

Sunday, January 6, 2008

2:00 p.m. to 4:00 p.m.

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

Earl Ray Tomblin
ex officio nonvoting member

Richard Thompson
ex officio nonvoting member

Senate

House

Minard, Chairman
Fanning, Vice Chair Absent
Prezioso
Unger
Boley Absent
Facemyer Absent

Brown, Chairman
Miley, Vice Chair
Burdiss
Talbott
Overington
Sobonya

The meeting was called to order by Ms. Brown, Co-Chairman.

The minutes of the December 8, 9 and 11, 2008, meetings were approved.

Brian Skinner, Associate Counsel, explained his abstract on the rule proposed by the, **WV Public Service Commission, Rules and Regulations Governing Emergency Telephone Service, 150CSR25**, and responded to questions from the Committee.

Richard Hitt, General Counsel for the Commission responded to questions from the Committee.

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

Rita Pauley, Associate Counsel, reviewed her abstract on the rule proposed by the, **Office of Air Quality, To Prevent and Control Air Pollution From Combustion of Refuse, 45CSR6**, and responded to questions from the Committee.

Karen Watson with the Department of Environmental Protection responded to questions from the Committee.

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

Ms. Pauley explained her abstract on the rule proposed by the, **Office of Air Quality, Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter, 45CSR8**, stated that the Office has agreed to technical modifications and responded to questions from the Committee.

Don Garvin with the Environmental Council addressed the Committee.

Jim Mason with the Office of Air Quality responded to questions from the Committee.

Stephanie Timmermyer, Secretary of the Department of Environmental Protection, responded to questions from the Committee.

Mr. Fanning moved that the proposed rule be approved as modified.

Mr. Talbott moved to amend the rule by restoring all of the language in 48.2. The agency agreed to make the change as a modification.

The motion to approve the rule as modified was adopted.

Ms. Pauley reviewed her abstract on the rule proposed by the, Office of Air Quality, *Ambient Air Quality Standards for Carbon Monoxide and Ozone, 45CSR9.*

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

Ms. Pauley explained her abstract on the rule proposed by the, Office of Air Quality, *Ambient Air Quality Standard for Nitrogen Dioxide, 45CSR12.*

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

Ms. Pauley reviewed her abstract on the rule proposed by the, Office of Air Quality, *Control of Ozone Season Nitrogen Oxide Emissions to Mitigate Interstate Transport of Ozone and Nitrogen Oxides, 45CSR40,* stated that the Office has agreed to technical modifications and responded to questions from the Committee.

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

Ms. Pauley explained her abstract on the rule proposed by the, Office of Air Quality, *Control of Annual Sulfur Dioxide Emissions to Mitigate Interstate Transport of Fine Particulate Matter and Sulfur Dioxide, 45CSR41,* and stated that the Office has agreed to technical modifications.

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

Ms. Pauley reviewed her abstract on the rule proposed by the, **Office of Air Quality, Greenhouse Gas Emissions Inventory Program, 45CSR42**, and stated that the Office has agreed to technical modifications.

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

Mr. Fanning moved to adjourn. The motion was adopted.

JANUARY INTERIM ATTENDANCE
Legislative Interim Meetings
January 6, 7 and 8, 2008

Sunday, January 6, 2008

2:00 pm - 4:00 pm

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Thompson, ex
officio nonvoting member

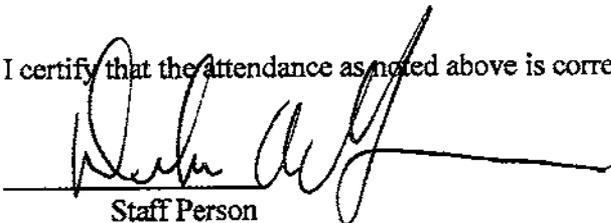
Senate

Minard, Chair
Fanning, Vice Chair
Prezioso
Unger
Boley
Facemyer

House

Brown, Chair
Miley, Vice Chair
Burdiss
Talbot
Overington
Sobonya

I certify that the attendance as noted above is correct.



Staff Person

Debra Graham

Please return to Brenda in Room 132-E or Fax to 347-4819 ASAP, due to payroll deadline.

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Sunday, January 6, 2008
2:00 p.m. to 4:00 p.m.
Senate Judiciary Committee Room

1. **Approval of Minutes - Meetings of December 8, 9 & 11, 2007.**
2. **Review of Legislative Rules:**
 - a. **Public Service Commission, WV**
Rules and Regulations Governing Emergency Telephone Service, 150CSR25
 - Approve
 - b. **Air Quality, Office of**
Department of Environmental Protection
To Prevent and Control Air Pollution From Combustion of Refuse, 45CSR6
 - Approve
 - c. **Air Quality, Office of**
Department of Environmental Protection
Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter, 45CSR8
 - Approve as Modified
 - d. **Air Quality, Office of**
Department of Environmental Protection
Ambient Air Quality Standards for Carbon Monoxide and Ozone, 45CSR9
 - Approve
 - e. **Air Quality, Office of**
Department of Environmental Protection
Ambient Air Quality Standard for Nitrogen Dioxide, 45CSR12
 - Approve
 - f. **Air Quality, Office of**
Department of Environmental Protection
Control of Ozone Season Nitrogen Oxide Emissions to Mitigate Interstate Transport of Ozone and Nitrogen Oxides, 45CSR40
 - Approve as Modified

g. **Air Quality, Office of**
Department of Environmental Protection
*Control of Annual Sulfur Dioxide Emissions to Mitigate
Interstate Transport of Fine Particulate Matter and Sulfur
Dioxide, 45CSR41*

- Approve as Modified

h. **Air Quality, Office of**
Department of Environmental Protection
Greenhouse Gas Emissions Inventory Program, 45CSR42

- Approve as Modified

3. **Other Business**

JANUARY INTERIM ATTENDANCE
Legislative Interim Meetings
January 6, 7 & 8, 2008

Sunday, January 6, 2008

2:00 p.m. - 4:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
 officio nonvoting member

Robert "Bob" Kiss, ex
 officio nonvoting member

Senate

House

Minard, Chair _____
 Fanning, Vice Chair
 Prezioso _____
 Unger _____
 Boley
 Facemyer

Brown, Chair
 Miley, Vice Chair
 Burdiss
 Talbott
 Overington
 Sobonya

PSC - Emergency Telephone Service

Brian explained & responded to questions

Richard Hitt ? gen counsel, PSC responded to questions.

Approved

Air Quality 45 CSR 6

Rita explained & responded to q's

Karen Watson responded to q's

Approve

Fanning
 adopted

Air Quality 45 CSR 8

" 45 CSR 9

" 45 CSR 12

> Rita explained

45 CSR 8

Don Garvin, Environmental Council addressed the C.

Jim Mason, AQ, responded to questions

Stephanie Timoney " " "

Fanning
Talbot

Approve as mod

Amend to restore language (mod)

45 CSR 9

repeated rule

Fanning

Approve

adopted

45 CSR 12

repeated rule

Fanning

Approve

adopted

AQ 45 CSR 40

Rita explained & responded to questions

Fanning

Approve as modified

AQ 45 CSR 41

Rita explained

Fanning
adopted

Approve

AQ 45 CSR 42

Rita explained

Fanning
adopted

Approve as mod.

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Sunday, January 6, 2008
2:00 p.m. to 4:00 p.m.
Senate Judiciary Committee Room

1. ~~Approval of Minutes - Meetings of December 8, 9 & 11, 2007~~

2. Review of Legislative Rules:

Approved ✓
Public Service Commission, WV
Rules and Regulations Governing Emergency Telephone
Service, 15CSR25

- Approve

Approved ✓
Air Quality, Office of
Department of Environmental Protection
To Prevent and Control Air Pollution From Combustion of
Refuse, 45CSR6

- Approve

Approved ✓
as modified
Air Quality, Office of
Department of Environmental Protection
Ambient Air Quality Standards for Sulfur Oxides and
Particulate Matter, 45CSR8

- Approve as Modified

Approved ✓
Air Quality, Office of
Department of Environmental Protection
Ambient Air Quality Standards for Carbon Monoxide and
Ozone, 45CSR9

- Approve

Approve ✓
Air Quality, Office of
Department of Environmental Protection
Ambient Air Quality Standard for Nitrogen Dioxide, 45CSR12

- Approve

Approved ✓
as modified
Air Quality, Office of
Department of Environmental Protection
Control of Ozone Season Nitrogen Oxide Emissions to
Mitigate Interstate Transport of Ozone and Nitrogen
Oxides, 45CSR40

- Approve as Modified

Approved

Air Quality, Office of
Department of Environmental Protection
Control of Annual Sulfur Dioxide Emissions to Mitigate
Interstate Transport of Fine Particulate Matter and Sulfur
Dioxide, 45CSR41

- Approve ~~as Modified~~

*Ch.
Approve
as modified*

Air Quality, Office of
Department of Environmental Protection
Greenhouse Gas Emissions Inventory Program, 45CSR42

- Approve as Modified

3. Other Business

JANUARY INTERIM ATTENDANCE

Legislative Interim Meetings

January 6, 7 & 8, 2008

Sunday, January 6, 2008

2:00 p.m. - 4:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Robert "Bob" Kiss, ex
officio nonvoting member

Senate

House

Minard, Chair

Fanning, Vice Chair

Prezioso

Unger

Boley

Facemyer

Brown, Chair

Miley, Vice Chair

Burdiss

Talbott

Overington

Sobonya

- Ms. Brown called meeting to order.
Minutes approved

- PSC 150CSR25

Brian explained & responded to ?s

Richard Hitt, General Counsel for PSC, responded to ?s

Fanning moved rule

Motion adopted

- Air 45CSR6

Pita explained & responded to ?s

Karen Watson responded to ?s

Fanning moved rule

Motion adopted

- Air 45CSR8

Pita explained

Don Galvin w/ Environmental Council addressed
the Committee

- Jim Mason w/ Air Quality responded to ?'s
Stephanie Timoneomya, Secretary of DEP,
responded to ?'s

Fanning moved rule as modified
Talbot moved to amend the rule
by restoring the language in 48.2
Agency agreed to modify
Fanning moved rule

Mr. Talbot
withdrew
his Amendments

Motion adopted

- Air 45CSR 9
Rita explained
Fanning moved rule
Motion adopted

- Air 45CSR 12
Rita explained
Fanning moved rule
Motion adopted

- Air 45CSR 40
Rita explained & responded to ?'s
Fanning moved rule as modified
Motion adopted

- Air 45CSR41

Rita explained

Fanning moved rule as modified

Motion adopted

- Air 45CSR42

Rita explained

Fanning moved rule as modified

Motion adopted

Fanning moved to adjourn

Motion adopted

Monday, January 7, 2008

5:00 p.m. to 7:00 p.m.

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

Earl Ray Tomblin
ex officio nonvoting member

Richard Thompson
ex officio nonvoting member

Senate

House

Minard, Chairman
Fanning, Vice Chair
Prezioso
Unger Absent
Boley
Facemyer

Brown, Chairman
Miley, Vice Chair Absent
Burdiss
Talbot
Overington
Sobonya

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

Connie Bowling, Associate Counsel, explained her abstract on the rule proposed by the, **WV Alcohol Beverage Control Commission, Retail Licensee Operations, 175CSR1**, stated that the Commission has agreed to technical modifications and responded to questions from the Committee.

Anoop Bhasin with the Alcohol Beverage Control Commission responded to questions from the Committee.

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

Mr. Minard removed the Division of Natural Resources' rule, 58CSR35, from the agenda.

Ms. Bowling reviewed her abstract on the rule proposed by the, **WV Alcohol Beverage Control Commission, Farm Wineries, 175CSR3**, and stated that the Commission has agreed to technical modifications.

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

Ms. Bowling explained her abstract on the rule proposed by the, **WV Alcohol Beverage Control Commission, Sale of Wine, 175CSR4**, stated that the Commission has agreed to technical modifications and responded to questions from the Committee.

Mr. Bhasin responded to questions from the Committee.

Ms. Brown moved that the proposed rule be approved as

modified. The motion was adopted.

Rita Pauley, Associate Counsel, reviewed her abstract on the rule proposed by the, **Office of Air Quality, Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR part 61, 45CSR15.**

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

Ms. Pauley explained her abstract on the rule proposed by the, **Office of Air Quality, Standards of Performance for New Stationary Sources Pursuant to 40 CFR part 60, 45CSR16.**

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

Ms. Pauley reviewed her abstract on the rule proposed by the, **Office of Air Quality, To Prevent and Control Emissions From Commercial and Industrial Solid Waste Incineration Units, 45CSR18.**

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

Ms. Pauley explained her abstract on the rule proposed by the, **Office of Air Quality, To Prevent and Control Emission from Hospital/Medical/Infectious Waste Incinerators, 45CSR24.**

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

Ms. Pauley reviewed her abstract on the rule proposed by the, **WV Office of Pharmaceutical Advocate, Prescription Drug Advertising Expense Reporting, 206CSR1,** stated that the Advocate has agreed to technical modifications and responded to questions from the Committee.

Shana Phares with the Pharmaceutical Advocate Office responded to questions from the Committee.

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

Ms. Pauley explained her abstract on the rule proposed by the, **Office of Water Resources, Requirements Governing Water Quality Standards, 47CSR2,** stated that the Office has agreed to technical modifications and responded to questions from the Committee.

Don Garvin with the Environmental Council addressed the Committee.

Karen Watson, Assistant General Counsel, with the Department of Environmental Protection responded to questions.

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

Ms. Brown moved to adjourn. The motion was adopted.

JANUARY INTERIM ATTENDANCE
Legislative Interim Meetings
January 6, 7 and 8, 2008

Monday, January 7, 2008

5:00 pm - 7:00 pm

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Thompson, ex
officio nonvoting member

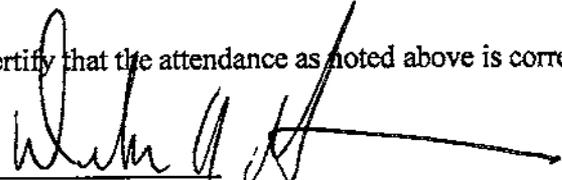
Senate

Minard, Chair
Fanning, Vice Chair
Prezioso
Unger
Boley
Facemyer

House

Brown, Chair
Miley, Vice Chair
Burdiss
Talbot
Overington
Sobonya

I certify that the attendance as noted above is correct.



Staff Person

Debra Graham

Please return to Brenda in Room 132-E or Fax to 347-4819 ASAP, due to payroll deadline.

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, January 7, 2008
5:00 p.m. to 7:00 p.m.
Senate Judiciary Committee Room

1. **Review of Legislative Rules:**

- a. **Alcohol Beverage Control Commission, WV**
Retail Licensee Operations, 175CSR1
 - Approve as Modified
- b. **Alcohol Beverage Control Commission, WV**
Farm Wineries, 175CSR3
 - Approve as Modified
- c. **Alcohol Beverage Control Commission, WV**
Sale of Wine, 175CSR4
 - Approve as Modified
- d. **Air Quality, Office of**
Department of Environmental Protection
Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR part 61, 45CSR15
 - Approve
- e. **Air Quality, Office of**
Department of Environmental Protection
Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60, 45CSR16
 - Approve
- f. **Air Quality, Office of**
Department of Environmental Protection
To Prevent and Control Emissions From Commercial and Industrial Solid Waste Incineration Units, 45CSR18
 - Approve
- g. **Air Quality, Office of**
Department of Environmental Protection
To Prevent and Control Emission from Hospital/Medical/ Infectious Waste Incinerators, 45CSR24
 - Approve

h. **Pharmaceutical Advocate, WV Office of**
Prescription Drug Advertising Expense Reporting, 206CSR1

- Approve as Modified

i. **Water Resources, Office of**
Department of Environmental Protection
Requirements Governing Water Quality Standards, 47CSR2

- Approve

j. **Natural Resources, Division of**
Rules for Conditions Upon Which Oil and Gas Operations May
Access State Forests, 58CSR35

- Approve

2. **Other Business**

JANUARY INTERIM ATTENDANCE
Legislative Interim Meetings
January 6, 7 & 8, 2008

Monday, January 7, 2007

5:00 p.m. - 7:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
 officio nonvoting member

Robert "Bob" Kiss, ex
 officio nonvoting member

Senate

House

Minard, Chair ✓
 Fanning, Vice Chair ✓
 Prezioso ✓
 Unger ✓
 Boley ✓
 Facemyer ✓

Brown, Chair ✓
 Miley, Vice Chair ✓
 Burdiss ✓
 Talbott ✓
 Overington ✓
 Sobonya ✓

Minard called meeting to order

ABCC - Retail Licenses

Connie explained & responded to questions

Approve as mod

Ahmad ? ABCC responded to q's

Minard removed Item 1 from the agenda

Brown
 adopted

ABCC - Farm Wineries

Connie explained

Approve as mod. Accl

Brown
 adopted

ABCC - Sale of Wine

Connie explained & responded to q's

ABCC rep responded to questions

Approve as modified

Brown
 adopted

AQ 45 CSR 15
Repeated

Brown
adopted

Approve

AQ 45 CSR 16
Rita explained

Brown
adopted

Approve

AQ 45 CSR 18
Rita explained

Brown
adopted

Approve

AQ 45 CSR 24
Repeat

Brown
adopted

Approve

Pharmaceutical Advocate

Comis explained.

Shawna Phares responded to q's

Brown

Approve as modified

Water Quality 47 CSR 2

Rita explained & responded to q's

Karen Watson responded to q's

Brown
adopted

Approve

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Monday, January 7, 2008
5:00 p.m. to 7:00 p.m.
Senate Judiciary Committee Room

1. Review of Legislative Rules:

Approve as modified ✓

a. Alcohol Beverage Control Commission, WV
Retail Licensee Operations, 175CSR1

- Approve as Modified

Approve as modified ✓

b. Alcohol Beverage Control Commission, WV
Farm Wineries, 175CSR3

- Approve as Modified

Approve as modified ✓

c. Alcohol Beverage Control Commission, WV
Sale of Wine, 175CSR4

- Approve as Modified

Approved ✓

d. Air Quality, Office of
Department of Environmental Protection
Emission Standards for Hazardous Air Pollutants Pursuant
to 40 CFR part 61, 45CSR15

- Approve

Approved ✓

e. Air Quality, Office of
Department of Environmental Protection
Standards of Performance for New Stationary Sources
Pursuant to 40 CFR Part 60, 45CSR16

- Approve

Approved ✓

f. Air Quality, Office of
Department of Environmental Protection
To Prevent and Control Emissions From Commercial and
Industrial Solid Waste Incineration Units, 45CSR18

- Approve

Approved ✓

g. Air Quality, Office of
Department of Environmental Protection
To Prevent and Control Emission from Hospital/Medical/
Infectious Waste Incinerators, 45CSR24

- Approve

Approved
as modified

h.

**Pharmaceutical Advocate, WV Office of
Prescription Drug Advertising Expense Reporting, 206CSR1**

- Approve as Modified

Approved

**Water Resources, Office of
Department of Environmental Protection
Requirements Governing Water Quality Standards, 47CSR2**

- Approve

Removed

**Natural Resources, Division of
Rules for Conditions Upon Which Oil and Gas Operations May
Access State Forests, 58CSR35**

- Approve

2. Other Business

JANUARY INTERIM ATTENDANCE
Legislative Interim Meetings
January 6, 7 & 8, 2008

Monday, January 7, 2007

5:00 p.m. - 7:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
 officio nonvoting member

Robert "Bob" Kiss, ex
 officio nonvoting member

Senate

House

Minard, Chair

X

Brown, Chair

X

Fanning, Vice Chair

X

Miley, Vice Chair

X

Prezioso

X

Burdiss

X

Unger

X

Talbott

X

Boley

X

Overington

X

Facemyer

X

Sobonya

X

- Minard called meeting to order

- ABC 175 CSR1

Connie explained & responded to ?'s
 Brown moved rule as modified
 Anoop Bhasin, responded to ?'s
 Motion adopted

- Natural Resources 58 CSR35
 removed from Agenda

- ABC 175 CSR3

Connie explained
 Brown moved rule as modified
 Motion adopted

● - ABC 175 CSR4

Connie explained & responded to ?'s
Anoop Bhargava responded to ?'s
Brown moved rule as modified
Motion adopted

- AIR 45CSR15

Rita explained
Brown moved Rule
Motion adopted

● - AIR 45CSR16

Rita explained
Brown moved Rule
Motion adopted

- AIR 45CSR18

Rita explained
Brown moved Rule
Motion adopted

● - AIR 45CSR24

Rita explained
Brown moved Rule
Motion adopted

- Pharmaceutical 206 CSRI

Connie explained & responded to ?'s

Shana Phares responded to ?'s

Brown moved as modified
Motion adopted

- Water 47 CSR2

Don Marvin of the Environmental Council
address the committee

Rita explained & responded to ?'s

Karen Watson, Assist. General Counsel,

responded to ?'s

Brown moved rule

Motion adopted

Meeting adjourned

REGISTRATION OF PUBLIC
AT COMMITTEE MEETINGS

WEST VIRGINIA LEGISLATURE

Committee: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Date: JAN. 7, 2008

Please print or write plainly.

NAME	ADDRESS	REPRESENTING	RULE NUMBER	Please mark with an (X) if you desire to make a statement.
DON GARVIN	PO Box 666 Buckhannon WV 26201	WV Environmental Council	47CSR2	✓

JANUARY 8

Tuesday, January 8, 2008

3:00 p.m. to 5:00 p.m.

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

Earl Ray Tomblin
ex officio nonvoting member

Richard Thompson
ex officio nonvoting member

Senate

House

Minard, Chairman
Fanning, Vice Chair
Prezioso
Unger
Boley
Facemyer

Brown, Chairman
Miley, Vice Chair
Burdiss
Talbott
Overington
Sobonya

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

Rita Pauley, Associate Counsel, explained her abstract on the rule proposed by the, *Office of Air Quality, To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities, 45CSR25*, and responded to questions from the Committee.

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

Ms. Pauley reviewed her abstract on the rule proposed by the, *Office of Air Quality, Emission Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63, 45CSR34*.

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

Ms. Pauley explained her abstract on the rule proposed by the, *Office of Air Quality, Control of Annual Nitrogen Oxide Emissions to Mitigate Interstate Transport of Fine Particulate Matter and Nitrogen Oxides, 45CSR39*, and responded to questions from the Committee.

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

The rule proposed by the, *Department of Environmental Protection - Secretary's Office, Antidegradation Implementation Procedures, 60CSR5*, was brought before the Committee.

Larry Orr, Chairman of the WV Council of Trout Unlimited, addressed the Committee.

Tom Boggs with the WV Chamber of Commerce addressed the Committee.

Don Garvin, Legislative Coordinator for the WV Environmental Council, addressed the Committee.

Dick Waybright with the WV Division of Forestry addressed the Committee.

Tom Michael, Director of Governmental Affairs for the Farm Bureau, addressed the Committee.

Senator Dave Sybolt addressed the Committee.

Karen Watson, Assistant General Counsel for the Department of Environmental Protection addressed the Committee and responded to questions.

Pat Campbell with the Department of Environmental Protection responded to questions.

Ms. Pauley explained the rule.

Roger Sherman, Forester with Mead West Vaco Corporation, addressed the Committee.

Mr. Burdiss moved to amend the rule be returning the number of streams back to the original 309. The amendment was adopted.

Mr. Overington, Ms. Sobonya, Ms. Boley and Ms. Facemyer requested to be recorded as voting NO.

Ms. Brown moved that the proposed rule be approved as amended. The motion was adopted.

Mr. Overington, Ms. Sobonya, Ms. Boley and Ms. Facemyer requested to be recorded as voting NO.

Brian Skinner, Associate Counsel, reviewed his abstract on the rule proposed by the, **WV Ethics Commission, Solicitation and Receipt of Gifts and Charitable Contributions by Public Employees and Officials, 158CSR7**, stated that the Commission has agreed to technical modifications and responded to questions from the Committee.

Rick Monahan with Masters Law Firm addressed the Committee.

John Dasali with the WV Fraternal Order of Police addressed the Committee.

Melissa Garrettson with the Sheriff's Association addressed the Committee.

Theresa Kirk, Legal Counsel for the Ethics Commission, addressed the Committee and responded to questions.

Ms. Brown moved that the proposed rule be approved as modified.

Mr. Miley moved to amend the proposed rule by adopting all of the changes in the handout provided by the WV Trooper's Association. The motion was adopted.

Ms. Brown moved that the proposed rule be approved as modified and amended. The motion was adopted.

Mr. Skinner reviewed his abstract on the rule proposed by the, *Division of Natural Resources, Rules for Conditions Upon Which Oil and Gas Operations May Access State Forests, 58CSR35* and stated that the Commission has agreed to technical modifications.

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

Ms. Brown moved that staff be directed to prepare the report and bills of authorization for introduction. The motion was adopted.

The meeting was adjourned.

JANUARY INTERIM ATTENDANCE
Legislative Interim Meetings
January 6, 7 and 8, 2008

Tuesday, January 8, 2008

3:00 pm - 5:00 pm

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Thompson, ex
officio nonvoting member

Senate

Minard, Chair
Fanning, Vice Chair
Prezioso
Unger
Boley
Facemyer

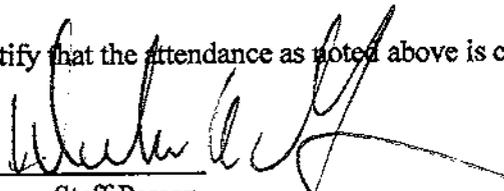
✓
✓
✓
✓
✓
✓

House

Brown, Chair
Miley, Vice Chair
Burdiss
Talbot
Overington
Sobonya

✓
✓
✓
✓
✓
✓

I certify that the attendance as noted above is correct.



Staff Person

Debra Graham

Please return to Brenda in Room 132-E or Fax to 347-4819 ASAP, due to payroll deadline.

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Tuesday, January 8, 2008
3:00 p.m. to 5:00 p.m.
Senate Judiciary Committee Room

1. **Review of Legislative Rules:**

- a. **Air Quality, Office of
Department of Environmental Protection**
To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities, 45CSR25
 - Approve

- b. **Air Quality, Office of
Department of Environmental Protection**
Emission Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63, 45CSR34
 - Approve as Modified

- c. **Air Quality, Office of
Department of Environmental Protection**
Control of Annual Nitrogen Oxide Emissions to Mitigate Interstate Transport of Fine Particulate Matter and Nitrogen Oxides, 45CSR39
 - Approve

- d. **Secretary's Office
Department of Environmental Protection**
Antidegradation Implementation Procedures, 60CSR5
 - Approve

- e. **Ethics Commission, WV**
Solicitation and Receipt of Gifts and Charitable Contributions by Public Employees and Officials, 158CSR7
 - Approve as Modified

- f. **Natural Resources, Division of**
Rules for Conditions Upon Which Oil and Gas Operations May Access State Forests, 58CSR35
 - Approve

2. **Other Business**

JANUARY INTERIM ATTENDANCE

Legislative Interim Meetings

January 6, 7 & 8, 2008

Tuesday, January 8, 2007

3:00 p.m. - 5:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Robert "Bob" Kiss, ex
officio nonvoting member

Senate

House

Minard, Chair
Fanning, Vice Chair
Prezioso
Unger
Boley
Facemyer

✓
✓
✓
✓
✓
✓

Brown, Chair
Miley, Vice Chair
Burdiss
Talbot
Overington
Sobonya

✓
✓
✓
✓
✓
✓

DEP 45 CSR 35

Rita explained & responded to a's

Brown
adopted

Approve

DEP 45 CSR 34

Rita explained

Brown
adopted

Approve

DEP 45 CSR 39

Rita explained

Brown
adopted

Approve

DEP 60 CSR 5

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Tuesday, January 8, 2008
3:00 p.m. to 5:00 p.m.
Senate Judiciary Committee Room

1. Review of Legislative Rules:

Approved ✓

Air Quality, Office of
Department of Environmental Protection
To Prevent and Control Air Pollution From Hazardous Waste
Treatment, Storage, or Disposal Facilities, 45CSR25

- Approve

Approved ✓

Air Quality, Office of
Department of Environmental Protection
Emission Standards for Hazardous Air Pollutants for Source
Categories Pursuant to 40 CFR Part 63, 45CSR34

- Approve ~~as Modified~~

Approved ✓

Air Quality, Office of
Department of Environmental Protection
Control of Annual Nitrogen Oxide Emissions to Mitigate
Interstate Transport of Fine Particulate Matter and
Nitrogen Oxides, 45CSR39

- Approve

Approved ✓
as amended

Secretary's Office
Department of Environmental Protection
Antidegradation Implementation Procedures, 60CSR5

- Approve ~~as modified~~

Approved ✓
as modified
and amended

Ethics Commission, WV
Solicitation and Receipt of Gifts and Charitable
Contributions by Public Employees and Officials, 158CSR7

- Approve as Modified and amended

Approved ✓
as modified

Natural Resources, Division of
Rules for Conditions Upon Which Oil and Gas Operations May
Access State Forests, 58CSR35

- Approve as modified

2. Other Business

JANUARY INTERIM ATTENDANCE

Legislative Interim Meetings

January 6, 7 & 8, 2008

Tuesday, January 8, 2008

3:00 p.m. - 5:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Robert "Bob" Kiss, ex
officio nonvoting member

Senate

House

Minard, Chair
Fanning, Vice Chair
Prezioso
Unger
Boley
Facemyer

✓
✓
✓
✓
✓
✓

Brown, Chair
Miley, Vice Chair
Burdiss
Talbot
Overington
Sobonya

✓
✓
✓
✓
✓
✓

- Minard called meeting to order

- Air 45CSR25

Rita explained & responded to ?s

Brown moved Rule

Motion adopted

- Air 45CSR34

Rita explained

Brown moved Rule ~~at 3:45~~

Motion adopted

- Air 45CSR39

Rita explained & responded to ?s

Brown moved Rule

Motion adopted

- Secretary's office -DEP 60CSR5
Larry Orr, Chairman of WV Council of
Trout Unlimited addressed the Committee
Tom Boggs, WV Chamber of Commerce, addressed
the Committee

Don Grevin, Reg. Coordinator for the WV Environmental Council,
addressed the Committee

Dick Waybright, WV Division of Forestry, addressed
the Committee

Tom Michael, Dir. of Government Affairs for Farm Bureau,
addressed the Committee

Senator Dave Sypolt, addressed the Committee
Karen Watson, Assist. General Counsel for DEP,
addressed the Committee and responded
to questions

Pat Campbell w/ DEP responded to ?'s

Rita explained

Roger Sherman, Forester w/ Mead West Vaco Corp,
addressed the Committee

Brown moved rule

Burdiss moved to amend back to 309

x Talbot offered support of the amendment

~~Amendment adopted~~

Amendment ^{Motion} adopted

Overington, Sobonya, Boley & Facemyer
recorded as voting No

Motion adopted to approve rule

Overington, Sobonya, Boley & Facemyer
recorded as voting No

- Ethics 158 CSR 7

Brian explained & responded to ?/a
Rick Mandelhan, w/ Masters Law Firm addressed
the Committee

John Jasali, w/ Fraternal order of Police
addressed the Committee.

Melissa Garretson, w/ Sheriff's Association
addressed the Committee.

Theresa Kirk, Legal Counsel w/ Ethics Commission
addressed the Committee and responded
to questions

Brown moved rule as modified

Miley moved to amend by... ~~HANDOUT~~

Amendment adopted

Motion adopted

Sobonya & Boley recorded as
voting NO

- Natural Resources 58 CSR 35

Brian explained

Fanning moved rule as modified

Motion adopted

- Brown moved that Counsel be directed
to draft bills...

Motion adopted

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Tuesday, January 8, 2008
3:00 p.m. to 5:00 p.m.
Senate Judiciary Committee Room

1. Review of Legislative Rules:

- a. **Air Quality, Office of
Department of Environmental Protection**
*To Prevent and Control Air Pollution From Hazardous Waste
Treatment, Storage, or Disposal Facilities, 45CSR25*
- ✓ Approve
- b. **Air Quality, Office of
Department of Environmental Protection**
*Emission Standards for Hazardous Air Pollutants for Source
Categories Pursuant to 40 CFR Part 63, 45CSR34*
- ✓ Approve ~~as Modified~~
- c. **Air Quality, Office of
Department of Environmental Protection**
*Control of Annual Nitrogen Oxide Emissions to Mitigate
Interstate Transport of Fine Particulate Matter and
Nitrogen Oxides, 45CSR39*
- ✓ Approve
- d. **Secretary's Office
Department of Environmental Protection**
Antidegradation Implementation Procedures, 60CSR5
- ✓ Approve *as amended*
- e. **Ethics Commission, WV**
*Solicitation and Receipt of Gifts and Charitable
Contributions by Public Employees and Officials, 158CSR7*
- ✓ Approve as Modified *and amended*
- f. **Natural Resources, Division of**
*Rules for Conditions Upon Which Oil and Gas Operations May
Access State Forests, 58CSR35*
- Approve *as modified*

2. Other Business

REGISTRATION OF PUBLIC
AT COMMITTEE MEETINGS

WEST VIRGINIA LEGISLATURE

Committee: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Date: 1/8/08

Please print or write plainly.

NAME	ADDRESS	REPRESENTING	RULE NUMBER	Please mark with an (X) if you desire to make a statement.
Theresa Kirk	210 Brooke St Suite 300 Char WV 25301	Ethics Cm	158 CSR7	Available to answer questions
✓ LARRY ORR	109 HILLCREST AVE ELKVIEW, WV	WV COUNCIL OF TROUT UNLIMITED	60 CSR5	X
✓ RICK MONAHAN	181 JUMMERS ST. CHARLESTON, WV 25301	Council WTA	158 CSR7	X
✓ John Dascoli	181 2442 Kanawha Blvd, East Charleston WV 25311	WV FOP & WDSA	158 CSR7	X
✓ Tom Boopley	1624 Kan Blvd East Charleston WV	WV Chamber of Commerce	60 CSR5	X
✓ Melissa Garretson	2003 Quarrier St. Charleston, WV 25311	WV Sheriffs' Association	158 CSR7	X

REGISTRATION OF PUBLIC
AT COMMITTEE MEETINGS

WEST VIRGINIA LEGISLATURE

Committee: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Date: 1/8/08

Please print or write plainly.

NAME	ADDRESS	REPRESENTING	RULE NUMBER	Please mark with an (X) if you desire to make a statement.
DON GARVIN	PO Box 666 Buckhannon, WV 26201	WV Environmental Council	60 CSR 5	✓
Dick Waybright	P.O. Box 718 Ripley, WV 25271	WV Forestry Assn	60 CSR 5	✓
Don Michael	Rt. 1 Box 21-P Ravenwood, WV 26164	WV Farm Bureau	60 CSR 5	✓
Dave Sybolt	PO Box 5 Kingwood, WV 26537	Self	60 CSR 5	✓

REGISTRATION OF PUBLIC
AT COMMITTEE MEETINGS

WEST VIRGINIA LEGISLATURE

Committee: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Date: 1/8/08

Please print or write plainly.

NAME	ADDRESS	REPRESENTING	RULE NUMBER	Please mark with an (X) if you desire to make a statement.
Julie Archer	1500 DIXIE ST. CHARLESTON, WV 25311	WV Surface Owners' Rights Organization	58CSR35	
GARY ZICKEL	1500 DIXIE ST CHAR 25311	WV Citizen Action	58CSR35 158CSR7 60 CSR5 ALL REST TO DO!	

BELOW IS THE VERSION OF TITLE 158, SERIES 7 FILED WITH THE SECRETARY OF STATE ON JULY 26, 2007 AND CURRENTLY BEING CONSIDERED BY THE LRMRC. ALL INTERESTED LAW ENFORCEMENT GROUPS HAVE REVIEWED THE PROPOSED RULE AND HAVE PREPARED THE FOLLOWING RECOMMENDED AMENDMENTS TO THE PROPOSED RULE AS SET FORTH UNDER SUBSECTIONS 6.8, 6.9, 7.1, 7.2, 7.4, 7.5, 7.6, 8.3, 8.4, 8.5, 8.6, 8.7 AND 8.8 OF THE RULE BELOW.

WE NOTE THAT, BASED ON THE RECOMMENDATIONS OF VARIOUS MEMBERS OF THIS COMMITTEE, WE MET WITH FIRST THE STAFF AND LATER THE FULL ETHICS COMMISSION TO TALK ABOUT 5 PROPOSED POINTS OF COMPROMISE. UNFORTUNATELY, THE ETHICS COMMISSION ONLY AGREED TO 1 OF THE 5 PROPOSALS AND WE THEREFORE BRING OUR DETAILED PROPOSED LANGUAGE TO THE LRMRC FOR CONSIDERATION.

**TITLE 158
LEGISLATIVE RULE
WEST VIRGINIA ETHICS COMMISSION**

**SERIES 7
SOLICITATION AND RECEIPT OF GIFTS
AND CHARITABLE CONTRIBUTIONS BY PUBLIC EMPLOYEES AND OFFICIALS**

§ 158-7-1. General.

1.1. Scope. -- ~~These legislative rules establish~~ This legislative rule establishes the rules governing the solicitation and receipt of ~~the guidelines concerning gifts for~~ by persons covered by the WV Governmental Ethics Act.

1.2. Authority. -- W.Va. Code ' 6B-2-2(a), ' 6B-2-5(b), 6B-2-5(c) and, ' 6B-2-5(o), .

1.3. Filing Date. -- ~~April 29, 1992.~~

1.4. Effective Date. -- ~~June 1, 1992.~~

§ 158-7-2. Honorarium.

2.1. For the purposes of this section, the term "honorarium" means payment given in recognition of published works, appearances, speeches and presentations which is not intended as consideration for the value of such services. These payments are not legally or traditionally required such as in an employment contract.

2.2. The Ethics Commission will use the following guidelines in determining whether the amount of an honorarium is reasonable and permitted under W. Va. Code ' 6B-2-5:

- a. the length of time spent on preparing or researching material for the presentation,
- b. the amount of time for actual presentation,

- c. the distance to be traveled to make the appearance, speech or presentation,
- d. the public official's or public employee's experience, qualifications and educational background, and
- e. the usual and customary fee paid to others for similar work.

2.3. It is unlawful for all elected public officials to accept an honorarium except as set out in subsections 2.4 and 2.5 of this rule. It is unlawful for a full-time elected official to receive an honorarium unless he or she:

- a. Donates it to a recognized charity or the State Treasury; and,
- b. Files a notice with the Ethics Commission identifying the honorarium, the date received and the group to whom it was donated.

2.4. An A part-time elected public official may accept an honorarium if it is given for an appearance, speech or presentation made of a professional nature not related to the official's public position. An example would be a professional such as a Physician, Certified Public Accountant, Pharmacist or Attorney speaking at a conference or seminar in his or her field.

~~2.5. An elected public official may receive an honorarium and donate it to a recognized charity or the State Treasury. Such public official must file notice with the Ethics Commission identifying the honorarium, the date received and the group it was donated to.~~

2.6. 2.5. Any public employee who receives an honorarium shall seek his or her supervisor's approval and take annual leave or leave without compensation from his or her public employment during the time he or she prepares for or makes such presentation, speech or appearance.

2.7. 2.6. A public official or employee may not use public time, facilities, equipment or personnel in the preparation or presentation of a private presentation, speech or appearance.

§ 158-7-3. Receipt of Free Admission, Travel and Lodging expenses to attend an educational-to Seminar/Conference Seminar or Conference.

3.1. A public official or public employee may accept from an interested third party a reduced rate for or free admission to a privately sponsored conference or seminar, and reimbursement for reasonable meals, travel and lodging expenses, if his or her attendance will result in benefit to the governmental agency he or she serves by enhancing his or her job related skills and the performance of his or her public job responsibilities under each of the following:

- a. Attendance by the public official or employee must fulfill an existing agency need by significantly enhancing the attendee's occupational skill or knowledge to provide important information needed by the agency to meet its official mandate;
- b. The seminar or conference must be appropriate for the proposed attendee. A trip is appropriate for the attendee if he or she will use the information or job skill enhancement and is the person most suitable to acquire and transfer the skills or information to other appropriate agency personnel.

c. The site of the proposed trip must be appropriate. A public employee or official may not accept payment for attendance at the seminar or conference and related costs if the same information is readily available locally.

d. The seminar or conference must offer a reasonable return on the time spent. Attendance at the seminar or conference should represent a reasonable investment of the public official or employee's time when weighed against the information acquired or the degree of improvement in job skills or knowledge; and;

e. The benefit to the agency must be significantly greater than the incidental benefit to the traveler.

3.2. An interested third party is any person whom the official employee knows or has reason to know:

(a) Is doing or seeking to do business of any kind with his or her agency;

(b) Is engaged in activities which are regulated or controlled by his or her agency; or,

(c) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

NOTE: THE ABOVE NEW SECTION 3.2 AND ADDITIONAL WORDING IN 3.3 ARE BASED ON A RECOMMENDATION THE ETHICS COMMISSION RECEIVED FROM COUNSEL TO LRMRC. THESE CHANGES ARE ACCEPTABLE TO LAW ENFORCEMENT GROUPS.

3.3. Public employees and appointed public officials shall obtain permission before attending a privately sponsored conference or seminar for which an interested third party pays, in whole or part, their attendance fees, travel or lodging expenses. Permission to attend the seminar or conference and reimbursement for costs must be obtained in the following manner:

a. A public employee must obtain permission to attend the seminar or conference from the head of his or her agency.

b. An appointed public official must obtain permission from the governing body on which he or she serves or the public official to whom he or she reports.

3.4. Food and lodging expenses are "reasonable" if the expenses are limited to the usual and customary basic charges of the hotel and are comparable to those charged to other participants and hotel guests. Travel expenses are "reasonable" if the expenses are comparable to those ordinarily charged to other similar travelers.

3.5. A public official or public employee may not accept payment or reimbursement for other expenses such as golf fees, carriage rides or health club fees if the total value of the fees exceeds twenty-five dollars (\$25.00) unless these amenities are normally part of the standard hotel room charge and incidental to the use of the hotel room..

3.6. A public official or public employee may not accept payment from an interested third party for food, lodging or travel expenses for a guest; Provided, That, a public official or public employee may take a guest to a privately sponsored seminar if no additional costs are incurred by the third party payer for the guest's travel, lodging or attendance at the seminar.

§ 158-7-4. Nominal Gifts.

4.1. For the purposes of this section "nominal" gift means a gift with a monetary value of twenty-five dollars (\$25) or less. For purposes of the Ethics Act, W.Va. Code § 6B-2-5(c)(2)(B), a nominal gift is any gift with a monetary value of twenty-five dollars (\$25.00) or less. Some examples of nominal gifts include a T-shirt, hat, key chain, pen, pencil or any memento of that caliber. A public official or employee may accept from an interested party a nominal gift or gifts not exceeding twenty-five (\$25.00); Provided, That, the total dollar value of any nominal gift or gifts accepted from any one source may not exceed twenty-five (\$25.00) in one calendar year.

4.2. Certain hotel benefits are considered part and parcel of the room package and are not considered a "gift" to a public official or public employee. These are nominal benefits purchased with and incidental to the use of the hotel room.

§ 158-7-5. Reasonable Expenses for Panelist or Speaker.

5.1. A public official or public employee may accept payment or reimbursement for reasonable expenses for him or herself and for one guest for food, travel and lodging incurred in attending a meeting at which he or she participates as a panel member or speaker, but ~~it would be improper to~~ may not accept payment or reimbursement for other expenses such as golf fees, carriage rides or health club fees ~~unless such expenses are offered to all of the panelists or speakers unless these amenities are normally part of the standard hotel room charge and incidental to the use of the room.~~

5.2. ~~The Ethics Commission will consider expenses for food and lodging "reasonable" if the expenses are limited to the usual and customary basic charges of the hotel and are comparable to those charged other participants and hotel guests. The Ethics Commission will consider expenses for travel "reasonable", if the expenses are comparable to those ordinarily charged other similar travelers. Food and lodging expenses are "reasonable" if the expenses are limited to the usual and customary basic charges of the hotel and are comparable to those charged to other participants and hotel guests. Travel expenses are "reasonable" if the expenses are comparable to those ordinarily charged to other similar travelers.~~

§ 158-7-6. Solicitation of Gifts for Charity.

6.1. Public officials and public employees may solicit gifts for a charitable purpose when there is no resulting direct pecuniary benefit to the public official or public employee or an immediate family member.

6.2. The Ethics Commission may recognize programs or activities as involving a charitable purpose on a case-by-case basis.

~~6.3.~~ 6.3. It is improper for a public official or public employee to solicit any gift or donation, (including those for a charitable purpose), from a subordinate employee.

6.4. In soliciting a gift for charity in either their personal or official capacities, public officials and employees may use their titles; Provided, That law enforcement officers are subject to the limitations in section 8.

6.5. A reasonable amount of public resources may be used for a charitable solicitation or fund raising drive that is conducted in furtherance of the West Virginia State Employees' Coordinated Campaign or a fund raising campaign officially approved by either the executive, legislative or judicial branch of State Government or the governing body of any political subdivision.

6.6. State government agencies and the governing body of political subdivisions may provide a voluntary payroll deduction program to those employees who elect to contribute to the West Virginia State Employees Coordinated Campaign through payroll deduction.

6.7. State government agencies and the governing bodies of political subdivisions may solicit funds to support or underwrite agency programs which are statutorily created or authorized and are intended to help the poor and disadvantaged. If a state government agency or governing body of a political subdivision seeks to solicit funds for use by the agency for any other purpose, then the state government agency or governing body of a political subdivision must first seek permission from the Executive Director of the West Virginia Ethics Commission or the Ethics Commission through issuance of a formal advisory opinion. The Executive Director or Ethics Commission may only authorize such a solicitation if it serves a public purpose. This provision does not apply to the solicitation of donations by a member of the Legislature or a member of the Board of Public Works who is soliciting funds for a regional or national organization conference or other function in accordance with W.Va Code § 6B-2-5(c)(6) and § 6B-2-5(c)(7).

6.8. An association of public officials or employees is bound by the same ethical standards that apply to its constituent members

PROPOSED CHANGES TO 158-7-6

Delete subsection 6.8 entirely.

6.9. Fund-raising activities based on an exchange of value, such as car washes or the sale of baked goods, are not gift solicitations and are permissible.

Reword current subsection 6.9 to state “Fund-raising activities based on an exchange of value are not gift solicitations and are permissible.” The Ethics Commission has agreed to this minor change.

6.10 Raising funds for public employees seriously injured or killed while in the line of duty, and their affected family members, constitutes a charitable activity for purposes of the Ethics Act.

§ 158-7-7. Manner of Solicitation and Use of Funds.

7.1. Public officials, public employees and agencies who regulate individuals or businesses may not orally solicit donations from:

- a. Persons under the regulatory control of the agency. A person is under the regulatory control of the public official, employee or agency if the person has a matter pending before the agency or had a matter pending within the past 12 months;

PROPOSED CHANGES TO 158-7-7

Add to end of 7.1a the following sentence: “This subsection does not apply to purely law enforcement agencies, officials or employees who do not actually regulate or exercise regulatory control over other persons but merely enforce existing laws and regulations.”

- b. A vendor which has a contract with the agency or is bidding on a contract or is in the process of soliciting business from the agency.

7.2. A written solicitation to the public or business community at large, even if the targeted group may encompass regulated persons or vendors, is permissible; Provided, that, the written solicitation may not be directed solely to persons under the regulatory authority of, or vendors, of the public official, employee or agency.

Add to end of 7.2 the following sentence: "This subsection does not apply to purely law enforcement agencies, officials or employees who do not actually regulate or exercise regulatory control over other persons but merely enforce existing laws and regulations as to all applicable persons."

7.3. Solicitations should be conducted, and acknowledgments made, in a fair and evenhanded manner. Each solicitation should contain a statement setting forth that donations are purely voluntary

7.4 Under no circumstances should anyone soliciting a contribution for a charitable purpose state or infer that contributors will receive some special treatment from a government agency or its employees, or any other sort of quid pro quo as a consequence of making a donation.

Delete the words "or infer" in subsection 7.4.

7.5. If public officials or employees solicit donations, or lend their name to a fund-raising activity, the donations or proceeds may not be used:

a.. For the direct benefit of the public officials, employees or their immediate families, including college scholarship funds; Provided, That, revenues generated may be used for charitable purposes from which the public officials, employees or their families benefit no more than the public at large.

b. To finance the operation of an association of public officials or employees through the payment of expenses for salaries for its officers, office space, and other related expenses.

c. To pay for lobbying expenses, including fees for professional lobbyists, to lobby for a pay increase or increased health or pension benefits for the public officials or employees; Provided, That, these expenditures may be paid with monies derived from dues or funds which have not been solicited from citizens or businesses.

Delete subsection 7.5 entirely.

7.6. Any association of public officials who solicits donations must keep a separate accounting of monies raised through charitable solicitation and the purposes for which the monies are used.

Delete subsection 7.6 entirely.

§ 158-7-8. Solicitation of gifts for charities by law enforcement officers.

PROPOSED CHANGES TO 158-7-8

The law enforcement groups request that this section be deleted entirely. However, in the spirit of compromise we request that the changes below be made to certain subsections of 158-7-8.

8.1. The Ethics Commission finds that the interest of the public are served by having stricter limitations which govern solicitations by law enforcement officers due to the unique nature of the authority which law enforcement officers exercise over the public, including arrest powers.

8.2. Law-enforcement officer" means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests and enforce the laws of the state or any county or municipality thereof.

8.3. Law enforcement officers may not solicit for charity while in uniform, but may show identification upon request.

Reword subsection 8.3 as follows: "Law enforcement officers may not solicit for charity while in uniform except as otherwise provided for in these rules, but may show identification upon request.

8.4. Public officials, employees or members of an association of law enforcement officers may solicit donations for charity while out of uniform and when they are off duty.

Delete the words "or members of an association of law enforcement officers" in subsection 8.4.

8.5. Law enforcement officers or associations composed of law enforcement officers may not provide signs, stickers, decals or other items of display by individual donors showing whether or not a donation has been made on account of any charitable contribution solicited on behalf of law enforcement officers or their association; Provided, That, certificates, plaques or other items of display which are not intended for display on motor vehicles may be distributed to donors; Provided, Further That, an association may provide to its members who are currently serving as law enforcement officers, or who previously served as law enforcement officers, a sign, sticker, decal or other item of display, including those items intended for display in a motor vehicle, which demonstrate that a present or former law enforcement officer is a member of an association or fraternal group composed primarily of law enforcement officers.

Reword subsection 8.5 in its entirety as follows: "Law enforcement officers or associations composed of law enforcement officers may not provide signs, stickers, decals or other items of display by individual donors showing whether or not a donation has been made on account of any charitable contribution solicited on behalf of law enforcement officers or their association, unless such signs, stickers, decals or other items of display contain the following disclaimer: "The holder of this item is not entitled to any special treatment."; Provided, That, certificates, plaques or other items of display which are not intended for display on motor vehicles may be distributed to donors; Provided, Further That, an association may provide to its members who are currently serving as law enforcement officers, or who previously served as law enforcement officers, a sign, sticker, decal or other item of display, including those items intended for display in a motor vehicle, which demonstrate that a present or former law enforcement officer is a member of an association or fraternal group primarily composed of law enforcement officers, without the inclusion of any such disclaimer."

8.6. Law enforcement officers or associations composed of law enforcement officers may conduct telephonic or oral solicitations in their official capacity; Provided, That, when

conducting a telephonic solicitation, law enforcement officers may not identify themselves by rank or title or otherwise reference their rank or title during the conversation unless specifically requested by the person with whom they are having a conversation.

The above revised subsection 8.6 was made by the Ethics Commission after our meeting with them. However, we note that this was the only concession the Commission made out of the 5 compromise proposals from law enforcement groups.

8.7. Law enforcement officers may not pick up a donation while in uniform.

Reword subsection 8.7 to state: "Law enforcement officers may not pick up a donation while in uniform except as otherwise provided for in these rules.

8.8. Law enforcement officers may wear their uniforms while participating in fund-raising activities based on an exchange of value such as a sale of baked goods or a car wash. Further, they may wear their uniforms while participating in a fund-raising event such as a motorcycle ride, walk or other activities where the public, for a fee or donation, is invited to join a law enforcement officer as part of a fund-raising activity for charity.

Delete the words "such as a sale of baked goods or a car wash" from subsection 8.8. The Ethics Commission has agreed to this minor change.

8.9. Law enforcement officers may deliver proceeds raised for charity to the intended recipient while in uniform and while on duty.

~~158-7-7.~~ § 158-7-9. Free Tickets.

~~9.1. The provisions of W. Va. Code § 6B-2-5 which state that a public official or public employee may accept free tickets or admission to those charitable, cultural or political events for which free tickets or admission are customarily extended as a courtesy of the office he or she holds do not apply to sports events: Provided, That public officials and public employees may accept complimentary tickets to sporting events, if the tickets are incidental to the conduct of their official or ceremonial duties. A public official or public employee may accept free tickets or admission to those charitable, cultural or political events for which free tickets or admission are customarily extended as a courtesy to the office he or she holds; Provided, That, the tickets are given by a sponsor of the event, not a third party who has purchased tickets from an event sponsor. The \$25.00 monetary limitation does not apply to tickets accepted for these events.~~

~~9.2. A public official or employee may accept a ticket for him or herself and a ticket for one guest to a charitable, cultural or political event to which is otherwise permissible under this section and the Ethics Act the public official is otherwise permitted to accept a ticket in accordance with this section.~~

~~9.3. A public official or public employee may not accept a ticket, do not apply to any sporting events, when the value of the ticket exceeds \$25.00 unless the public official or employee has an official or ceremonial duty to perform at the sporting event. the tickets are incidental to the conduct of their official or ceremonial duties. A ceremonial duty is any duty performed before members of the public who~~

are attending the sporting event. If the public official does not have a ceremonial duty, then the value of a ticket or tickets received from an interested party for a sporting event may not exceed \$25.00 in one calendar year.

9.4. A public official or employee may accept an additional ticket for a guest to a sporting event if he or she has a ceremonial role. If the public employee or official does not have a ceremonial role, then he or she may accept a free ticket for him or herself and one guest only if the combined value of both tickets does not exceed \$25.00.

60 CSR 5

In correction to parties, such as logging operators, that contend Tier 2.5 designation of streams equates to "taking [of] private property rights away from the landowner", we would like to reassert the following requirement for nonpoint sources under the antidegradation rule:

60-1-1.5.b. Nonpoint source activities will be deemed to be in compliance with antidegradation requirements with the installation and maintenance of cost-effective and reasonable best management practices in accordance with 46 CSR 1-4.1.b. 47 CSR 2- 4.1.b. herein. These include, but are not limited to, best management practice programs for silviculture administered by the Division of Forestry, programs for oil and gas operations administered by the Office of Oil and Gas of the Department of Environmental Protection, nonpoint source construction activities, and reasonable land, soil and water conservation measures and practices applied to agricultural nonpoint sources.

The rules are already in effect through legislation such as the 1992 WV Logging Sediment Act and Best Management Practices for agriculture. Tier 2.5 designation of a stream does not change any of these requirements and the argument that listing a stream as Tier 2.5 will result in "taking private property rights away from the landowner" is not valid.

The West Virginia Council of Trout Unlimited (WVCTU) does not support "taking property rights", nor does the proposed legislation impose suggested "takings". Tier 2.5 is about setting NPDES permit limits. As such, nonpoint sources are exempted by meeting requirements that are already in effect. The proposed legislation provides antidegradation protection for some of the "special waters of WV" and this is needed for the health and economy of our state.

WVCTU supports the listing of 309 streams under Tier 2.5 as submitted to the 2007 legislative session. The reduction to 157 streams in the 2008 proposed rule is not acceptable and further reduction to 38 as suggested by some in industry would make the legislation meaningless.

Larry Orr
Chairman, WVCTU
104 Hillcrest Ave.
Elkview, WV 25071
304 965 7185
edhorse@subdorkinb.net

WVAB ID	Stream Name	WV CODE
1	Cub Branch	WVBST-60-D
2	ELKHORN CREEK	WVBST-99
3	EWIN RUN	WVJ-1-A
4	North Fork/Potts Creek	WVJ-1-D
5	Little Sixteenmile Creek	WVK-13
6	Unt of Fivefork Branch	WVK-14-B-1
7	Bays Fork	WVK-39-E-3
8	Hoffman Hollow	WVK-39-M-1-A
9	Shrewsbury Hollow	WVK-39-O
10	Loop Creek	WVK-76
11	Elk River	WVKE
12	Sugar Creek	WVKE-111-K
13	Little Sugar Creek	WVKE-111-K-2
14	Valley Fork	WVKE-129
15	Dry Fork	WVKE-133
16	Big Run	WVKE-135
17	Props Run	WVKE-136
18	Laurel Run/Elk River	WVKE-137
19	SLATY FORK	WVKE-139-0.5A
20	Crooked Fork	WVKE-139-B
21	Desert Fork	WVKE-98-B-16
22	Left Fork Holly River	WVKE-98-C
23	Laurel Patch Run	WVKE-98-C-1
24	Laurel Fork/Left Fork Holly	WVKE-98-C-11
25	Fall Run	WVKE-98-C-14
26	Anglins Creek	WVKG-19-G
27	Brown Creek	WVKG-19-U-1
28	Old Field Branch	WVKG-19-U-2-C
29	Job Knob Branch	WVKG-19-U-2-D
30	Kuhn Branch	WVKG-19-V-7
31	Collison Creek	WVKG-20
32	Brushy Meadow Creek	WVKG-24-E-2
33	Price Fork	WVKG-24-H.8
34	Cranes Nest Run	WVKG-32-J
35	Coal Siding Run	WVKG-34-B
36	Laurel Creek/Cherry River	WVKG-34-E
37	Middle Branch	WVKG-34-E-11
38	Cold Spring Branch	WVKG-34-E-13
39	Beech Run	WVKG-34-E-8
40	Hogcamp Run	WVKG-34-E-9
41	Little Laurel Creek	WVKG-34-F
42	South Fork Cherry River	WVKG-34-G
43	Cold Knob Fork	WVKG-34-G-10
44	Big Run	WVKG-34-G-13
45	Ellick Run	WVKG-34-G-5
46	Rocky Run	WVKG-34-G-6
47	Becky Run	WVKG-34-G-8
48	North Fork /Cherry River	WVKG-34-H
49	Bear Run	WVKG-34-H-14
50	Hunters Run	WVKG-34-H-4
51	Coats Run	WVKG-34-H-5
52	Armstrong Run	WVKG-34-H-9
53	Big Laurel Creek	WVKG-45

MAP ID	Stream Name	WV CODE
107	Tacker Fork	WVKNG-68-A-4
108	Black Run	WVKNG-68-A-5
109	Eileber Run	WVKNG-68-A-6
110	Griffin Run	WVKNG-68-A-6-A
111	Leatherbark Run	WVKNG-70
112	Trout Run	WVKNG-74
113	East Fork Greenbrier River	WVKNG-78
114	Little River / East Fork Greenbrier	WVKNG-78-C
115	Fivemile Hollow	WVKNG-78-G
116	Poca Run	WVKNG-78-H
117	Long Run	WVKNG-78-H-1
118	Mullenax Run	WVKNG-78-K
119	Abes Run	WVKNG-78-L
120	West Fork Greenbrier River	WVKNG-79
121	Fill Run	WVKNG-79-B
122	Little River	WVKNG-79-C
123	Span Oak Run	WVKNG-79-C-1
124	Clubhouse Run	WVKNG-79-C-2
125	Hinkle Run	WVKNG-79-C-3
126	Getout Run	WVLK-131
127	Mill Run	WVMC-12-B-6
128	Roaring Creek	WVMC-18
129	Eisey Run	WVMC-20
130	Damell Hollow	WVMC-2-A
131	Flag Run	WVMC-33-A
132	Wolf Creek	WVMC-36
133	Long Run	WVMC-41
134	Tobes Run	WVMC-45
135	Right Fork Bull Run	WVMC-46-B
136	Right Fork Clover Run	WVMC-51-A
137	Left Fork Clover Run	WVMC-51-B
138	Indian Run	WVMC-51-B-5
139	Miner Run	WVMC-52
140	Bridge Run	WVMC-52-0.7A
141	Horseshoe Run	WVMC-54
142	Mike Run	WVMC-54-A
143	Maxwell Run	WVMC-54-C
144	Hyle Run	WVMC-54-D
145	Lick Drain	WVMC-54-E
146	Lynn Run	WVMC-54-G
147	Thunderstruck Run	WVMC-54-H
148	Leadmine Run	WVMC-54-I
149	Twelvemile Run	WVMC-54-K
150	Dry Run	WVMC-55
151	Mill Run	WVMC-56
152	Wolf Run	WVMC-57
153	Blackwater River	WVMC-60-D
154	Red Run	WVMC-60-G
155	Three Spring Run	WVMC-60-K-1
156	McCray Creek	WVMC-60-K-11
157	Daniels Creek	WVMC-60-K-14
158	West Fork Gladly Fork	WVMC-60-K-16
159	East Fork Gladly Fork	WVMC-60-K-17

WV PID	Stream Name	WV CODE
213	Riffle Creek	WVMT-66
214	McGee Run	WVMT-66-B
215	Back Fork	WVMT-66-C
216	Rafe Run	WVMT-67
217	Becky Creek	WVMT-68
218	Big Branch	WVMT-68-A
219	Hamilton Run	WVMT-72
220	Clay Run	WVMT-73
221	Elkwater Fork	WVMT-74
222	Mowry Run	WVMT-74-A
223	Limekiln Run	WVMT-74-B
224	Stewart Run	WVMT-75
225	Conley Run	WVMT-77
226	Ralston Run	WVMT-78
227	Windy Run	WVMT-79
228	Logan Run	WVMT-80
229	Big Run	WVMT-81
230	Big Run	WVMTB-28
231	Right Fork Buckhannon River	WVMTB-31
232	Reger Run	WVMTB-31-B
233	Alec Run	WVMTB-31-C
234	Millsite Run	WVMTB-31-D
235	Middle Fork River	WVMTM
236	Jackson Fork	WVMTM-11-D
237	Cassity Fork	WVMTM-16
238	Panther Run	WVMTM-16-A
239	Pleasant Run	WVMTM-21
240	Laurel Run	WVMTM-22
241	Laurel Branch	WVMTM-23
242	Sugar Run	WVMTM-24
243	Schoolcraft Run	WVMTM-25
244	Birch Fork	WVMTM-26
245	Mitchell Lick Fork	WVMTM-27
246	Whiteoak Run	WVO-102-A
247	Stowers Branch	WVO-2-H-2-A
248	Arkansas Branch	WVO-2-P-23
249	Sweetwater Branch	WVO-2-P-25
250	Long Branch	WVO-2-P-26
251	Spruce Fork	WVO-2-P-27
252	Rich Creek	WVO-2-Q-14
253	Bluelick Branch	WVO-2-Q-16
254	Brickle Branch	WVOG-102
255	Horseshoe Branch	WVOG-29-C
256	Laurel Creek	WVOG-38-D
257	Buffalo Creek	WVOG-61
258	Sturgeon Branch	WVOG-86-A
259	Left Fork Mill Creek	WVOGM-8-B
260	South Fork Indian Run	WVPC-9-G-2
261	Conner Hollow	WVPC-0.9
262	Constant Run	WVPC-1
263	Edwards Run	WVPC-10
264	Hawk Run	WVPC-17
265	Trout Run	WVPC-23

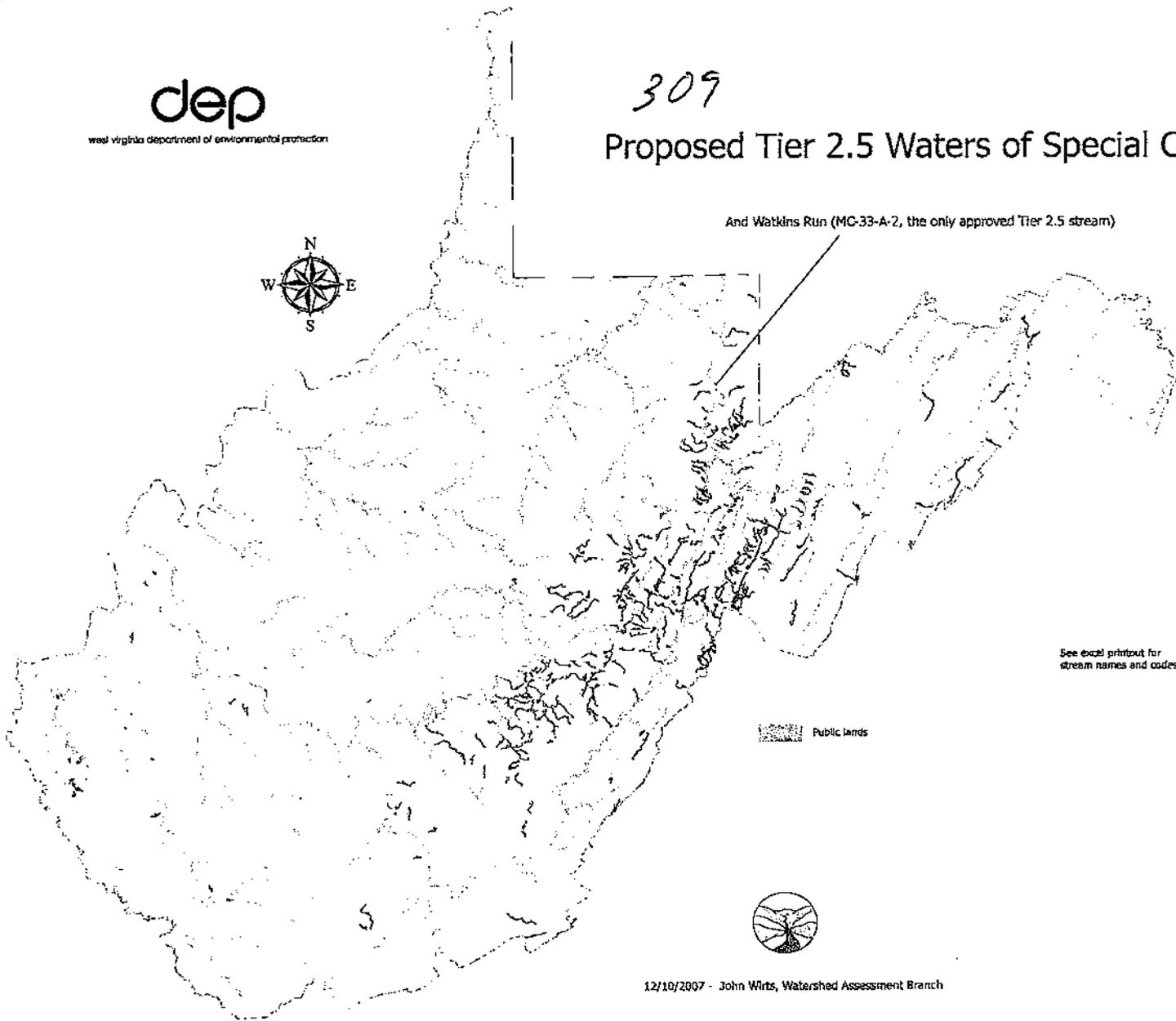
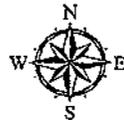


west virginia department of environmental protection

309

Proposed Tier 2.5 Waters of Special Concern

And Watkins Run (MC-33-A-2, the only approved Tier 2.5 stream)



See excel printout for stream names and codes

Public lands

