

OCTOBER 21

11:00 AM - 1 PM

Tuesday, October 21, 2003

2 p.m. to 3 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

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

Joseph Altizer, Associate Counsel, explained the rule proposed by the *Environmental Quality Board-Requirements Governing Water Quality Standards, 46CSR1*. He; Ann Bradley, representing Wier-ton Steel; Libby Chatfield, Technical Advisor for the Board; and David Yaussy, representing the West Virginia Oil and Natural Gas Association; responded to questions from the Committee.

Mr. Snyder directed staff to draft a synopsis of the issues in contention.

Mr. Minard moved that the proposed rule lay over until the Committee's November meeting. The motion was adopted.

The meeting was adjourned.

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Tuesday, October 21, 2003
11 a.m. to 1 p.m.
Senate Finance Committee Room, M-451

1. **Approval of Minutes - August 4, 2003**
2. **Review of Legislative Rules:**
 - a. **Consolidated Public Retirement Board**
General Provisions, 162CSR1
 - b. **Consolidated Public Retirement Board**
Benefit Determination and Appeal, 162CSR2
 - c. **Consolidated Public Retirement Board**
Teacher's Defined Benefit Plan, 162CSR4
 - d. **Consolidated Public Retirement Board**
West Virginia State Police Disability Determination and Appeal Process, 162CSR9
 - e. **Department of Agriculture**
Frozen Desserts and Imitation Frozen Desserts, 61CSR4B
 - f. **Department of Agriculture**
Dairy Products and Imitation Dairy Products, 61CSR4C
 - g. **Department of Agriculture**
West Virginia Seed Law, 61CSR9
 - h. **State Auditor's Office**
Transaction Fee and Rate Structure, 155CSR4
 - i. **State Auditor's Office**
State Purchasing Card Program, 155CSR7
 - j. **West Virginia Manufactured Housing Construction Safety Standards Board**
West Virginia Manufactured Housing Construction Safety Standards Act, 42CSR19

- k. **Division of Highways**
Transportation of Hazardous Wastes Upon the Roads and Highways, 157CSR7
 - l. **State Board of Landscape Architects**
Rule of the Board, 9CSR1
 - m. **Board of Examiners of Land Surveyors**
Rules and Minimum Standards for the Practice of Land Surveying in West Virginia, 23CSR1
 - n. **Board of Examiners of Land Surveyors**
Mandatory Continuing Education for Land Surveyors, 23CSR2
 - o. **Division of Air Quality**
Nox Budget Trading Program as a Means of Control and Reduction of Nitrogen Oxides from Non-Electric Generating Units, 45CSR1
 - p. **Division of Air Quality**
Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR part 61, 45CSR15
 - q. **Division of Air Quality**
Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60, 45CSR16
 - r. **Division of Air Quality**
To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage or Disposal Facilities, 45CSR25
 - s. **Division of Air Quality**
Emission Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63, 45CSR34
 - t. **Division of Air Quality**
Requirements for Determining Conformity of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, to Applicable Air Quality Implementation Plans (Transportation Conformity), 45CSR36
3. **Other Business**
- a. **Regulatory Review Process Design Team**

Tuesday, October 21, 2003

11 a.m. to 1 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

Mahan, Chairman
Thompson, Vice Chairman
Cann
Kominar
Armstead
Faircloth

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

The minutes of the August 4, 2003, meeting were approved.

Joseph Altizer, Associate Counsel, explained the rule proposed by the *Division of Air Quality-NOx Budget Trading Program as a Means of Control and Reduction of Nitrogen Oxides from Non-Electric Generating Units, 45CSR1*.

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

Mr. Altizer reviewed his abstract on the rule proposed by the *Division of Air Quality-Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR Part 61, 45CSR15*.

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

Mr. Altizer explained the rule proposed by the *Division of Air Quality-Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60, 45CSR16*.

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

Mr. Altizer reviewed his abstract on the rule proposed by the *Division of Air Quality-To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage or Disposal Facilities, 45CSR25.*

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

Mr. Altizer explained the rule proposed by the *Division of Air Quality-Emission Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63, 45CSR34,* and responded to questions.

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

Mr. Altizer reviewed his abstract on the rule proposed by the *Division of Air Quality-Requirements for Determining Conformity of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, to Applicable Air Quality Implementation Plans (Transportation Conformity), 45CSR36,* and responded to questions.

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

Debra Graham, Committee Counsel, explained the rule proposed by the *Consolidated Public Retirement Board-General Provisions, 162CSR1,* and stated that the Board has agreed to technical modifications. She and Joseph Jankowski, Director of the Board, responded to questions from the Board.

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 *Consolidated Public Retirement Board-Benefit Determination and Appeal, 162CSR2,* and stated that the Board has agreed to technical modifications. She and Mr. Jankowski responded to questions from the Committee.

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

Ms. Graham explained the rule proposed by the *Consolidated Public Retirement Board-Teacher's Defined Benefit Plan, 162CSR4*, and stated that the Board has agreed to technical modifications.

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 *Consolidated Public Retirement Board-West Virginia State Police Disability Determination and Appeal Process, 162CSR9*, and stated that the Board has agreed to technical modifications. She and Mr. Jankowski responded to questions.

Ms. Boley moved to modify the proposed rule by adding language that would require the Board to give notice to members of their responsibility of paying for missed appointments. The motion was adopted.

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

Ms. Graham explained the rule proposed by the *Department of Agriculture-West Virginia Seed Law, 61CSR9*. Steve Hannah, Deputy Commissioner of the Department, and Herma Johnson, Director of the Regulatory Division, responded to questions from the Committee.

Mr. Unger moved that the proposed rule lay over until the Committee's November meeting. The motion was adopted.

Ms. Graham reviewed her abstract on the rule proposed by the *Office of the State Auditor-Transaction Fee and Rate Structure, 155CSR4*, and responded to questions.

Mr. Cann moved that the proposed rule lay over until the Committee's November meeting. The motion was adopted.

Ms. Graham explained the rule proposed by the *Office of the State Auditor-State Purchasing Card Program, 155CSR7*, and stated that the Auditor has agreed to technical modifications.

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 *West Virginia Manufactured Housing Construction Safety Standards Board-West Virginia Manufactured Housing Construction Safety Standards Act, 42CSR19*, and stated that the Board has agreed to technical modifications. Tim Manchin, attorney and member of the Board, and Debra Phillips, member of the State Manufactured Housing Association, responded to questions from the Committee.

Ms. Mahan moved that the proposed rule lay over until the Committee's November meeting. The motion was adopted.

Connie Bowling, Associate Counsel, explained the rule proposed by the *Division of Highways-Transportation of Hazardous Wastes Upon the Roads and Highways, 15CSR7*.

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

Ms. Bowling reviewed her abstract on the rule proposed by the *State Board of Landscape Architects-Rule of the Board, 9CSR1*, and stated that the Board has agreed to technical modifications. She and Roger Kennedy, member of the Board, responded to questions from the Committee.

Ms. Mahan moved that the proposed rule lay over until the Committee's November meeting. The motion was adopted.

Daniel Kimble, Associate Counsel, explained the rule proposed by the *Board of Examiners of Land Surveyors-Rules and Minimum Standards for the Practice of Land Surveying in West Virginia, 23CSR1*, and responded to questions.

Mr. Snyder moved that the proposed rule lay over until the Committee's November meeting. The motion was adopted.

Mr. Kimble reviewed his abstract on the rule proposed by the *Board of Examiners of Land Surveyors-Mandatory Continuing Education for Land Surveyors, 23CSR2*.

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

The meeting was adjourned.

OCTOBER INTERIM ATTENDANCE
Legislative Interim Meetings
October 19, 20 and 21, 2003

Tuesday, October 21, 2003

11:00 - 1:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Robert S. Kiss, ex
officio nonvoting member

Senate

Ross, Chair
Minard, Vice Chair
Snyder
Unger
Boley
Minear

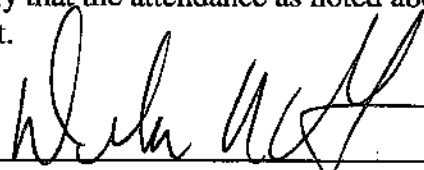
✓
✓
✓
✓
✓

House

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

✓
✓
✓
✓
✓

I certify that the attendance as noted above is correct.



Staff Person

Rule-Making Review Committee
Terri Anderson

Please return to Brenda in Room 132-E or Fax to 347-4819.

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Tuesday, October 21, 2003
11 a.m. to 1 p.m.
Senate Finance Committee Room, M-451

1. Approval of Minutes - August 4, 2003

2. Review of Legislative Rules:

*Approved
as mod*

a. Consolidated Public Retirement Board
General Provisions, 162CSR1

- Technical Modifications

*Approved
mod*

b. Consolidated Public Retirement Board
Benefit Determination and Appeal, 162CSR2

- Technical Modifications

*Approved
as mod*

c. Consolidated Public Retirement Board
Teacher's Defined Benefit Plan, 162CSR4

- Technical Modifications

*Approved
as mod*

d. Consolidated Public Retirement Board
West Virginia State Police Disability Determination and
Appeal Process, 162CSR9

- Technical Modifications

*Didn't
take up*

e. Department of Agriculture
Frozen Desserts and Imitation Frozen Desserts, 61CSR4B

- Technical Modifications

*Didn't
take up*

f. Department of Agriculture
Dairy Products and Imitation Dairy Products, 61CSR4C

- Technical Modifications

Laid over

Department of Agriculture
West Virginia Seed Law, 61CSR9

- NO Technical Modifications

Laid over

State Auditor's Office
Transaction Fee and Rate Structure, 155CSR4

- NO Technical Modifications

Approved as mod

State Auditor's Office
State Purchasing Card Program, 155CSR7

- Technical Modifications

Laid over

West Virginia Manufactured Housing Construction Safety Standards Board
West Virginia Manufactured Housing Construction Safety Standards Act, 42CSR19

- Technical Modifications

Approved

Division of Highways
Transportation of Hazardous Wastes Upon the Roads and Highways, 157CSR7

- NO Technical Modifications

Laid over

State Board of Landscape Architects
Rule of the Board, 9CSR1

- Technical Modifications

Laid over

Board of Examiners of Land Surveyors
Rules and Minimum Standards for the Practice of Land Surveying in West Virginia, 23CSR1

- NO Technical Modifications

Approved

Board of Examiners of Land Surveyors
Mandatory Continuing Education for Land Surveyors, 23CSR2

- NO Technical Modifications

Approved

Division of Air Quality

Nox Budget Trading Program as a Means of Control and Reduction of Nitrogen Oxides from Non-Electric Generating Units, 45CSR1

- NO Technical Modifications

Approved

Division of Air Quality

Emission Standards for Hazardous Air Pollutants Pursuant to 40 CFR part 61, 45CSR15

- NO Technical Modifications

Approved

Division of Air Quality

Standards of Performance for New Stationary Sources Pursuant to 40 CFR Part 60, 45CSR16

- NO Technical Modifications

Approved

Division of Air Quality

To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage or Disposal Facilities, 45CSR25

- NO Technical Modifications

Approved

Division of Air Quality

Emission Standards for Hazardous Air Pollutants for Source Categories Pursuant to 40 CFR Part 63, 45CSR34

- NO Technical Modifications

Approved

Division of Air Quality

Requirements for Determining Conformity of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, to Applicable Air Quality Implementation Plans (Transportation Conformity), 45CSR36

- NO Technical Modifications

3. Other Business

- a. Regulatory Review Process Design Team

Tuesday, October 21, 2003

11:00 - 1:00 p.m.

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex
officio nonvoting member

Robert S. Kiss, ex
officio nonvoting member

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

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

minutes approved

DOA - NOx Budget Training Program

Joe explained

Moved rule (approve)

Mahan adopted

DOA - Emission stds

Joe explained

Moved rule (approve)

Mahan adopted

DOA - stds of Ref

Joe explained

Approve

Mahan adopted

DOA - To Prevent E Control

Joe explained

Approve

Mahan

●
Mahan & dupked
DOA - Emission
Joe explained
Approve

Mirand
adopted
DOA - Reqs for Determining Conform
Joe explained
Approve

Mahan
● dupked
CPRB
I explained director Joseph Jankowski
Joe Jankowski responded to questions
Approve as read

Mahan
& dupked
CPRB - Benefit Determination
Approve as read

Mahan
& dupked
CPRB - Teachers
Approve as read

Mirand
Boley
adopted
CPRB - State Pol.
Mod wants notice to members of possibility of paying for missed appts

Agriculture - Seed Law

I explained

Steve Hannah

Herma Johnson - responded to questions

Auditor - Fee

Cann

Lay over

Auditor - State Purchasing

Mahan

Approve as mod

Manufactured Housing

Mahan

Lay over

Tuesday, October 21, 2003

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Minard, Vice Chair

Snyder

Unger

Boley

Miner

House

Mahan, Chair

Thompson, Rick, Vice Chair

Cann

Kominar

Armstead

Faircloth

Ross - call to order
minutes approved

Am: 45CSR1

of Kipland - responded to
Mahan - w/o modifications

Am: 45CSR15

of Kipland -
Mahan - w/o modifications

Am: 45CSR16

of Kipland -
Mahan - w/o modifications

Qui 45CSR25
d plans -
Mahan - w/o mods

Qui 45CSR34
d plans - respnd lgs
Mahan - w/o mods

Qui 45CSR36
d plans -
Minard - w/o mods

CPRB 162CSR1
d plans - respndd lgs - mods - agreed
respndd lgs
Mahan - w/ mods

CPRB 162CSR2
d plans - mods - agrees - respndd lgs
(from above) respndd lgs
Comm B. respndd lgs
Mahan - w/ mods

CPRB 162CSR4

dag replans to rul - mods agreed -

Mahan - w/ mods

CPRB 162CSR9

dag replans to rul - Mods agreed -
rspond 1 gr

~~rspond 1 gr~~
Munard - w/ mods

Boley modify to rul by - notefcas

Mahan - w/ mod

Agriculture 66 CSR ~~4~~ 9

dag replans rul

Steve Hannah - deputy comm -

Therma Johnson - Dir - regulatory do -
rspond 1 gr

Ungr - rul la 0

Auditor 153CSR4
Carr - rule la O

Auditor - 153CSR7
day plans - mode-agreed.

Makar - w/mads

Housing 42CSR19
day plans to rule - mode-agreed

Jimi Manchu - all my mbr v t Bd -
respond 1 gr O

Debra Phillips - mbr st → housing assoc - ^{respond} 1 gr
Makar - la O

Highways 157CSR7
cb plans rule.

Makar - as files

Landscape arch - 9CSR1
cb plans to rule - mode-agreed -
respond 1 gr

Ryan Kennedy mbr v t Bd - respond 1 gr
Makar - la O

Hand Surveyors 23CSR1
dk replans to rul - respndd 1 qz ☺

Amzdr - Au O

Hand Surveyors 23CSR2
dk replans to rul

Makan - w/o modfca

OCTOBER 21

2:00pm - 3:00pm

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Legislative Rule-Making Review Committee

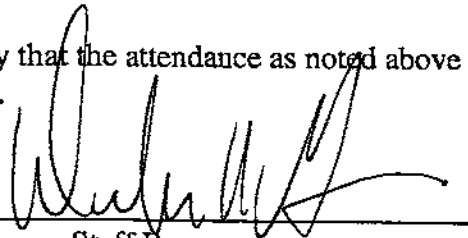
Earl Ray Tomblin, ex
officio nonvoting member

Robert S. Kiss, ex
officio nonvoting member

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

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

I certify that the attendance as noted above is correct.



Staff Person

Rule-Making Review Committee
Terri Anderson

Please return to Brenda in Room 132-E or Fax to 347-4819.

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Tuesday, October 21, 2003
2 p.m. to 3 p.m.
House Finance Committee Room, M-464

1. Review of Legislative Rules:
 - a. Environmental Quality Board
Requirements Governing Water Quality Standards, 46CSR1

Lay Over

- NO Technical Modifications

2. Other Business

TENTATIVE AGENDA
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
Tuesday, October 21, 2003
2 p.m. to 3 p.m.
House Finance Committee Room, M-464

1. Review of Legislative Rules:
 - a. Environmental Quality Board
Requirements Governing Water Quality Standards, 46CSR1
2. Other Business

Tuesday, October 21, 2003

2:00 - 3:00 p.m.

Legislative Rule-Making Review Committee

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Unger

Boley

Minear

House

Mahan, Chair

Thompson, Rick, Vice Chair

Cann

Kominar

Armstead

Fairecloth

EQB - Reg's Governing H₂O Quality Stds

Joe explained

No technical modifications

Ann Bradley responded to a (Wierston Steel)

Libby Chatfield, Tech Advisor, EQB
WV ~~Oil~~ Natural Oil & Gas Assoc.

David ~~Yau~~ YAUSSY

Snyder wants synopsis from staff as to those issues in contention

Minard Rule lie over

Meeting adjourned

16-40-7