq.

13.1.3. The crematory operator shall not cremate a dead human body prior to receiving permissions prescribed in this section.

13.1.4. The crematory shall retain documents prescribed in this section, pursuant to the provisions of section 18 of this rule.

13.2. If contracted directly by the authorized representative, a crematory shall, in writing, disclose to the authorized representative during the arrangements conference that unclaimed cremated remains may be buried in a common grave and may not be recoverable in their entirety or at all, if exhumed at a later date.

§6-2-14. Identification of a dead human body.

14.1. A crematory shall develop, implement, and maintain a written procedure for identification and tracking of a dead human body and cremated remains whereby the dead human body or cremated remains can be identified from the time the crematory accepts delivery of the

body until the cremated remains are released to an authorized representative. This procedure shall include:

14.1.1. the assignment of a reference number to the decedent, which number shall be written on all paperwork and shall be designed to reasonably ensure that the proper body is cremated and that the cremated remains are returned to the appropriate authorized representative.

14.1.2. tagging the body at the time of delivery with the name and social security number of the decedent and the reference number prescribed in subsection 14.1.1 of this section. The temporary tag shall remain on the body until the body is placed in the cremation chamber, at which time the crematory operator shall remove this tag and place it on or adjacent to the cremation unit. The crematory operator shall place this tag with the cremated remains upon removing the cremated remains from the cremation chamber. The crematory operator may replace this tag with the identification disk, tag, or label prescribed in subsection 14.2 of this section after processing the cremated remains in the mechanical processor.

14.2. After cremation, the crematory shall place within the cremated remains container an identifying disk, tab or other permanent label before the cremated remains are released from the crematory.

14.2.1. The identification disk, tag, or label shall:

- a. be made of durable, noncorroding materials;
- b. contain the name of decedent; and
- c. contain a reference number that the crematory shall record on all paperwork regarding the decedent.

14.3. A crematory operator shall closely supervise a dead human body to ensure that the body is not misplaced, tagged incorrectly, or mishandled in any other manner.

14.4. Upon delivery of a deceased human body to the crematory, the crematory shall inspect the remains for identification. If the crematory finds that no documentation exists, the crematory operator shall contact the person who released the body to the crematory to inform him or her of the error. The crematory shall not be responsible for correcting the error, except that the authorized representative should confirm the identity of the deceased person, if possible or feasible.

14.5. If the crematory retrieves a deceased human body from a family residence or similar living quarters in which it would be inappropriate to tag the body out of respect of the family members or other residents, the crematory may place the identification documents on the body upon arrival at the crematory.

14.6. The crematory shall report their own identification errors to the Board within five (5) business days. The crematory which received the body from another institution which made the error shall not be responsible for reporting the error.

§6-2-15. Cremation procedures.

15.1. Cremation chamber for human remains.

The crematory operator shall knowingly cremate only dead human bodies in a cremation chamber, along with the cremation container and a sheet or pouch utilized for disease control. The crematory shall, ~~at a minimum,~~ use a cremation container as a means of protecting the crematory operator and providing dignity to the decedent. The crematory may charge for the use of the cremation container.

15.2. Privacy.

15.2.1. Only authorized crematory personnel shall be permitted in the room which houses the cremation unit while a dead human body is in the cremation area awaiting cremation, in the cremation chamber, being removed from the cremation chamber, or being processed and placed in a cremated remains container.

15.2.2. If the family of the decedent wishes to view the body, the crematory shall designate an area for such use and which shall not be a part of the room which houses the cremation unit. The designated area shall be maintained in a clean and sanitary condition.

15.2.3. A crematory operator shall not interfere with traditional religious rituals or ceremonies. If a ritual or ceremony requires a family member to witness a cremation or start the cremation unit, the crematory operator shall, with utmost care and caution, directly supervise this ritual or ceremony, provide clear instructions to the family member about proper procedures, and inform the family member about what happens to a body as it is being cremated.

15.3. Operation of the crematory unit and mechanical processor.

Only a certified crematory operator may operate a crematory unit and remove cremated remains from the crematory unit and operator operate a mechanical processor. However, other staff may be present and assisting assist in the room where the crematory unit is housed.

15.4. Removal of objects from the dead human body.

15.4.1. A crematory shall not be required to remove any objects from a deceased human body prior to cremation if the crematory was contracted by a licensed funeral establishment to provide the cremation, as this duty is the responsibility of the funeral establishment, pursuant to Title 6, Series 1 of these rules. However, if the funeral establishment contracts for the removal of such objects, the crematory operator may remove these objects, provided that the funeral establishment has made arrangements to get authorization for such removal from the authorized representative. A crematory shall be responsible for removing objects from a deceased human body if the authorized representative contracts directly with the crematory to provide the cremation, pursuant to subsection 15.4.2 of this section.

15.4.2. A crematory operator shall not remove any dental gold, body parts, organs, or other items of value from a dead human body prior to the cremation except with the

express written permission from the authorized representative. The crematory shall disclose to the authorized representative or the contracting funeral establishment that objects will not be recoverable after cremation and mechanical processing. The crematory shall also give the authorized representative the opportunity to have jewelry or other items of value removed prior to cremation. The crematory shall maintain this information as part of the records.

15.4.3. A crematory shall ask the authorized representative or the contracting funeral establishment if the deceased human body contains objects or medications which may be hazardous or dangerous. If the crematory ascertains that such objects or medications are present, the crematory may refuse to cremate the body and suggest a traditional burial. However, the crematory shall not be prohibited from cremating a body containing such objects or medications, provided that the crematory takes all necessary precautions in protecting its employees and equipment and follows any state or federal regulations regarding the incineration of such objects or medications.

15.5. Commingling of human remains prohibited in the cremation chamber.

Except with the express written permission of the authorized representative, no crematory shall cremate more than one dead human body at the same time and in the same cremation chamber, or introduce a second dead human body into a cremation chamber until reasonable efforts have been employed to remove all fragments of the preceding cremated remains, or cremate a dead human body and other human remains at the same time in the same cremation chamber. The fact that there is incidental and unavoidable residue in the cremation chamber used in a prior cremation is not a violation of this provision.

15.6. Removal from the cremation chamber.

Upon completion of the heat and flame reduction process, the crematory operator shall make reasonable efforts to remove, from the cremation chamber, all of the recoverable cremated human remains and non-combustible materials or items. Insofar as is possible, the crematory operator shall properly separate the non-combustible materials or items from the cremated human remains and dispose of the non-combustible materials as regular refuse. The crematory operator shall place the cremated remains in an appropriate container to be transported to the processing area.

15.7. Commingling of human remains prohibited in the mechanical processor.

Except with the express written permission of the authorized representative, no crematory shall mechanically process more than one dead human body at the same time and in the same mechanical processor, or introduce a second dead human body into a mechanical processor until reasonable efforts have been employed to remove all fragments of the preceding cremated remains, or mechanically process a dead human body and other human remains at the same time in the same mechanical processor. The fact that there is incidental and unavoidable residue in the mechanical processor used in a prior cremation is not a violation of this provision.

15.8. Processing the cremated remains.

The crematory operator shall reduce the cremated remains in a mechanical processor to a granulated appearance appropriate for final disposition and place the cremated remains in a cremated remains container along with the appropriate identifying disk, tab, or label.

15.9. Container of sufficient capacity and durability.

15.9.1. If a cremated remains container is of insufficient capacity to accommodate all cremated remains of a given dead human body, subject to directives provided in the written authorization to cremate, the crematory operator shall place the excess cremated remains in a secondary cremated remains container and attach the second container, in a manner so as not to be easily detached through incidental contact, to the primary container. The secondary container shall contain a duplicate of the identification disk, tab, or label that was placed in the primary container and all paperwork regarding the given body shall include a notation that the cremated remains were placed in two or more containers. All containers shall be closed, rigid, and leak resistant.

15.9.2. If the authorized representative requests that the cremated remains are to be divided into two or more containers, the crematory operator shall ensure that all containers contain the identification disk, tab, or label and that all paperwork include a notation of this information, as prescribed in subsection 15.9.1 of this section. The crematory shall require each recipient of a container to sign a form authorizing the release, or if the authorized representative is also serving as a representative of the recipients, the authorized representative shall sign a separate form for each container which authorizes the release of the container.

15.10. Disposition of accumulated residue.

A crematory shall provide for the removal and disposition in accordance with local, state, and federal laws of any accumulated residue from the cremation chamber and mechanical processor, or other equipment used in cremation.

15.11. Storing bodies awaiting cremation.

A crematory shall install a refrigeration unit or have access to a refrigeration unit for the purpose of storing unembalmed bodies. The crematory shall refrigerate an unembalmed body awaiting cremation when the crematory operator considers refrigeration necessary, based on the condition and deterioration of the body; provided that bodies in later stages of deterioration shall be given priority. If the body has been embalmed, the crematory shall not be required to refrigerate the body.

15.12. Dust on and around the cremation chamber.

A crematory shall vacuum all dust on the outside of and around the cremation unit and treat it as cremated remains. A crematory may dispose of these cremated remains by burial in a common grave or other space dedicated to such cremated remains, in a respectful manner.

§6-2-16. Release of cremated remains.

16.1. Following completion of a cremation, the cremated remains shall be released according to the instructions given on the written authorization to cremate. If the cremated remains are to be shipped, they must be securely packaged and transported via a method which has an internal tracking system available and which provides for a receipt signed by the person accepting delivery.

16.2. Where there is a dispute over release or disposition of the cremated remains, a crematory may deposit the cremated remains with a court of competent jurisdiction pending resolution of the dispute or retain the cremated remains until the authorized representative with the right to control disposition presents satisfactory indication that the dispute is resolved.

§6-2-17. Storage and disposal of unclaimed cremated remains.

17.1. Unclaimed dead human bodies.

A crematory may contract with an embalmer to embalm an unclaimed dead human body under the following circumstances.

17.1.1. If the crematory has made legitimate attempts to contact the next of kin or authorized representative without success within twelve (12) hours after the body was placed in its care, the crematory may contract with an embalmer to have the body embalmed after this twelve (12) hour period; provided that the crematory makes a record of such legitimate attempts to contact the next of kin or authorized representative; or,

17.1.2. If the crematory has made legitimate attempts to contact the next of kin or authorized representative without success and has reasonable belief that a body could be infected with a contagious or communicable disease, the crematory may contract with an embalmer to have the body embalmed immediately upon receipt of certification by a public health officer that the body is infected with a contagious or communicable disease. The crematory may contract with an embalmer to have the body embalmed prior to the end of twelve (12) hour period set forth in subsection 17.1.1 of this section if the body is certified as contagious by the public health officer.

17.2. Unclaimed cremated remains.

17.2.1. A crematory shall store in a secure location unclaimed cremated remains while trying to locate an authorized representative or person to whom the crematory was instructed to release the cremated remains.

17.2.2. If, after sixty (60) calendar days following the cremation, the cremated remains are not claimed, the crematory shall send notification, by certified mail, to the authorized representative or person to whom the cremated remains were to be released. This notification shall state that the cremated remains are unclaimed and that the crematory requires additional instructions regarding their release.

17.2.3. If, after thirty (30) calendar days since the first notification, the cremated remains are still unclaimed, the crematory shall send a second notification, by certified mail, to

the same person or persons prescribed in subsection 17.2.2 of this section. This notification shall state that the cremated remains are still unclaimed and that the crematory requires additional instructions regarding their release. The notice shall also inform the recipient that the crematory may dispose of the remains in ninety (90) days if unclaimed.

17.2.4. If, after ninety (90) calendar days since the second notification, the cremated remains are still unclaimed, the crematory may dispose of the cremated remains by burial or entombment. The crematory may bury such cremated remains in a common grave, pursuant to section 13 of this rule.

17.3. The crematory shall be entitled to payment for these services from the deceased person's estate, pre-need contract, applicable insurance policies or trust funds, or indigent burial programs.

§6-2-18. Record-keeping practices.

18.1. Required records.

Every crematory shall create and maintain on its premises an accurate record of every cremation performed. The record shall include all of the following information:

18.1.1. The name of the person or other funeral establishment delivering the body for cremation;

18.1.2. The name of the deceased and the identification number assigned to the body;

18.1.3. The date and time of acceptance of delivery;

18.1.4. The name of the crematory operator(s) who operated the cremation chamber and mechanical processor operator;

18.1.5. The date, time and condition of the body before cremation;

18.1.6. The date and time that the body was placed in and removed from the cremation chamber;

18.1.7. The time and date that processing and inurnment of the cremated remains was were completed;

18.1.8. The time, date, and manner of release of the cremated remains;

18.1.9. Documents supporting delivery or attempt to deliver cremated remains, including method of delivery and to whom the cremated remains were released;

18.1.10. A listing of objects removed from the deceased by the crematory operator prior to cremation;

18.1.11. Written authorization and the name and address of the authorized person;

18.1.12. The permit for cremation from the medical examiner and the date this form was presented to the operator of the crematory;

18.1.13. Transit or disposition permits; and

18.1.14. Documentation of embalming, if the crematory contracted with a licensed embalmer to embalm the body.

18.2. Retention of records.

A crematory shall maintain records prescribed in this section at the crematory or its offices for a period of five (5) calendar years after the release of the cremated remains. Following this period and subject to any other laws requiring retention of such records, the crematory may then place the records in storage.

§6-2-19. Inspections.

19.1. Inspection forms.

The Board shall produce an inspection report to use as a guide while inspecting a crematory, a copy of which may be left with the crematory at the conclusion of the inspection and a copy which shall be filed in the office of the Board.

19.2. Right of inspection.

The Board, any of its members or any inspector duly authorized, has the right to enter, without prior notice, a crematory during normal business hours, for the purpose of inspecting the crematory.

19.3. Compliance.

The holder of a crematory license shall correct any violations found during an inspection. The severity of the violation shall dictate the time allotted for correction and is at the discretion of the person conducting the inspection.

19.4. Areas of inspection.

The Board shall inspect at minimum the following:

19.4.1. Public areas, including restrooms, lounges, casket display rooms and individual caskets offices;

19.4.2. Non-public areas, including refrigeration facilities, holding areas, cremation unit facilities and dressing rooms;

19.4.3. Documents, equipment, and materials prescribed in sections 5, 6, 8, 9, 12, 13, 14, 16, 17, 18 and this section of this rule; and,

19.4.4. Medical waste disposal procedure and documents.

19.5. A crematory shall maintain all necessary equipment, prescribed in this rule, in a clean, safe, and sanitary condition. Equipment and materials shall be in good repair and are subject to inspection. The building in which the crematory is located shall also be in good repair and maintained in a clean, safe, and sanitary condition and is subject to inspection.

19.6. The Board shall charge an inspection fee prescribed in subsection 20.3 of this rule.

19.7. The inspector or the investigator may visit any facility while cremation of a body is being conducted, when it may be considered necessary to secure evidence, provided that the visit shall be done in a respectful and decorous manner.

19.8. The Board shall initiate disciplinary proceedings for violations that are not corrected or for continuous disregard for cleanliness and other standards prescribed in this rule.

19.9. The inspector shall in no way be connected with the work or business of a crematory he or she inspects. The Board shall make other arrangements to conduct inspections of any these facilities.

§6-2-20. Fees.

20.1 Fees paid to the Board are not refundable. All fees are payable to the West Virginia Board of Funeral Service Examiners (WVBFSE).

20.2. Lost or stolen licenses or certificates.

The Board shall print and promptly mail a new license or certificate of registration, upon payment of a fee of twenty five dollars (\$25) for each re-issuance.

20.3. Inspections.

The Board shall inspect a crematory and charge an inspection fee for the following reasons:

20.3.1. When it is necessary for the inspector to conduct an additional inspection of a crematory found to be out of compliance with the provisions of W. Va. Code §30-6-1 et. seq. and this rule during the initial yearly inspection, the crematory shall pay a fee of two hundred dollars (\$200) for each additional inspection.

20.3.2. When the inspector schedules an appointment for inspection and no one is present at the crematory for the inspection to be conducted and the inspector must return to the crematory on a subsequent date, the crematory shall pay a fee of two hundred dollars (\$200) for each occurrence. This fee shall only be charged if it is determined by the Board that the inspector

was not at fault for the missed appointment. No fee will be charged if a crematory owner or operator or the registrant-in-charge contacts the inspector or the Board office before the scheduled appointment with a justifiable reason for his or her inability to be present for the appointment and can provide written documentation supporting his or her reason.

20.3.3. When a crematory has undergone renovations which are something other than routine maintenance or upgrades of equipment and which affects the cremation unit, the crematory shall pay a fee of two hundred dollars (\$200) for an inspection before the Board issues the license.

20.3.4. When a crematory is newly constructed or has been purchased by new owners, the crematory shall pay a fee of two hundred dollars (\$200) for an inspection before the Board issues the license.

20.3.5. When the holder of a crematory license fails to renew the license pursuant to section 22 of this rule, the crematory shall pay a fee of two hundred dollars (\$200) for an inspection before the Board reinstates the license.

20.4. Continuing Education Approvals.

Providers of continuing education programs for certified crematory operators shall apply for approval, as prescribed in sections 16 and 18 of 6CSR1 related to funeral directors and embalmers.

20.5. W. Va. Code §30-6-1 et. seq.

A fee of \$5.00 for each copy plus shipping and handling. All copies of other state or federal laws shall carry a charge of twenty five cents (\$.25) per page plus shipping and handling. For materials that are pre-printed by another organization, only shipping and handling charges shall apply. A copy of this rule is available on-line at <http://www.state.wv.us/csr/> and at the Secretary of State's office.

20.6. Miscellaneous.

All other materials that must be re-printed and are not included of rule shall carry a cost of twenty five cents (\$.25) per page plus shipping and handling.

20.7. Late fees.

20.7.1. The fee for the late payment of any required fee is fifty dollars (\$50) in addition to the amount of the required fee when a payment is more than thirty (30) days delinquent or one hundred dollars (\$100) in addition to the amount of the required fee when a payment is more than sixty (60) days delinquent, based on the date of receipt of an application, expiration date of a license or permit, or other recognizable date of transaction or deadline.

20.7.2. The fee for a payment made by a check returned due to insufficient funds or similar failure to negotiate payment is twenty five dollars (\$25). The Board shall also charge a late fee prescribed in subsection 20.7.1. of this section if the payment is not made within the

specified time frames after the Board has notified the payee of the returned check.

20.8. License and registration fees.

20.8.1. The fee for the initial issuance of a crematory operator's biennial registration is one hundred twenty dollars (\$120).

20.8.2. The fee for biennial renewal of a crematory operator's registration is one hundred twenty dollars (\$120).

20.8.3. The fee for the initial issuance of a crematory license is three hundred fifty dollars (\$350).

20.8.4. The fee for biennial renewal of a crematory license is three hundred fifty dollars (\$350).

§6-2-21. Correspondence with Board.

To avoid inconsistency, all inquiries relating to any facet of licensing requirements shall be directed, in writing, to the full Board through its Executive Director. If any employee or member of the Board is asked to provide information or interpretations, he or she shall refrain from responding, but shall reduce the inquiry to written form and direct it to the full Board through its Executive Director.

§6-2-22. Biennial licenses and registrations.

22.1. The Board shall renew all licenses and certificates of registration biennially on a staggered schedule as prescribed in W. Va. Code §30-6-14. Beginning July 1, ~~2002~~, 2003, one half of all licenses and certificates of registration shall be renewed for one year and one half of all licenses and certificates of registration shall be renewed for two years. Thereafter, all licenses and certificates of registration shall be issued or renewed biennially.

22.2. A licensee or registrant, who desires to continue in his or her practice, shall biennially on or before the first day of July of the renewal period apply to the Board for a renewal of his or her license, and shall transmit with the application the fee prescribed in section 16 of this rule. If the Board finds that the applicant has been legally licensed and is entitled to a renewal, it shall issue a renewal certificate.

22.3. The Board shall give notification of the need to renew licensure or registration at least thirty (30) days before the first of July.

22.4. If a licensee or registrant fails to apply by the first day of August of the renewal period to the Board for a renewal of his or her license or registration, the Board shall send a second notification of the required renewal to the last known address of the licensee or registrant. If the licensee or registrant fails to apply for renewal of licensure or registration by the first day of September, the Board shall send a third and final notification. The Board shall charge a late fee prescribed in subsection 20.7 of this rule. If the licensee or registrant fails to apply for renewal of

licensure or registration by the first day of October, the Board shall erase his or her name from the register of licensees and registrants.

22.5. Reinstatement.

22.5.1. In order for a licensee or registrant whose name has been erased from the register of the Board pursuant to subsection 22.4. of this section to again become licensed or registered, the licensee or registrant shall personally appear before the Board, or an authorized committee of the Board, to show cause for permitting the license or registration to lapse.

22.5.2. If the holder of a crematory license submits to the Board satisfactory reasons for failing to renew his or her license and passes an inspection, the Board shall reinstate the license upon payment of a fee of two hundred fifty dollars (\$250.00) plus the appropriate renewal fee and inspection fee.

22.5.3. If a registrant submits to the Board satisfactory reasons for failing to renew his or her certificate and pays a fee of two hundred fifty dollars (\$250.00) plus the prescribed renewal fee and demonstrates competency to work as an apprentice or courtesy card holder, the Board shall reinstate the certificate.

22.5.4. If the licensee or registrant whose name has been erased for failure to renew his or her license or registration is under investigation for alleged violations of W.Va. Code §30-6-1 et. seq. or this rule, the Board may deny re-instatement until the investigation is resolved.

22.6. Crematories.

The executive director shall immediately issue a ninety-day (90) probationary license to a crematory which has met all requirements prescribed in §30-6-1 et. seq. and this rule and place the application on the agenda for consideration during the next scheduled meeting. If, at the meeting, the Board determines that the crematory has complied with all requirements, the Board shall issue a license as prescribed in subsection 22.1 of this section. The Board shall not charge a fee for the probationary license.

§6-2-23. Authorized representative.

23.1. Advance directives, medical power of attorney and will of decedent.

A person may direct the preparation for, type, or place of his or her own final disposition, either by oral or written instructions. The authorized representative otherwise entitled to control the final disposition pursuant to W.Va. Code §30-6-3 and this rule shall faithfully carry out the reasonable and otherwise lawful directions of the decedent to the extent that the decedent has provided resources for the purpose of carrying out the directions. If the instructions are contained in a will, they shall be immediately carried out, regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date, subject to other provisions of this chapter or any other law of this state. If the instructions are contained in a valid medical power of attorney document, they shall be immediately carried out,

pursuant to W.Va. Code §16-30-1 et. seq. This subsection shall be administered and construed so that the reasonable and lawful instructions of the decedent or the person entitled to control the final disposition shall be faithfully and promptly performed.

23.2. Determination of right to control and duty of disposition.

The right to control the disposition of the remains of a deceased person, including the location and conditions of final disposition, unless other directions have been given by the decedent pursuant to subsection 23.1 of this section, vests in, and the duty of final disposition of the body devolves upon, the following authorized representative in the order named:

23.2.1. the person appointed in a dated written instrument signed by the decedent. Written instrument includes, but is not limited to, a health care directive or medical power of attorney executed pursuant to W.Va. Code §16-30-1 et. seq. of the West Virginia Health Care Decisions Act. Written instrument does not include a durable or nondurable power of attorney which terminates on the death of the principal pursuant to W.Va. Code §39-4-1 et. seq. of the Uniform Durable Power of Attorney Act;

23.2.2. the surviving, legally recognized spouse;

23.2.3. the surviving biological or adopted child or children of the decedent over the age of majority, provided that, in the absence of actual knowledge to the contrary, a funeral director may rely on instructions given by the child or children who represent that they are the sole surviving child, or that they constitute a majority of the surviving children;

23.2.4. the surviving parent or parents of the decedent or other permanent legal guardian of the decedent;

23.2.5. the surviving biological or adopted sibling or siblings of the decedent over the age of majority, provided that, in the absence of actual knowledge to the contrary, a funeral director may rely on instructions given by the sibling or siblings who represent that they are the sole surviving sibling, or that they constitute a majority of the surviving siblings;

23.2.6. the person or persons respectively in the next degree of kinship in the order named by law to inherit the estate of the decedent; and

23.2.7. the appropriate public or court authority, as required by law.

For purposes of this subsection, the appropriate public or court authority includes the county Department of Health and Human Resources of the county in which the death occurred if the person dies without apparent financial means to provide for final disposition or the circuit court in the county in which the death occurred.

23.3. Estranged persons.

Where there is only one person in a degree of relationship to the decedent described in subsections 23.2.1 through 23.2.7 of this section and a circuit court, pursuant to subsection 23.5

of this section, determines that the person and the decedent were estranged at the time of death, the right to control and the duty of disposition shall devolve to the authorized representative or representatives in the next degree of relationship pursuant to subsection 23.2. For purposes of this subsection, "estranged" means having a relationship characterized by mutual enmity, hostility, or indifference.

23.4. Refusal of right to control and duty of disposition.

If a person or persons to whom the right to control and duty of disposition devolve, pursuant to subsection 23.2 of this section, refuses to accept or declines to act upon the right or duty, that right and duty shall pass as follows:

23.4.1. to another person or persons with the same degree of relationship to the decedent as the person or persons refusing to accept or declining to act; or

23.4.2. to the person or persons in the next degree of relationship to the decedent, pursuant to subsection 23.2.

23.5. Disputes.

23.5.1. When a dispute exists regarding the right to control or duty of disposition, the parties in dispute or the crematory operator-in-charge may file a petition in a county circuit court, requesting that the court make a determination in the matter. The petition may be filed as follows:

- a. in the circuit court in the county of residence of the decedent or
- b. if the decedent resided in another state, in the county where the crematory is located.

23.5.2. Should the right to control and duty of disposition devolve to more than one person with the same degree of relationship to the decedent and those persons cannot, by majority vote, make a decision regarding arrangements and final disposition and a circuit court has been petitioned to make a determination, the court shall consider the following factors in making its determination:

- a. the reasonableness, practicality, and resources available for payment of the proposed arrangements and final disposition;
- b. the degree of the personal relationship between the decedent and each of the persons in the same degree of relationship to the decedent;
- c. the expressed wishes and directions of the decedent and the extent to which the decedent has provided resources for the purpose of carrying out the wishes or directions; and
- d. the degree to which the arrangements and final disposition will allow

for participation by all who wish to pay respect to the decedent.

23.6. Control by crematory operator-in-charge.

A crematory operator-in-charge shall have complete authority to control the final disposition and to proceed under this chapter to recover reasonable charges for the final disposition when both of the following apply:

23.6.1. the crematory operator-in-charge has actual knowledge that none of the persons described in subsection 23.2 of this section exist or that none of the persons so described can be found after reasonable inquiry or contacted by reasonable means; and

23.6.2. the appropriate public or court authority fails to assume responsibility for disposition of the remains within thirty six (36) hours after having been given written notice of the facts. Written notice may be delivered by hand, United States mail, facsimile transmission, or telegraph.

23.7. Immunity.

A crematory operator or the crematory shall not be subject to criminal prosecution or civil liability for carrying out the otherwise lawful instructions of the decedent or the person or persons whom the crematory operator believes is entitled to control the final disposition as the authorized representative or representatives.

23.8. Liability for cost of final disposition.

In addition to separate contractual obligations, the liability for the reasonable cost of final disposition devolves upon the estate of the decedent, regardless of whether testate or intestate, and the distributees of the estate, pursuant to Chapter 41 of W. Va. Code relating to wills. In the case of persons who die without apparent financial means to provide for final disposition, control of final disposition and liability devolves to the county Department of Health and Human Resources in which the death occurred, pursuant to W.Va. Code §9-5-18 relating to funeral expenses for indigent persons and pursuant to W.Va. Code §9-6-1 et. seq. relating to social services for adults. In the case of bodies delivered as anatomical gifts, pursuant to W.Va. Code §16-9-1 et. seq. of the Anatomical Gift Act, the institution receiving the body shall bear the responsibility for transportation and final disposition.

23.9. Interference with body or final disposition.

Any person that arrests, attaches, detains, or claims to detain any human remains for any debt or demand, or upon any pretended lien or charge, or who, without authority of law, obstructs or detains a person charged with the duty or engaged in the final disposition of a dead human body, or fails to release any dead human body upon the receipt of authorization for the release signed by a person or persons entitled to custody of the body is guilty of a misdemeanor. Criminal prosecution shall not preclude the Board from taking any other lawful disciplinary action.

§6-2-24. Penalties.

Any violation of this rule constitutes grounds for the refusal to renew, suspension or revocation of a license or certificate, or other disciplinary action pursuant to W. Va. Code §30-6-1 et. seq. or fines or both.

Joseph F. Ford, III
President

Raymond S. Tomassene
Secretary



John W. Chapman, III
Eugene T. Fahey
R. Brent Parker
A. Craig Rotruck
Stephen T. Varner

(304) 558 0302
(304) 558 0660 Fax

STATE OF WEST VIRGINIA
Board of Funeral Service Examiners
179 Summers Street, Suite 305
Charleston, WV 25302

boeafd@lycos.com
www.state.wv.us/funeraldirector

MEMORANDUM

TO: Rule Making Review Committee Members
FROM: Sherri Douglass, Executive Director
DATE: November 17, 2002
SUBJECT: Modification of proposed legislative rule *6CSR1*

The Board of Funeral Service Examiners respectfully requests two substantive modifications to its proposed legislative rules based on concerns raised by funeral homes and future mortuary students, as well as new board members in recent weeks.

The first of those modifications is regarding apprenticeship. Currently, the proposed rule would require an applicant to complete mortuary school prior to the apprenticeship. We would like to amend the rule to allow students the option of completing the apprenticeship *before OR after* mortuary school, but *not during* mortuary school. While many states are starting to require apprenticeship after formal education, we are concerned that it may reduce the number of potential future licensees. The industry is anticipating a shortage within the next ten years and we simply cannot afford to put up barriers which may discourage a young person from getting into the profession. Currently, many apprentices complete the apprenticeship prior to mortuary school for three primary reasons: to earn money for mortuary school, which tends to be more expensive than a traditional college education, and to determine whether or not funeral service is the right profession for himself or herself, and to be better prepared for mortuary school. Unlike most degrees, a funeral service degree is so specialized that it gives the student fewer options for a career track than someone with a business degree, for example. We want to ensure that mortuary students are prepared mentally and financially for their careers by allowing them the option of fulfilling the apprenticeship requirement before finishing their formal education.

The second modification relates to both the funeral service rule and the crematory rule, specifically "the right of disposition." Under subsection 24.2.4 of the funeral rule and 23.2.4 of the crematory rule, we would like to expand this to include permanent legal guardians, adoptive parents, or any other term which identifies a person or entity which had permanent custody of the decedent prior to death. For example, this would allow the Department of Health and Human Resources the authority to make funeral arrangements for wards of the state.

We believe that these two modifications are reasonable and without controversy and respectfully request the Committee to consider them. Thank you for your attention to this matter.



WEST VIRGINIA LEGISLATURE
JOINT COMMITTEE ON GOVERNMENT ORGANIZATION
STATE CAPITOL
CHARLESTON, WEST VIRGINIA 25305

January 2, 2003

The Honorable Senator Mike Ross, Chair
The Honorable Delegate Virginia Mahan, Chair
Legislative Rule-Making Review Committee
Room MB-47
State Capitol Complex
1900 Kanawha Blvd. East
Charleston, West Virginia 25305

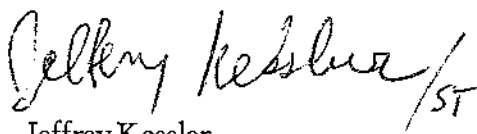
Dear Chairmen,


This letter is to support the efforts of the State Fire Commission to amend the State Fire Code Rule, currently under your review, to include the International Existing Building Code.

Subcommittee A of the Joint Committee on Government Organization has studied the issue of including an Existing Building Code into the State Building Code for the past two interim periods. We agree with the State Fire Commission that there is a need for the adoption of clearer rules for renovating existing buildings, which can be accomplished with this amendment.

Thank you for your consideration of our views on this important topic. If we can provide you with any further information, please do not hesitate to contact us.

Sincerely,


Jeffrey Kessler
Subcommittee Co-Chair


Don Perdue
Subcommittee Co-Chair

hold until Jan

LAW OFFICES
SPILMAN THOMAS & BATTLE, PLLC
SINCE 1864

990 ELMER PRINCE DRIVE, SUITE 205
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE (304) 599-8175

417 GRAND PARK DRIVE, SUITE 203
PARKERSBURG, WEST VIRGINIA 26101
TELEPHONE (304) 422-6700

SPIILMAN CENTER
300 KANAWHA BOULEVARD, EAST
POST OFFICE BOX 273
CHARLESTON, WEST VIRGINIA 25321-0273

TELEPHONE (304) 340-3800
FACSIMILE (304) 340-3801

333 PENCO ROAD, SUITE A
WEIRTON, WEST VIRGINIA 26062
TELEPHONE (304) 723-6980

WRITER'S DIRECT DIAL NO.
304/340-3854
e-mail: mbasile@spilmanlaw.com

December 15, 2002

The Honorable Virginia Mahan
The Honorable Mike Ross
Chairmen
West Virginia Legislative Rule-Making Review Committee
Building 1, Room MB-49
State Capitol
Charleston, WV 25305

**Re: Proposed Amendments to the State Building Code - Title 87, Series 4,
as filed by the West Virginia State Fire Commission**

Delegate Manhan & Senator Ross:

I am writing on behalf of Amerigas, Inc. ("Amerigas") to request the addition of an exception to the proposed rule filed by the West Virginia State Fire Commission (the "Commission") containing certain amendments to the State Building Code – Title 87, Series 4 (the "Proposed Rule"), as presently pending before the Legislative Rule-making Review Committee (the "Rule Committee") of the West Virginia Legislature. In the alternative, Amerigas respectfully requests that the Committee lay-over the Proposed Rule until the January 2003 interim session of the West Virginia Legislature in order to provide time for Amerigas to engage in further dialogue with the Commission relating to the necessity of the Proposed Exception, as hereinafter defined.

The Proposed Exception, as hereinafter defined, relates to the minimum depth requirements for underground propane gas lines and would simply perpetuate the exceptions currently contained in existing West Virginia Fire Code and State Building Code standards that state when the recommended depth of a line cannot be maintained, it is permissible to bury the line to a lesser depth provided that such a line is further protected by installing it in conduit or shielding it in an approved manner.

EXECUTIVE SUMMARY

Amerigas respectfully requests that the following exception be added to the Proposed Rule, as follows:

SPILMAN THOMAS & BATTLE, PLLC

The Honorable Virginia Mahan
The Honorable Mike Ross
December 15, 2002
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Proposed Exception

Section G2414.9 (International Residential Code)
Section 404.9 (International Fuel Gas Code)

Change to: Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade. If the minimum depth cannot be maintained, the piping system shall be installed in conduit or shielded in an approved manner. (the "Proposed Exception")

The Proposed Exception relates to the minimum depth requirements for underground propane lines. The Proposed Exception is needed for the following reasons:

1. While the proposed depth standard is fair and reflects a compromise between previously conflicting recommended minimum burial depths, it has deleted a longstanding feature of such standards that permits lines to be buried at lower depths when the recommended depth cannot be reasonably maintained and when additional protections (e.g., sheathing the line in conduit) are required to protect the line from possible external damage.
2. While in other parts of the country this exception may not be needed, West Virginia contains extreme rocky terrain, highly sloped fields, or other natural phenomena that make it very difficult to achieve a consistent minimum 12 inch underground line depth.
3. The Proposed Exception will not impair safety. The Proposed Exception calls for additional means of protection (such as the installation of the line in conduit) when the minimal depth cannot be reached. Moreover, this type of exception currently appears in West Virginia Fire Code and West Virginia Building Codes, and no good reason has been advanced for its deletion.

Below we provide a more detailed general background, propose specific language for the exception that we are seeking and describe the reasons that support the need for the Proposed Exception.

Background

Amerigas is a large distributor of liquefied petroleum gas ("propane" or "LP gas") to individual consumers and businesses throughout West Virginia. Propane is used as a fuel for heating, cooking, drying and certain other commercial uses, in particular, in those many areas not

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served by natural gas. Propane is used in tens of thousands of homes and businesses across the state. In addition, thousands of new propane installations are made each year in West Virginia.

Typically, a propane installation involves placing a steel tank on the user's property at some distance from the home or business location and running underground lines from that tank to a gas regulator on the outside wall of the building. Gas lines are then connected inside the structure and connected to the heater or appliance fueled by the gas.

Proposed Rule

The Proposed Rule approved by the Commission and filed with the West Virginia Secretary of State on July 19, 2002, incorporates amendments to several professional codes that address a variety of construction applications. Among these is the 2000 International Fuel Gas Code ("Fuel Gas Code") and the 2000 International Residential Code ("Residential Code"). The Residential Code specifically addresses construction matters relating to detached one and two family dwellings.

Both of these professional codes contain identical language relating to the burial depths of underground gas lines, including propane gas lines. Specifically, Section 404.9 of the Fuel Gas Code and Section G2414.9 of the Residential Code provide that, "*Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade.*"

The language in the 2000 version of the professional codes represents an effort to reconcile the language contained in various predecessor codes, some of which are incorporated into the presently existing State Building Code. For example, the State Building Code that became effective as of May 1998 and continues through the present incorporates the 1995 Council of American Building Officials (CABO) One- and Two-Family Dwelling Code, which is the predecessor to the 2000 Residential Code, as well as the 1996 Building Officials Code Administrators ("BOCA") International Mechanical Code. (For the 2000 editions of these codes, the chapter on fuel gas standards was eliminated from the 1996 BOCA Mechanical Code, and the 2000 Fuel Gas Code was created instead.)

The 1995 CABO One- and Two-Family Dwelling Code provides at Section 2608.1.1:

Underground metallic piping systems shall be installed at a minimum of 12 inches (305 mm) below grade. Plastic piping systems shall be installed at a minimum of 18 inches (457 mm) below grade. If the minimum depths cannot be maintained, the piping system shall be installed in conduit or shielded in an approved manner.

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The 1996 Mechanical Code states at Section 1304.11:

Underground piping systems shall be installed a minimum depth of 18 inches (457 mm) below grade.

Thus, the language ultimately adopted in the 2000 professional codes appears to represent a compromise position between the prior standards – adopting on the one hand the 12 inch depth standard, but forgoing, on the other hand, the recognition that minimum depths cannot always be achieved and that lesser depths can be safely employed as long as proper precautions are taken.

Proposed Exception

It is Amerigas' position that the depth standard in the 2000 version of the professional codes is overly restrictive and does not recognize that soil and other conditions in West Virginia necessitate the need for greater flexibility in burying underground propane lines – a flexibility that can be exercised without undermining primary concerns for safety. For example, it is not at all unusual to find throughout West Virginia extremely rocky terrain, highly sloped fields or other natural phenomena that make achieving a consistent minimum 12 inch underground line depth very difficult. This is particularly so given that many propane customers tend to live in more rural areas where community development has not regularized the terrain or eliminated some of the typical natural obstacles found in such locations, such as large, buried rock formations or wooded areas with deeply rooted trees, etc.

Amerigas believes that it is appropriate and necessary to include in the Proposed Rule an exception that would permit the flexibility to bury to a depth less than 12 inches with the proper protective measures taken, consistent with the existing situation under the present State Building Code. Accordingly, we ask that language be added to the Proposed Rule immediately after the reference to the International Fuel Gas Code and the International Residential Code, as follows:

EXCEPTION

Section G2414.9 (International Residential Code)
Section 404.9 (International Fuel Gas Code)

Change to: Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade. If the minimum depth cannot be maintained, the piping system shall be installed in conduit or shielded in an approved manner.

In making this request, we note that professional codes incorporated in the present State Building Code, as well as those proposed for the new State Building Code, contain a provision that allows the State building official to approve modifications on a case-by-case basis when

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“practical difficulties” exist and the requested modification “does not lessen health, life safety and fire safety requirements.” We believe that, given the large number of consumers and businesses who use propane in West Virginia, and the likelihood that natural obstacles will be encountered during the digging process, it would be inefficient to seek a request for modification on a case-by-case basis for each new installation. Rather, by allowing the same level of flexibility that presently exists to continue into the future, the State can be assured that propane remains a readily available fuel source to West Virginia’s citizens who are dependent upon it, and that the State is not over-taxed with constant requests for variance approvals. Moreover, by requiring that pipes buried less than 12 inches are, consistent with professional standards, protected by conduit or otherwise shielded, concerns for health and safety would not be compromised, as they are not now under the present standards.

*

*

*

We appreciate both your consideration of this request and the opportunity to continue the dialogue with the Joint Committee on this important matter.

Genuinely,

Michael J. Basile

MJB/rad:235967

cc: Debra Graham, Esquire, Chief Counsel
Legislative Rule-Making Review Committee
The Honorable Sterling Lewis, Fire Marshall
State of West Virginia

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, January 6, 2003
9 a.m. to 11 a.m.
Senate Finance Committee Room, M-451

1. Approval of Minutes - December 15 and 16, 2002
2. Review of Legislative Rules:

Approved
as modified

a. State Fire Commission
State Building Code, 87CSR4

- Laid over from December 15
- Technical Modifications

Mod - existing bldgs
- 12" pipe

Tues

b. Oil and Gas Conservation Commission
Rules of the Commission, 39CSR1

- Laid over from December 15
- Technical Modifications

Approved
as modified

Board of Funeral Service Examiners
General Provisions, 6CSR1

- Foot of agenda December 16
- Lay over from November 17, 2002, meeting
- Removed from agenda October 22, 2002
- Technical Modifications

Approved
as modified

Board of Funeral Service Examiners
Crematory Requirements, 6CSR2

- Foot of agenda December 16
- Lay over from November 17, 2002, meeting
- Removed from agenda October 22, 2002
- Technical Modifications

Approved
as modified

West Virginia Development Office
Community Development Assessment and Real Property Valuation
Procedures for Office of Coalfield Development, 145CSR8

- Technical Modifications

Approved

Division of Motor Vehicles
Examination and Issuance of Driver's Licenses, 91CSR4

~~Technical Modifications~~

Approved

Division of Motor Vehicles
Motor Vehicle Inspection Manual, 91CSR12

- Filed Late
- NO Technical Modifications

Approved as modified

Division of Health
Uniform Credentialing of Health Care Practitioners, 64CSR89

- Technical Modifications

Tues
Laid over

i. Division of Juvenile Services
West Virginia Minimum Standards for Structure, Operation and Maintenance of Juvenile Detention and Correctional Facilities, 101CSR1

- Technical Modifications

Tues
Foot of agenda

j. DEP-Mining and Reclamation, Division of
Surface Mining Reclamation Rule, 38CSR2

- Technical Modifications

k. DEP-Mining and Reclamation, Division of
Coal Related Dam Safety Rule, 38CSR4

- Technical Modifications

3. Other Business

Monday, January 6, 2003

9:00 - 11:00 a.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Robert S. Kiss, ex
officio nonvoting member

Senate

Ross, Chair

Anderson, Vice Chair

Minard

Snyder

Boley

Minear

✓

✓

✓

✓

House

Mahan, Chair

Wills, Vice Chair

Cann

Kominar

Faircloth

Riggs

✓

✓

✓

✓

DEP - Mining & Reclamation

Joe explained

Amend proposed by agency - explained by Counsel
Chris Hamilton, WV Coal Assn responded to questions
Matthew Crum, DEP responded to q's

State Bldg Comm

Kominar

Mahan

u

Approve agency proposed mod

Approve rule as mod.

Funeral Service Examiners - Crematory

Dan explained

Agency proposed modifications dist'd - explained by

Mahan

Kominar

Modifications of agency

Approve as mod

Funeral - Crematory

Dan explained

Agency proposed mods distributed - explained
by Dan

Minard
Kommer

Agency mods
Approve as mod

WI Development off

Dan explained

Mahan

Approve as mod

DMV - Licenses

Mahan
Mahan
"

Approve as mod
Reconsider
Approve

DMV - Motor Vehicle Insp.

Mahan Approve

Div. of Health

Connie explained

Ross

Mahan

Connie to draft reg
Approve as mod

DEP - Coal Related

Joe explained

Dist'd proposed mods - Joe explained

Mahan

Modifications of agency

Mahan

As mod

Oil & Gas

Joe reviewed status

Bett Loughlin - Oil & Gas ²

Charlie Byrd IOGA

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions
Chris Hamilton	WV Coal Assoc		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Matthew ?	DEP			

you explain amendments regard to it rpo

_____ Moved that the rule be (amended/modified) by:

- Adopted
- Disapproved

The motion was:

_____ Moved that the rule be:

- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over *Tuesday*
- moved to the foot of the agenda

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions

~~Kenneth~~ Mahan Moved that the rule be (amended/modified) by:

- Adopted
- Disapproved

The motion was:

- ~~Kenneth~~ Cann Moved that the rule be:
- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over
- moved to the foot of the agenda

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule. C

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions

DeK explained modcases proposed to the Fed.

Mahan Moved that the rule be (amended/modified) by:
accept modcase

- Adopted
- Disapproved

The motion was:

- Mahan Komman Moved that the rule be:
 - approved as filed
 - approved as modified
 - approved as amended
 - recommended for withdrawal
 - laid over
 - moved to the foot of the agenda

④ 6 CSR 2

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

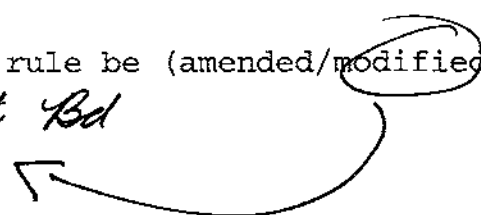
Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions

Marward Moved that the rule be (amended/modified) by:
 Dek plans mdycase rgld to it Bd



- Adopted
- Disapproved

The motion was:

- Boly Moved that the rule be:
- approved as filed
 - approved as modified
 - approved as amended
 - recommended for withdrawal
 - laid over
 - moved to the foot of the agenda

② 145 CSR 8

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions

_____ Moved that the rule be (amended/modified) by:

- Adopted
- Disapproved

The motion was:

Mahan _____ Moved that the rule be:

- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over
- moved to the foot of the agenda

91 CSR 4

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions
Steve Dale	DMV			<input checked="" type="checkbox"/>

_____ Moved that the rule be (amended/modified) by:

- Adopted
- Disapproved

The motion was:

Mahan Moved that the rule be:

- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over
- moved to the foot of the agenda

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions
Steve Dale				
DAVE ?				

_____ Moved that the rule be (amended/modified) by:

- Adopted
- Disapproved

The motion was:

Mahan Moved that the rule be:

- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over
- moved to the foot of the agenda

(h) 64C5R89

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions

_____ Moved that the rule be (amended/modified) by:

CAB To draft bl & take on a conflict in Code

- Adopted
- Disapproved

The motion was:

_____ Moved that the rule be:

- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over
- moved to the foot of the agenda

(K) 38C5R4

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions

Maha Moved that the rule be (amended/modified) by:

Joe explained modified related to it agency.

- Adopted
- Disapproved

The motion was:

Maha Moved that the rule be:

- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over
- moved to the foot of the agenda

DAG
 JAA
 RAP
 CAB
 DEK

(b) 3905R1

Explained the rule.

Yes
 No

Responded to questions.

Yes
 No

Modifications?

Yes
 No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions
Brett Loflin	w/ to Bel			<input checked="" type="checkbox"/>
Charlie Burd	ZORA		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

_____ Moved that the rule be (amended/modified) by:

Adopted
 Disapproved

The motion was:

_____ Moved that the rule be:

approved as filed
 approved as modified
 approved as amended
 recommended for withdrawal
 laid over
 moved to the foot of the agenda

____ DAG
____ JAA
____ RAP
____ CAB
____ DEK

Explained the rule.

____ Yes
____ No

Responded to questions.

____ Yes
____ No

Modifications?

____ Yes
____ No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions

_____ Moved that the rule be (amended/modified) by:

____ Adopted
____ Disapproved

The motion was:

_____ Moved that the rule be:

____ approved as filed
____ approved as modified
____ approved as amended
____ recommended for withdrawal
____ laid over
____ moved to the foot of the agenda

Add 33CSR24 1 to agenda of Tues ④

JANUARY 7

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Tuesday, January 7, 2003
3. p.m. to 4 p.m.
House Finance Committee Room, M-460

1. **Review of Legislative Rules:**
 - a. **DEP-Water Resources, Division of**
Water Pollution Control Permit Fee Schedules, 47CSR26
 - b. **DEP-Waste Management, Division of**
Hazardous Waste Management Fund Certification Legislative Rule Concerning Fee Assessment, 33CSR24
 - c. **Division of Juvenile Services**
West Virginia Minimum Standards for Structure, Operation and Maintenance of Juvenile Detention and Correctional Facilities, 101CSR1
 - d. **Oil and Gas Conservation Commission**
Rules of the Commission, 39CSR1
 - e. **DEP-Mining and Reclamation, Division of**
Surface Mining Reclamation Rule, 38CSR2
 - f. **Environmental Quality Board**
Requirements Governing Water, 46CSR1
2. **Other Business**

Tuesday, January 7, 2003

3 p.m. to 4 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		Mahan, Chairman	
Anderson, Vice Chairman	Absent	Wills, Vice Chairman	Absent
Minard		Cann	Absent
Snyder		Kominar	
Boley		Faircloth	
Miner		Riggs	Absent

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

Rita Pauley, Associate Counsel, reviewed her abstract on the rule proposed by the *DEP-Division of Water Resources-Water Pollution Control Permit Fee Schedule, 47CSR26*, responded to questions 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.

Joseph Altizer, Associate Counsel, explained the rule proposed by the *DEP-Division of Waste Management-Hazardous Waste Management Fund Certification Legislative Rule Concerning Fee Assessment, 33CSR24*, and stated that the Division has agreed to technical modifications.

Ms. Mahan moved that the Committee direct staff to draft a bill to sunset the fees. The motion was adopted.

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

Connie Bowling, Associate Counsel, explained the rule proposed by the *Division of Juvenile Services-West Virginia Minimum Standards for Structure, Operation and Maintenance of Juvenile Detention and*

Correctional Facilities, 101CSR1, responded to questions and stated that the Division has agreed to technical modifications.

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

Joseph Altizer explained that the rule proposed by the *Oil and Gas Conservation Commission-Rules of the Commission, 39CSR1*, had been moved to the foot of the agenda at the Committee's last meeting. Bret Loflin, member of the Commission, addressed the Committee and responded to questions.

Mr. Minard moved to remove subsections 4.4 and 4.5 regarding to notice provisions from the proposed modifications. The motion was adopted.

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

Dan Kimble, Associate Counsel, reviewed his abstract on the rule proposed by the *Environmental Quality Board-Requirements Governing Water Quality Standards, 46CSR1*.

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

Mr. Altizer explained that the rule proposed by the *DEP-Division of Mining and Reclamation-Surface Mining Reclamation Rule, 38CSR2*, had been moved to the foot of the agenda at the Committee's last meeting. Matthew Crum, Director of the Division, addressed the Committee and responded to questions.

Ms. Mahan moved to modify the proposed rule by striking paragraph 3.1.2.a.1 regarding required survey and subdivision 16.2.e regarding subsidence. The motion was adopted.

Mr. Kominar moved modify the proposed rule by striking the assessment section of the proposed modifications. The motion was adopted.

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

Having voted on the prevailing side, Ms. Mahan moved that the Committee reconsider its action whereby the rule proposed by the *DEP-Division of Mining and Reclamation-Coal Related Dam Safety Rule, 38CSR4*, was approved as modified. The motion was adopted.

Ms. Mahan moved to modify subdivision 7.1.n regarding impoundment's by inserting language as proposed by the Division providing additional design requirements relating to the management of storm runoff. The motion was adopted.

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

Ms. Mahan moved that the Committee direct its staff to: prepare the Committee's report and submit the report to the Clerk's office of each House; draft a bill of authorization for each rule contained in the report; and cause the bills to be introduced in each House with the members of the Committee as sponsors in their respective Houses. The motion was adopted.

The meeting was adjourned.

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Tuesday, January 7, 2003
3 p.m. to 4 p.m.
House Finance Committee Room, M-460

1. Review of Legislative Rules:

- a. **DEP-Water Resources, Division of**
Water Pollution Control Permit Fee Schedules, 47CSR26
 - Technical Modifications
- b. **DEP-Waste Management, Division of**
Hazardous Waste Management Fund Certification Legislative Rule Concerning Fee Assessment, 33CSR24
 - Technical and Substantive Modifications
- c. **Division of Juvenile Services**
West Virginia Minimum Standards for Structure, Operation and Maintenance of Juvenile Detention and Correctional Facilities, 101CSR1
 - Lay Over From January 6, 2003
 - Technical Modifications
- d. **Oil and Gas Conservation Commission**
Rules of the Commission, 39CSR1
 - Foot of Agenda January 6, 2003
 - Laid over from December 15
 - Technical Modifications
- e. **DEP-Mining and Reclamation, Division of**
Surface Mining Reclamation Rule, 38CSR2
 - Foot of Agenda January 6, 2003
 - Technical Modifications
- f. **Environmental Quality Board**
Requirements Governing Water, 46CSR1
 - NO Technical Modifications

2. Other Business

JANUARY INTERIM ATTENDANCE
Legislative Interim Meetings
January 5, 6 and 7, 2003

Tuesday, January 7, 2003

3:00 - 4:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Robert S. Kiss, ex
officio nonvoting member

Senate

Ross, Chair
Anderson, Vice Chair
Minard
Snyder
Boley
Minear

✓

✓

✓

✓

✓

House

Mahan, Chair
Wills, Vice Chair
Cann
Kominar
Faircloth
Riggs

✓

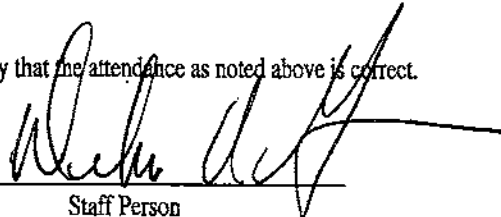
✓

✓

Thompson

✓

I certify that the attendance as noted above is correct.

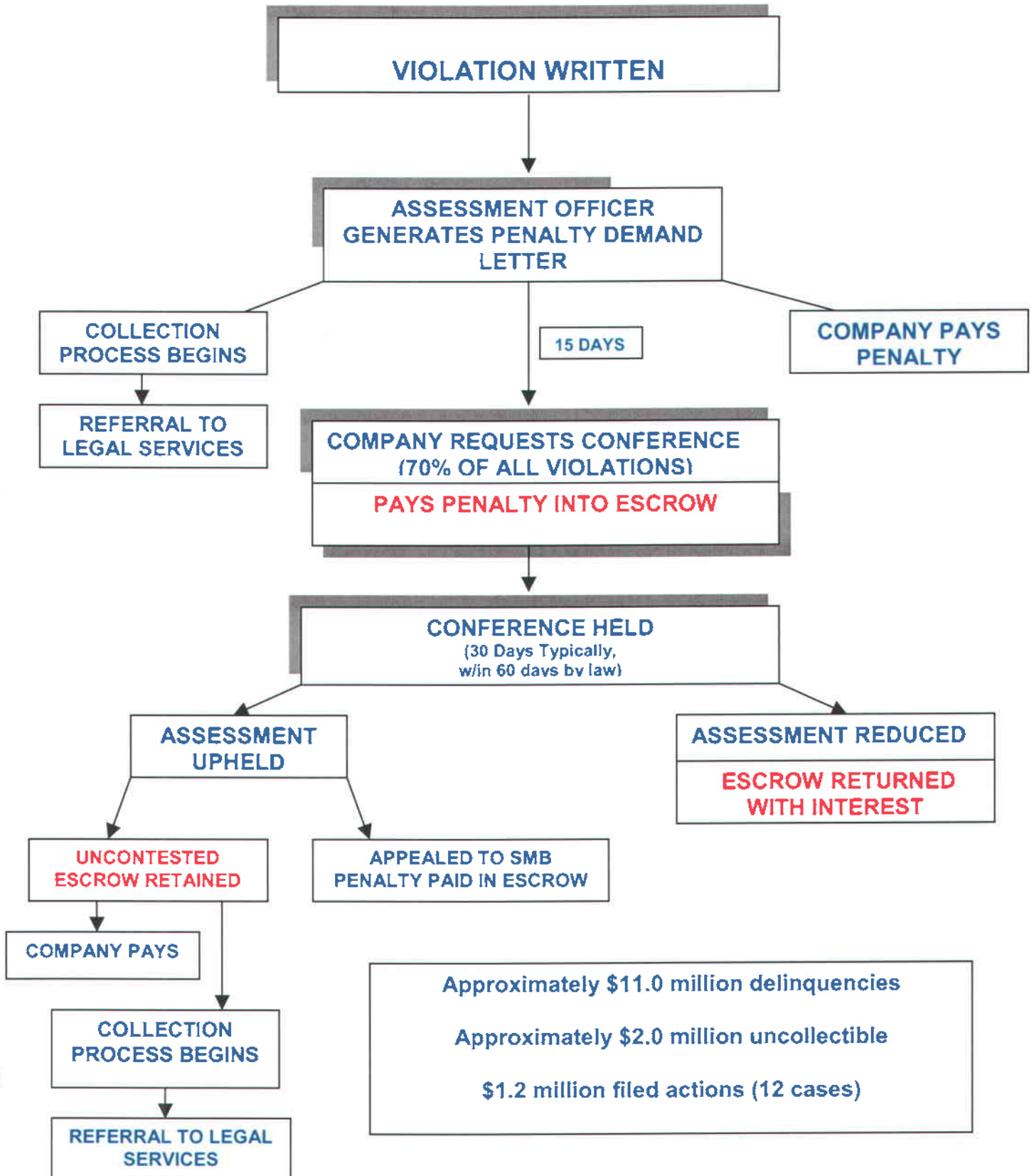


Staff Person

Rule-Making Review Committee
Terri Anderson

****Please return to Brenda as soon as meeting is over, due to payroll purposes.**

ASSESSMENT PROCEDURES



REGISTRATION OF PUBLIC
AT
COMMITTEE MEETINGS
WEST VIRGINIA LEGISLATURE

Committee: Legislative Rule-Making Review

Date 1/3/03

Please print or write plainly.

NAME	ADDRESS	REPRESENTING	Please check (X) if you desire to make a statement.
Chod Robinson			
<i>Chris Hunt</i>			
FRANKS GOFFAL		STATE FIRE COMM	X
Charles Sturzy		WVDEP	
Paul Hardesty		WV Development office	X
John R. Switzer		Arch Coal	
Clyde W. Miller	332 6th Ave. So. Char.	N Visions Architects	X

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Tuesday, January 7, 2003
3 p.m. to 4 p.m.
House Finance Committee Room, M-460

1. Review of Legislative Rules:

Approved
as modified

a. DEP-Water Resources, Division of
Water Pollution Control Permit Fee Schedules, 47CSR26

- Technical Modifications

Approved
as modified

b. DEP-Waste Management, Division of
*Hazardous Waste Management Fund Certification Legislative
Rule Concerning Fee Assessment, 33CSR24*

- Technical and Substantive Modifications

Approved
as modified

c. Division of Juvenile Services
*West Virginia Minimum Standards for Structure, Operation and
Maintenance of Juvenile Detention and Correctional
Facilities, 101CSR1*

- Lay Over From January 6, 2003
- Technical Modifications

Approved
as modified

d. Oil and Gas Conservation Commission
Rules of the Commission, 39CSR1

- Foot of Agenda January 6, 2003
- Laid over from December 15
- Technical Modifications

e. DEP-Mining and Reclamation, Division of
Surface Mining Reclamation Rule, 38CSR2

- Foot of Agenda January 6, 2003
- Technical Modifications

Approved

f. Environmental Quality Board
Requirements Governing Water, 46CSR1

- NO Technical Modifications

2. Other Business

Motion on report & bills / minutes

Tuesday, January 7, 2003

3:00 - 4:00 p.m.

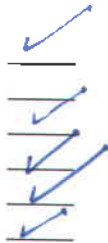
Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Robert S. Kiss, ex
officio nonvoting member

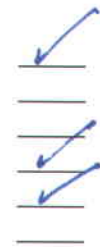
Senate

- Ross, Chair
- Anderson, Vice Chair
- Minard
- Snyder
- Boley
- Minear



House

- Mahan, Chair
- Wills, Vice Chair
- Cann
- Kominar
- Faircloth
- Riggs



Thompson
Armistead

DEP - Water Pollution Fee

Rita explained & responded to questions.

Minard

Approve as mod

DEP - Hazardous Waste Mgt

Joe explained

Draft bill to sunset fee

Approve as modified

Prepare companion bill

Boss
Snyder
Mahan

Mike Dorsey
change title

Juvenile Services

Connie explained

Approve as mod

Mahan

4:30
342-1115



Oil & Gas

Brett Loughlin addressed

Approve as mod

modify to remove 4.4
4.5 (notice provisions)

Minard
Minard

October

EQB - H₂O

Dan explained

Mahan

Approve

Approve minutes Dec 15th & 17th

DEP - Surface Mining Reclamation

Joe explained posture of the proposed rule

Mahan

Reconsider 38 CSR 4

Matt - have ~~agreed~~ agreed to change regarding impoundments

Mahan

approve agency mods

Mahan

" as mod

Matt - disagree on ① 3.12.a.1 regarding required survey - agree to w/draw
② 16.2.e - subsidence

No agreement Assessment process - escrow acct
on this prov. 22.4.i.6. alternative lang

Dist'd flow chart on assessment process and reviewed it

Mahan

Agreed mods ① & ②

Mahan

Strike assessment & mod

Mahan

Approve as mod.

Mahan

Prepare report & bills

added

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions

_____ Moved that the rule be (amended/modified) by:

- Adopted
- Disapproved

The motion was:

Monard Moved that the rule be:

- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over
- moved to the foot of the agenda

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions

Ross. Draft B... to sunset fees

Mahan Moved that the rule be ~~(amended/modified)~~ by:
 Counsel draft a bill and sunset fees

- Adopted
- Disapproved

The motion was:

- Snyder Moved that the rule be:
- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over
- moved to the foot of the agenda

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions

_____ Moved that the rule be (amended/modified) by:

- Adopted
- Disapproved

The motion was:

Mahan Moved that the rule be:

- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over
- moved to the foot of the agenda

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions
<i>Paul Roffler</i>				

Monard Moved that the rule be (amended/modified) by:

Modify 4.5^{4.4} of proposed modfca

- Adopted
- Disapproved

The motion was:

Monard Moved that the rule be:

- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over
- moved to the foot of the agenda

④ 46 CSR1

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions

_____ Moved that the rule be (amended/modified) by:

- Adopted
- Disapproved

The motion was:

- Mohan* Moved that the rule be:
- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over
- moved to the foot of the agenda

38024
MOVE to agenda - Mahan

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions
Matthew	DEP		✓	

agreed to improve Chap 7.1.n

Mahan Moved that the rule be (amended/modified) by:

- Adopted
- Disapproved

The motion was:

Mahan Moved that the rule be:

- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over
- moved to the foot of the agenda

- ___ DAG
- ___ JAA
- ___ RAP
- ___ CAB
- ___ DEK

Explained the rule.

- ___ Yes
- ___ No

Responded to questions.

- ___ Yes
- ___ No

Modifications?

- ___ Yes
- ___ No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions
<i>mutaw Crumb?</i>	<i>Crumb</i>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Chico</i>				

3.1.2.a.1 - *withdraw to prof* } *cancel & dscs*
 16.2.e *withdraw to prof* }

Moved that the rule be (amended/modified) by:

es. acct - can't agree upr - *can't agree*

22.4.i.6 - alternative luggage

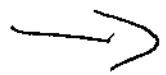
Maha - accept modifs
Komunar - strike
assessm self
(modifs)

- ___ Adopted
- ___ Disapproved

The motion was:

Moved that the rule be:

- ___ approved as filed
- approved as modified
- approved as amended
- ___ recommended for withdrawal
- ___ laid over
- ___ moved to the foot of the agenda



dstrbuild ~~as~~ assem preceds.

____ DAG
____ JAA
____ RAP
____ CAB
____ DEK

Explained the rule.

____ Yes
____ No

Responded to questions.

____ Yes
____ No

Modifications?

____ Yes
____ No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions

_____ Moved that the rule be (amended/modified) by:

____ Adopted
____ Disapproved

The motion was:

_____ Moved that the rule be:

____ approved as filed
____ approved as modified
____ approved as amended
____ recommended for withdrawal
____ laid over
____ moved to the foot of the agenda

- DAG
- JAA
- RAP
- CAB
- DEK

Explained the rule.

- Yes
- No

Responded to questions.

- Yes
- No

Modifications?

- Yes
- No

Agency agrees?

Name	Agency/Company	Title	Address Committee	Responded to Questions

_____ Moved that the rule be (amended/modified) by:

- Adopted
- Disapproved

The motion was:

_____ Moved that the rule be:

- approved as filed
- approved as modified
- approved as amended
- recommended for withdrawal
- laid over
- moved to the foot of the agenda