

May
2004

MAY 17



Monday, May 17, 2004

11:00 a.m. to 1:00 p.m.

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

Earl Ray Tomblin
ex officio nonvoting member

Robert "Bob" Kiss
ex officio nonvoting member

Senate

House

Ross, Chairman
Minard, Vice Chairman
Snyder
Unger
Boley
Minear

Absent
Absent

Mahan, Chairman
Thompson, Vice Chairman
Cann
Kominar
Armstead
Faircloth
Absent

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

The minutes of the January 18, 2004, meeting was approved.

Debra Graham, Chief Counsel, explained the rule proposed by the *Board of Veterinary Medicine-Organization and Operation, 26CSR1*, stated that the Board has agreed to technical modifications and responded to questions. She distributed a proposed technical modification from the Board regarding continuing education.

Wanda Goodwin, Executive Director with the Board of Veterinary Medicine addressed the Committee and responded to questions.

Ms. Mahan moved that the Committee approve the modification requested by the Board. The motion was adopted.

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

Ms. Graham reviewed her abstract on the rule proposed by the *Board of Veterinary Medicine-Certified Animal Euthanasia Technicians, 26CSR5*, and stated that the Board has agreed to technical modifications.

Ms. Goodwin addressed the Committee and responded to questions.

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

Joe Altizer, Associate Counsel, distributed and discussed a memo entitled Proposal for study by Committee of Water Quality Standards contained in 46SCR1, pursuant to HCR52 and SCR39, and responded to questions.

Debra Graham, Chief Counsel, explained the rule proposed by the *Board of Acupuncture-Rule for Dispensing of Materia Medica, Formulary and Legend Drugs, 32CSR2*, and stated that the Board has agreed to technical modifications.

Darrell E. Samples, Secretary with the Board of Acupuncture addressed the Committee and responded to questions.

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

Chis Hamilton, with the West Virginia Coal Association addressed the Committee regarding the manganese water quality standard adopted by the Legislature during the 2004 Regular Session; Mr. Altizer responded to questions.

Libby Chatfield, Technical Advisor to the Board addressed the Committee.

Mr. Cann moved that staff be directed to write a letter on behalf of the Committee to the Environmental Quality Board directing the Board to make every effort to develop rational and supporting documentation in support of the manganese standard as enacted by the Legislature during the 2004 Regular session. The motion was adopted.

The meeting was adjourned.

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, May 17, 2004
11:00 a.m. to 1:00 p.m.
Senate Finance Committee Room M-451

1. Approval of Minutes - Meeting of January 13, 2004
2. Review of Legislative Rules:
 - a. Acupuncture, Board of
*Rule for Dispensing of Materia Medica, Formulary and Legend
Drugs*
32CSR2
 - b. Veterinary Medicine, Board of
Organization and Operation
26CSR1
 - c. Veterinary Medicine, Board of
Certified Animal Euthanasia
26CSR5
3. Other Business

Amendments

On pages 5 and 6, by deleting existing section 5.2.c. and replacing it with the following:

"5.2.c. If a discharge will cause or contribute to concentrations of pollutants which exceed criteria for the protection of human health set forth in Appendix C at a public water supply intake, such discharge shall not be allowed unless a mixing zone has been assigned by the Director, after consultation with the Commissioner of the Bureau of Public Health, to prevent interference with the Category A use. Human health criteria may be exceeded within an assigned mixing zone, but shall be met at the edge of the assigned mixing zone. Mixing zones for human health criteria shall be mixed to prevent significant human health risks and shall be developed using reasonable assumptions about exposure pathways. In assessing the potential human health risks of establishing a mixing zone upstream from a drinking water intake, the Chief shall consider the cumulative effects of multiple discharges and mixing zones on the drinking water intake.";

On page 5, by deleting section 5.2.h.6.;

On page 7, by adding to the end of section 6.1, the following sentence:

"Only those waters at the point of intake for a public water supply are designated for Water Supply, Public (Category A).";

On page 8, by deleting section 6.2. and replacing it with the following:

"6.2. Category A - Water Supply, Public - This category is used to describe surface waters which, after conventional treatment, are regularly used for public consumption. Compliance with the Category A criteria in Appendix D, Table 1, will be determined at the surface water intakes for the public water supplies identified in Appendix B."

On page 8, section 6.2.d. by striking the sentence that reads "The manganese human health criteria shall not apply where the discharge point of the manganese is located more than five miles upstream from a known drinking water source." and inserting a new Section 6.2.e. to read as follows:

"Section 2.e. The manganese human health criterion shall only apply within a five-mile zone above the surface water intake of the public water supplies described above."

On page 8, section 6.3.b., following the words "(see Appendix A for a representative list.)" by inserting the following: "Provided, That the streams added to Appendix A and approved by the Legislature during the 2004 regular session shall be deemed as streams nominated to be included in the list, and may only be considered trout waters pursuant to this rule after public comment

is received from each county where the stream is located, to allow meaningful opportunity for review and comment by persons who live or own property along such streams, and then promulgated in this rule as trout waters during a subsequent legislative session."

On page 11, section 7.2.a.2., by deleting the entire section;

On page 18, by inserting a new section 8.5, to read as follows: "The chronic criterion of 5 ug/1 for dissolved selenium in Category B use waters contained in Appendix C, Table 1, section 121.b shall expire and be deleted effective on September 1, 2004 and on that date be replaced with the following standard, absent an affirmative determination by the Environmental Quality Board prior to that date that some other standard should apply, and promulgated by emergency rule: The concentration of selenium in whole-body fish tissue shall not exceed 7.9 ug/g on a dry weight basis and the 4 day average of selenium dissolved in the water shall not exceed 185 ug/1 more than once every 3 years on the average."

Beginning on page 60, by striking the following parameters and their related values from Appendix C, Table 1:

Acenaphthene, Acrolein, Anthracene, Asbestos, Benzidine, Benzo(a)anthracene, Benzo(a)Pyrene, Benzo, (b)Fluoranthene, Benzo(k)Fluoranthene, Bis(2-Chloroethyl)Ether, Bis(2-Chloroisopropyl), Ethern, Bis(2-Ethylhexyl)Phthalate, Bromoform, Butylbenzyl Phthalate, Chlorodibromomethane, 2-Chloronaphthalene, Chlorophenoxy Herbicide (2,4-D), Chlorophenoxy Herbicide (2,4,5 - TP), Chloropyrifos, Chrysene, 4,4'-DDD, 4,4'-DDE, Demeton, Dibenzo(a,h)Anthracene, 3,3'-Dichlorobenzidine, Dichlorobromomethane, 1,2-Dichloropropane, 1,3-Dichloropropene, Diethyl Phthalate, Dimethyl Phthalate, Di-n-Butyl Phthalate, Dinitrophenols, 1,2-Diphenylhydrazine, alpha-Endosulfan, beta-Endosulfan, Endosulfan Sulfate, Endrin Aldehyde, Ether Bis (Chloromethyl), Fluorene, Guthion, Heptachlor Epoxide, Hexachlorobutadiene, Hexachlorocyclo-hexane-Technical, Hexachlorocyclo-pentadiene, Hexachloroethane, Ideno(1,2,3-cd)Pyrene, Isophorone, Malathion, Methyl Bromide, Methylene Chloride, Mirex, Nitrobenzene, Nitrosamines, Nitrosodibutylamine, N, Nitrosodiethylamine, N, N-Nitrosodimethylamine, N-Nitrosodi-n-Propylamine, N-Nitrosodiphenylamine, Nitrosopyrrolidine, N, Parathion, Pentachlorobenzene, Pyrene, Sulfide - Hydrogen Sulfide, Tetrachlorobenzene, 1,2,4,5, 1,2-Trans-Dichloroethylene, Tributyltin (TBT), 1,2,4-Trichlorobenzene, 1,1,2-trichloroethane, Trichlorophenol, 2,4,5-;

On page 31, by restoring the existing list of public water supplies in Appendix B.";

And,

On page 60, Appendix C Table 1, by replacing the aluminum criterion of "87 x CFs" with "750 x CFs".

renewal form and by paying the annual renewal fee as specified in the schedule of fees, Series 6 of these rules and certify to the Board that he or she has completed all continuing education requirements. On or before December 1 of each year, the ~~secretary-treasurer~~ Board shall mail a notice to each licensed veterinarian advising such veterinarian that his or her license will expire on December 31 and shall provide him or her with a form for renewal thereof. The ~~secretary-treasurer~~ Board shall issue a certificate of renewal to all persons renewing their licenses under the provisions of this rule. Any renewal processed by December 31 shall indicate the effective date of the renewal to be January 1 of the next year. Any renewal processed after December 31 shall indicate the effective date of the renewal to be the date of processing.

6.2. Any person may renew an expired license within five years of the date of its expiration by making written application for renewal and paying the current renewal fee plus all delinquent renewal fees. Such renewal request shall also be accompanied by completed renewal forms for the renewal years. Such renewal shall not provide retroactive license from the date of expiration, but shall be effective from date of receipt of all requirements and fees. After five years have elapsed from the date of expiration, a license may not be renewed, and the former licensee must make application for a new license and take and pass the license examination and meet the requirements for license at the time of the new application. ~~the secretary-treasurer of 6.4. The secretary-treasurer of the Board shall notify any veterinarian, by January 31, by certified mail, of his or her failure to submit an annual renewal fee to the Board by December 31 of the previous year.~~

6.5

7.3. Continuing Education - ~~Beginning 1992~~, Each veterinarian who desires to continue his or her license in good standing to practice veterinary medicine in the State of West Virginia shall undertake at least eighteen 50 minute periods of continuing education in the field of veterinary medicine during each calendar year. No periods may be accumulated, carried forward, or held over past the calendar year in which such periods were completed.

Deleted: eight (8)

7.4. A. Classroom courses, seminars, wet labs, and lectures sponsored by accredited colleges of veterinary medicine, RACE, the AVMA, AAHA, state veterinary medical associations, board certified specialty organizations and training programs provided by state or federal government agencies that are particular to the discipline of the participant veterinarian are automatically approved and do not require advance approval on an individual program basis.

B. Sponsors of programs not automatically approved in 7.4.a. must apply to the board for course approval at least 90 days prior to the anticipated presentation date. Applications for approval of a continuing education program must be submitted on a form provided by the board containing the two sets of the following information.

- (1) the name and address of the organization sponsoring the course for which approval is requested;
- (2) a detailed description of the course content, including a time schedule for the course;
- (3) the name and credentials of each person making a presentation;
- (4) the mechanism of monitoring and certifying attendance;
- (5) the dates and location, including the name and address of the facility at which the course will be conducted; and
- (6) the tuition fee.

Add Language

Distributed by Joe Altizer
May 17, 2004

MEMORANDUM

TO: LEGISLATIVE RULE MAKING AND REVIEW COMMITTEE

FROM: JOE ALTIZER AND RITA PAULEY, COMMITTEE COUNSEL

RE: PROPOSAL FOR STUDY BY COMMITTEE OF WATER QUALITY STANDARDS
CONTAINED IN 46CSR1, PURSUANT TO HCR52 AND SCR39.

DATE: MAY 16, 2004

I. Background-

The federal Clean Water Act requires that a triennial review of state water quality standards be undertaken to keep state programs current with federal requirements. The Environmental Quality Board [EQB] attempted to update the rule and to make several other changes last session. This effort met resistance and amendment from the regulated community. With the exception of the change proposed to the existing rule by industry to the Category A presumptive designation, at issue were proposals by the EQB to meet the federal triennial review requirements.

The substantive proposed modifications to 46CSR1 by the EQB last year include:

Appendix A List of Category B-2, Trout Waters- This list of streams would have been significantly expanded to include streams found by the DNR to be naturally occurring trout waters. The purpose of this special designation was to protect critical parameters such as dissolved oxygen chlorine and turbidity to assure preservation of these streams trout producing capabilities. This provision was not approved by the Legislature.

Appendix E, Table 1- This table provides the numeric criteria for pollutant discharges was proposed to be amended to update the numeric criteria by adding 69 new pollutant parameters. There were many public comments on a number of the new pollutants which have been added and also comments on the changes to levels of existing pollutants. This proposal was also rejected by the Legislature.

Several amendments were offered by business and industry interests relating to:

Category A- Removal of Category A presumptive designation in the rule.

Trout Waters- Striking the newly proposed streams from the rule.

Maganese- The human health standard for maganese and where the discharge point of maganese is located near a known public water intake would have been modified.

Selenium- The Environmental Protection Agency [EPA] has proposed a new lower standard for this pollutant. This is currently undergoing further review on the national level. The industry amendment would have incorporated the proposed federal standard prior to its per review, public comment period, and adoption on the federal level.

Aluminum- Industry proposed a lower standard, noting in many streams in the state the natural background level is higher than the proposed standard.

69 Pollutants- The EQB proposed adding 69 new pollutants to the list of pollutants that have discharge levels established by this rule. The industry amendment stuck the addition of these pollutants to the rule.

Status of industry proposed amendments of the rule as enacted by the Legislature: The Legislature adopted two proposed amendments 1) rejecting the new list of trout waters and 2) incorporation of the new 69 pollutants, but rejected the remaining industry amendments, retaining the current rule with certain necessary amendments, and adopted a compromise on the parameter for manganese providing that human health criterion shall only apply within the five-mile zone immediately upstream above a known public or private water supply used for human consumption. The Legislature directed the Board by October of this year, working with the regulated community and the Department of Environmental Protection, to revise the aquatic life aluminum criterion. The remaining issues were, pursuant to HCR 52 and SCR 39, directed to undergo further study by the Legislature this year. These two resolutions were referred for study by this committee.

II. Study suggestions-

- Schedule meetings in addition to regular Committee meetings as deemed appropriate by the Chairs to conduct the study. Meetings would include public hearings in both Beckley and Shepards town to receive input from citizens and businesses in those areas of the state.

- Solicit input and information from the EPA and the EQB on what standards the state is currently and may in the future need to address. A representative from the EPA has offered to attend June or other interims if the committee is interested.

- Ask for Environmental Quality Board to be available to participate in committee discussion and provide input.

- Committee may wish to have a series of hearings on each of the issues, addressing each pending issue separately. Individual meetings on trout waters, listing of EPA 69 proposed pollutants, aluminum, selenium and manganese, and Category A would allow a more detailed discussion than was available during last years interims.

As a general approach, the committee could have three components to each of these meetings:

- 1) Receive presentations from the EQB on their recommendations for each of their proposed standards and the rational for those recommendations.

- 2) Receive a report/survey of what other states are doing on each of these areas with a focus mostly on Region 3 and surrounding states. However, we should always include Virginia, Tenn, Penn

and KY as mining states with similar topographies and water issues.

3) Receive public comments on concerns and reasons for support/opposition.

Representatives of the Department of Environmental Protection need to be included, and be given opportunity to address the Committee.

Finally, prior to rule promulgation by Board, the committee may wish to make specific recommendations to the Board, to be submitted as part of the public comment period, which would be done in fall or early winter.

- The Committee may also want to informally inform the Board that the August filing deadline for rules will not be enforced on this rule. The regular session not starting until February of next year does allow additional time and the Committee could submit proposals to the Board as part of its public comment period in Oct/Nov, as long as everything is sequenced in time for adequate Board review and February Committee approval.

1 permanent foundation for health and industrial development; and

2 Whereas, The management and protection of our substantial
3 water resources are carried out under federally delegated authority
4 through the Federal Water Pollution Control Act and the National
5 Pollutant Discharge Elimination System which require the state to
6 establish and implement water quality standards consistent with the
7 federal requirements; and

8 Whereas, The Environmental Quality Board is charged with the
9 responsibility of developing the water quality standards for the
10 state; and

11 Whereas, The water quality standards are complex and
12 scientific in nature and generate much debate and controversy
13 whenever amended or brought before the Legislature; therefore, be
14 it

15 *Resolved by the Legislature of West Virginia:*

16 That the Legislature hereby requests the Joint Committee on
17 Government and Finance study the state's water quality standards;
18 and, be it

19 *Further Resolved,* That the Joint Committee on Government and
20 Finance establish a Joint Committee on Water Quality Standards that
21 will undertake a comprehensive review of the state's water quality
22 standards, including, but not limited to:

23 1. Proposals to change the water quality standards as they
24 relate to specific parameters or constituents for which water must

1 be tested under a National Pollutant Discharge Elimination System
2 permit;

3 2. Determination of which waters are trout streams for
4 purposes of inclusion or removal from a list of trout streams
5 contained in the water quality standards; and

6 3. The impact of the recent federal court cases on the
7 development, amendment and passage by the Legislature of the
8 state's water quality standards through the legislative rulemaking
9 process; and, be it

10 *Further Resolved*, That the Joint Committee on Water Quality
11 Standards be dedicated to comprehensively addressing West Virginia
12 water quality. The Committee shall consist of five members each
13 from the House of Delegates and the Senate, including the chairs of
14 the Judiciary, Finance and Natural Resources committees, to be
15 appointed by the Speaker of the House of Delegates and the
16 President of the Senate, with the cochairs appointed from the
17 appointees who do not chair the standing committees; and, be it

18 *Further Resolved*, That the Joint Committee on Water Quality
19 Standards shall have the following advisory members for the
20 purposes of providing technical information: A chemist or chemical
21 engineer, a biologist, a geologist, a hydrologist and a botanist.
22 The advisory members shall be selected from relevant governmental
23 agencies, including, but not limited to, the Department of
24 Environmental Protection, the Division of Natural Resources and the

1 Department of Agriculture, together with representatives of
2 industry and the environmental community meeting the qualifications
3 set forth above. The advisory appointments shall be made by the
4 President of the Senate and the Speaker of the House of Delegates;
5 and, be it

6 *Further Resolved*, That the Joint Committee on Water Quality
7 Standards report to the Joint Committee on Government and Finance
8 on or before the thirty-first day of January, 2006, on the
9 Committee's findings, conclusions and recommendations, together
10 with drafts of any legislation necessary to effectuate its
11 recommendations; and, be it

12 *Further Resolved*, That the expenses necessary to conduct this
13 study, to prepare a report and to draft necessary legislation be
14 paid from legislative appropriations to the Joint Committee on
15 Government and Finance.

1 H. C. R. 52

2 (By Delegates Amores, Kominar, Caputo, Craig, Brown,
3 DeLong, Fleischauer, Foster, Hrutkay, Mahan, Morgan,
4 Palumbo, Pethtel, Pino, Stemple, R. Thompson, Webster,
5 Armstead, Calvert, Ellem, Faircloth, Overington,
6 Schadler, Smirl and Webb)

7 (Originating in the Committee on the Judiciary)

8 [February 25, 2004]

9
10 Requesting the Joint Committee on Government and Finance study the
11 State's water quality standards.

12 WHEREAS, Water is a vital economic resource of equal or greater
13 importance than any other mineral or natural resource; and

14 WHEREAS, The State has a compelling interest in assuring that
15 the quality of its water resources are maintained in a manner that
16 both protects the State's natural resources and assures an adequate
17 supply of safe usable water for domestic, agricultural, commercial
18 and industrial purposes; and

19 WHEREAS, Water resources must be protected to meet the water
20 needs of people while maintaining and improving the State's natural
21 systems; and

22 WHEREAS, The policy of the State is to maintain reasonable
23 standards of purity and quality of water in this State consistent
24 with (1) public health and public enjoyment of the water resource;
25 (2) the propagation and protection of animal, bird, fish, aquatic
26 and plant life; and (3) the expansion of employment opportunities,

1 maintenance and expansion of agriculture and the provision of a
2 permanent foundation for health industrial development; and

3 WHEREAS, The management and protection of our substantial water
4 resources are carried out under federally delegated authority
5 through the "Federal Water Pollution Control Act" and the "National
6 Pollutant Discharge Elimination System" which require the State to
7 establish and implement water quality standards consistent with the
8 federal requirements; and

9 WHEREAS, The environmental quality board is charged with the
10 responsibility of developing the water quality standards for the
11 State; and

12 WHEREAS, The water quality standards are complex and scientific
13 in nature and generate much debate and controversy whenever they
14 are amended or brought before the Legislature; therefore, be it

15 *Resolved by the Legislature of West Virginia:*

16 That the Legislature hereby requests the Joint Committee on
17 Government and Finance study the State's water quality standards;
18 and, be it

19 *Further Resolved,* That the Joint Committee on Government and
20 Finance establish a joint water quality standards committee that
21 will under take a comprehensive review of the State's water quality
22 standards, including, but not limited to:

23 1. Proposals to change the water quality standards as they
24 relate to specific parameters or constituents for which water must

1 be tested under a National Pollutant Discharge Elimination System
2 permit;

3 2. Determination of which waters are trout streams for
4 purposes of inclusion or removal from a list of trout streams
5 contained in the water quality standards;

6 3. The application of Category A, drinking water standard, to
7 specific water resources; and

8 4. The impact of the recent federal court cases on the
9 development, amendment and passage by the Legislature of the
10 State's water quality standards through the Legislative Rulemaking
11 process; and, be it

12 *Further Resolved*, That the joint water quality standards
13 committee be dedicated to comprehensively addressing West Virginia
14 water quality. The committee shall consist of five members each
15 from the House of Delegates and the Senate, including the chairs of
16 the Judiciary, Finance and Natural Resources committees, to be
17 appointed by the Speaker of the House of Delegates and the
18 President of the Senate, with the cochairs appointed from the three
19 appointees who do not chair the standing committees; and, be it

20 *Further Resolved*, That joint water quality standards committee
21 shall have the following advisory members for the purposes of
22 providing technical information: a chemist or chemical engineer, a
23 biologist, a geologist, a hydrologist and a botanist. The advisory
24 members shall be selected from relevant governmental agencies,

1 including, but not limited to, the Department of Environmental
2 Protection, the Division of Natural Resources and the Department of
3 Agriculture, together with representatives of industry and the
4 environmental community meeting the qualifications set forth above.
5 The advisory appointment shall be made by the President of the
6 Senate and the Speaker of the House of Delegates; and, be it

7 *Further Resolved*, That the joint committee on water quality
8 standards report to the Joint Committee on Government and Finance
9 on or before the thirty-first day of January, 2005, on its
10 findings, conclusions and recommendations, together with drafts of
11 any legislation necessary to effectuate its recommendations; and,
12 be it

13 *Further Resolved*, That the expenses necessary to conduct this
14 study, to prepare a report and to draft necessary legislation be
15 paid from legislative appropriations to the Joint Committee on
16 Government and Finance.

Cann - motion
 leader to
 P. B.
 R. to address
 copy to
 members

Chris Hamilton addressed the C regarding
 missed amend regarding manganese & responded that
 Joe responded to a's

Monday, May 17, 2004

11:00 a.m. - 1:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
 officio nonvoting member

Robert "Bob" Kiss, ex
 officio nonvoting member

Senate

House

Ross, Chair ✓
 Minard, Vice Chair ✓
 Snyder _____
 Unger _____
 Boley ✓
 Minear ✓

Mahan, Chair ✓
 Thompson, Rick, Vice Chair ✓
 Cann ✓
 Kominar ✓
 Armstead ✓
 Faircloth _____

minutes approved

Vets - ~~Enthusiasia~~

Mahan Approve proposed mod. adopted
 Mahan Approve as modified adopted

Vets - Enthusiasia

Mahan Approve as modified

Water Study

Joe distributed a memo and discussed

Schedule 2 meetings on Monday

Acupuncture

Dr Samples addressed the C & responded to a's

Minard
 Approve
 mod. as

Libby Chetfield addressed the C

Monday, May 17, 2004

11:00 a.m. - 1:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Robert "Bob" Kiss, ex
officio nonvoting member

Senate

House

| | |
|--------------------|-------|
| Ross, Chair | ✓ |
| Minard, Vice Chair | ✓ |
| Snyder | _____ |
| Unger | _____ |
| Boley | ✓ |
| Minear | ✓ |

| | |
|----------------------------|-------|
| Mahan, Chair | ✓ |
| Thompson, Rick, Vice Chair | ✓ |
| Cann | ✓ |
| Kominar | ✓ |
| Armstead | ✓ |
| Faircloth | _____ |

- minutes approved
- Bd. of ~~Regulators~~ Vet. Med 26 CSR 1
- Debra Abstract
- Boley ? 3.2 1st page
- Rep. Wanda Goodwin - explanation
- Mann moves rule w/ some modification
- Ross - motion carries
- Boley 26.1.8 Why are we eliminating?
- Goodwin no longer nec. juris prudencia
elimination (national examination)
- Mann moves rule w/ mod.

- Bd of Vet Med. 26ESR5
- Debra Abstract
- Mann move rule w/ modifications

OTHER BUSINESS
Water Study

- Joe Altizer - explanation
HCR 58
EQB - Notification SCR 39
- ~~Boley~~ Mahan - Beckly good idea
- Boley - H & S are they the same
H one year
S two year
- Altizer - responded
- Boley ?
- Altizer Respond
- Ross - 2 hour meeting June EPA
- Cann question
- Joe Respond.

- Cann respond
- Altizer respond
- Mahan comment - 2 sep. meeting
- Ross comment 2 hour meeting
Monday afternoon.
- Bd of Acupuncture 32 CSR 2
- Debra (explanation) Abstract
Tech mod.
- Dr. Samples - explanation of Rule
- Cann - ?
- Dr. Samples response
- Cann - comment
- Dr. Samples - comment
- Cann - ?
- Dr. Samples comment
- Ross - Any ?'s
- Samples - comment
- Armstead ?
- Dr S comment
- Armstead ?
- Dr. S. comment
- Minercl moves w/ modification

Water Study

Chris

Ross - How to help?

Chris

Ross

Cann - letter from the committee to EAB & ?

Attuyer Reply

Cann - comment

Attuyer - comment

Thompson ?

Attuyer Reply

Thompson ?

Attuyer - Reply

Thompson ?

Attuyer

- Ross

Joe
Peter

- Peter comment

- Ross Peter testimony w/ Joe

- Peter no objection

Cann comment

Ross

Cann ? - motion

Ross

Armstead ? for Joe

Altizer - reply

Armstead ?

Altizer reply

Mahan - support motion and response

Ross

\ motion carries

- Libby - explain amendment

Markon move to agree

1 **SENATE CONCURRENT RESOLUTION NO. 39**

2 (By Senators Fanning, Love, Bowman and Deem)

3 _____
4 [Originating in the Committee on Natural Resources]
5 _____
6

7 Requesting the Joint Committee on Government and Finance study the
8 state's water quality standards.

9 Whereas, Water is a vital economic resource of equal or
10 greater importance than any other mineral or natural resource; and

11 Whereas, The state has a compelling interest in assuring that
12 the quality of its water resources is maintained in a manner that
13 both protects the state's natural resources and assures an adequate
14 supply of safe, usable water for domestic, agricultural, commercial
15 and industrial purposes; and

16 Whereas, Water resources must be protected to meet the water
17 needs of the people while maintaining and improving the state's
18 natural systems; and

19 Whereas, The policy of the state is to maintain reasonable
20 standards of purity and quality of water in this state consistent
21 with: (1) Public health and public enjoyment of the water resource;
22 (2) propagation and protection of animal, bird, fish, aquatic and
23 plant life; and (3) expansion of employment opportunities,
24 maintenance and expansion of agriculture and provision of a

1 permanent foundation for health and industrial development; and

2 Whereas, The management and protection of our substantial
3 water resources are carried out under federally delegated authority
4 through the Federal Water Pollution Control Act and the National
5 Pollutant Discharge Elimination System which require the state to
6 establish and implement water quality standards consistent with the
7 federal requirements; and

8 Whereas, The Environmental Quality Board is charged with the
9 responsibility of developing the water quality standards for the
10 state; and

11 Whereas, The water quality standards are complex and
12 scientific in nature and generate much debate and controversy
13 whenever amended or brought before the Legislature; therefore, be
14 it

15 *Resolved by the Legislature of West Virginia:*

16 That the Legislature hereby requests the Joint Committee on
17 Government and Finance study the state's water quality standards;
18 and, be it

19 *Further Resolved,* That the Joint Committee on Government and
20 Finance establish a Joint Committee on Water Quality Standards that
21 will undertake a comprehensive review of the state's water quality
22 standards, including, but not limited to:

23 1. Proposals to change the water quality standards as they
24 relate to specific parameters or constituents for which water must

1 be tested under a National Pollutant Discharge Elimination System
2 permit;

3 2. Determination of which waters are trout streams for
4 purposes of inclusion or removal from a list of trout streams
5 contained in the water quality standards; and

6 3. The impact of the recent federal court cases on the
7 development, amendment and passage by the Legislature of the
8 state's water quality standards through the legislative rulemaking
9 process; and, be it

10 *Further Resolved*, That the Joint Committee on Water Quality
11 Standards be dedicated to comprehensively addressing West Virginia
12 water quality. The Committee shall consist of five members each
13 from the House of Delegates and the Senate, including the chairs of
14 the Judiciary, Finance and Natural Resources committees, to be
15 appointed by the Speaker of the House of Delegates and the
16 President of the Senate, with the cochairs appointed from the
17 appointees who do not chair the standing committees; and, be it

18 *Further Resolved*, That the Joint Committee on Water Quality
19 Standards shall have the following advisory members for the
20 purposes of providing technical information: A chemist or chemical
21 engineer, a biologist, a geologist, a hydrologist and a botanist.
22 The advisory members shall be selected from relevant governmental
23 agencies, including, but not limited to, the Department of
24 Environmental Protection, the Division of Natural Resources and the

1 Department of Agriculture, together with representatives of
2 industry and the environmental community meeting the qualifications
3 set forth above. The advisory appointments shall be made by the
4 President of the Senate and the Speaker of the House of Delegates;
5 and, be it

6 *Further Resolved*, That the Joint Committee on Water Quality
7 Standards report to the Joint Committee on Government and Finance
8 on or before the thirty-first day of January, 2006, on the
9 Committee's findings, conclusions and recommendations, together
10 with drafts of any legislation necessary to effectuate its
11 recommendations; and, be it

12 *Further Resolved*, That the expenses necessary to conduct this
13 study, to prepare a report and to draft necessary legislation be
14 paid from legislative appropriations to the Joint Committee on
15 Government and Finance.

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H. C. R. 52

(By Delegates Amores, Kominar, Caputo, Craig, Brown,
DeLong, Fleischauer, Foster, Hrutkay, Mahan, Morgan,
Palumbo, Pethtel, Pino, Stemple, R. Thompson, Webster,
Armstead, Calvert, Ellem, Faircloth, Overington,
Schadler, Smirl and Webb)

(Originating in the Committee on the Judiciary)

[February 25, 2004]

Requesting the Joint Committee on Government and Finance study the
State's water quality standards.

WHEREAS, Water is a vital economic resource of equal or greater
importance than any other mineral or natural resource; and

WHEREAS, The State has a compelling interest in assuring that
the quality of its water resources are maintained in a manner that
both protects the State's natural resources and assures an adequate
supply of safe usable water for domestic, agricultural, commercial
and industrial purposes; and

WHEREAS, Water resources must be protected to meet the water
needs of people while maintaining and improving the State's natural
systems; and

WHEREAS, The policy of the State is to maintain reasonable
standards of purity and quality of water in this State consistent
with (1) public health and public enjoyment of the water resource;
(2) the propagation and protection of animal, bird, fish, aquatic
and plant life; and (3) the expansion of employment opportunities,

1 maintenance and expansion of agriculture and the provision of a
2 permanent foundation for health industrial development; and

3 WHEREAS, The management and protection of our substantial water
4 resources are carried out under federally delegated authority
5 through the "Federal Water Pollution Control Act" and the "National
6 Pollutant Discharge Elimination System" which require the State to
7 establish and implement water quality standards consistent with the
8 federal requirements; and

9 WHEREAS, The environmental quality board is charged with the
10 responsibility of developing the water quality standards for the
11 State; and

12 WHEREAS, The water quality standards are complex and scientific
13 in nature and generate much debate and controversy whenever they
14 are amended or brought before the Legislature; therefore, be it

15 *Resolved by the Legislature of West Virginia:*

16 That the Legislature hereby requests the Joint Committee on
17 Government and Finance study the State's water quality standards;
18 and, be it

19 *Further Resolved,* That the Joint Committee on Government and
20 Finance establish a joint water quality standards committee that
21 will under take a comprehensive review of the State's water quality
22 standards, including, but not limited to:

23 1. Proposals to change the water quality standards as they
24 relate to specific parameters or constituents for which water must

1 be tested under a National Pollutant Discharge Elimination System
2 permit;

3 2. Determination of which waters are trout streams for
4 purposes of inclusion or removal from a list of trout streams
5 contained in the water quality standards;

6 3. The application of Category A, drinking water standard, to
7 specific water resources; and

8 4. The impact of the recent federal court cases on the
9 development, amendment and passage by the Legislature of the
10 State's water quality standards through the Legislative Rulemaking
11 process; and, be it

12 *Further Resolved*, That the joint water quality standards
13 committee be dedicated to comprehensively addressing West Virginia
14 water quality. The committee shall consist of five members each
15 from the House of Delegates and the Senate, including the chairs of
16 the Judiciary, Finance and Natural Resources committees, to be
17 appointed by the Speaker of the House of Delegates and the
18 President of the Senate, with the cochairs appointed from the three
19 appointees who do not chair the standing committees; and, be it

20 *Further Resolved*, That joint water quality standards committee
21 shall have the following advisory members for the purposes of
22 providing technical information: a chemist or chemical engineer, a
23 biologist, a geologist, a hydrologist and a botanist. The advisory
24 members shall be selected from relevant governmental agencies,

1 including, but not limited to, the Department of Environmental
2 Protection, the Division of Natural Resources and the Department of
3 Agriculture, together with representatives of industry and the
4 environmental community meeting the qualifications set forth above.
5 The advisory appointment shall be made by the President of the
6 Senate and the Speaker of the House of Delegates; and, be it

7 *Further Resolved*, That the joint committee on water quality
8 standards report to the Joint Committee on Government and Finance
9 on or before the thirty-first day of January, 2005, on its
10 findings, conclusions and recommendations, together with drafts of
11 any legislation necessary to effectuate its recommendations; and,
12 be it

13 *Further Resolved*, That the expenses necessary to conduct this
14 study, to prepare a report and to draft necessary legislation be
15 paid from legislative appropriations to the Joint Committee on
16 Government and Finance.