

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

Do Not Mark In this Box

SEP 5 1 43 PM '99

OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIA

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: West Virginia Water Development Authority TITLE NUMBER: 44

CITE AUTHORITY: W.Va. Code § 6-9A-3

RULE TYPE: PROCEDURAL x INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE _____

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES x, NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Establishing New Procedure In Relation To
Providing Public Notice of Date, Time, Place, Agenda and Purpose of Meetings of
West Virginia Water Development Board And Manner In Which Meetings Are To Be Conducted

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: _____

TITLE OF RULE BEING ADOPTED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS November 4, 1999

Daniel B. Gombash

TITLE 44
PROCEDURAL RULES
WATER DEVELOPMENT AUTHORITY

SERIES 3
RULE ESTABLISHING
NEW PROCEDURES IN RELATION TO PROVIDING PUBLIC
NOTICE OF DATE, TIME, PLACE, AGENDA AND PURPOSE OF MEETINGS
OF WEST VIRGINIA WATER DEVELOPMENT BOARD
AND MANNER IN WHICH MEETINGS ARE TO BE CONDUCTED

§ 44-3-1. General.

1.1 Scope -- This rule establishes procedures for providing notice to the public and the news media of all regularly scheduled, special and emergency meetings of the West Virginia Water Development Board.

1.2 Authority -- W. Va. Code § 22C-1-6(1) and § 6-9A-3.

1.3 Filing Date -- September 1, 1999

1.4 Effective Date -- November 4, 1999.

§ 44-3-2. Definitions.

2.1 "Authority" means the West Virginia Water Development Authority created and established under W. Va. Code §§ 22C-1-1 *et seq.*

2.2 "Board" means the West Virginia Water Development Board created by W. Va. Code § 22C-1-4.

§44-3-3. Public Notification Of Meetings.

3.1 Regularly Scheduled Meetings -- The Authority shall cause notice of its regularly scheduled meetings of the Board to be filed with the office of the Secretary of State for the State of West Virginia for publication in the State Register in a manner to allow each notice to appear in said publication at least five days prior to the date of the meeting. Notice provided under this section shall include the date, time, place and agenda of the meeting.

3.2 Special Meetings -- The Authority shall cause notice of all special meetings of the Board to be filed with the office of the Secretary of State for the State of West Virginia for publication in the State Register in a manner to allow each notice to appear in said publication at least five days prior to the date of the meeting. Notice provided under this section shall include the date, time, place and purpose of the meeting.

3.3 Emergency Meetings -- The Authority may file notice of any emergency meetings of the Board requiring immediate official action with the office of the Secretary of State for the State of West Virginia for publication in the State Register at any time prior to such meeting. Notice provided under this section shall include the date, time, place and purpose of the meeting and the facts and circumstances of the emergency.

§44-3-4. Continued Meetings.

4.1 For purposes of this rule, the announcement of continuation at a meeting otherwise noticed hereunder shall be deemed reasonable notice of the reconvening of the continued meeting.

§44-3-5. Additional Notice.

5.1 Nothing in this rule shall prohibit the Authority from providing additional notice for any particular meeting which it deems desirable or necessary, including the practice of causing the notice to be provided to local newspapers, television stations, radio stations and other news media.

§ 44-3-6. Amendments to Agenda.

6.1 If amendments to the agendas published in accordance with § 44-3-3.1 should occur prior to the date of any regularly scheduled meeting, the Authority shall provide immediate notice of such amendment by posting a copy of the amended agenda at a prominent place at the location where the meeting is to be held.

§ 44-3-7. Telephone and Electronic Conferences.

7.1 Attending Meetings -- Members of the Board may participate in any regularly scheduled, special or emergency meeting of the Board by telephone conference or other similar electronic means.

7.2 Participation -- At each meeting in which a member participates by telephone or electronic means, the presiding officer of the Board shall convene the meeting and advise the public of the identity of the members participating in said manner. The voice, comments and votes of said members shall be audible to all those personally present at the meeting.

7.3 Voting -- Members attending a meeting of the Board by telephone or electronic means may cast votes on any matter to be voted upon at the meeting; *provided*, that no member may cast his or her vote by facsimile transmission. Whenever a majority of the members has participated in a meeting of the Board by telephone or electronic means, the actions taken at that meeting shall be ratified at the next succeeding regularly scheduled meeting of the Board, and said ratification shall be placed in the minutes of the meeting. Whenever less than a majority of the members has participated in a meeting of the Board by telephone or electronic means, the votes of those members so participating shall be confirmed at the next succeeding regularly scheduled meeting of the Board, and said confirmation shall be placed in the minutes of the meeting.

§ 44-3-8. Severability.

8.1 If any word, phrase or provision of this rule is held to be invalid, the remainder of the rule shall, to the fullest extent possible, not be affected by that holding.

CO321929

JACKSON & KELLY PLLC

ATTORNEYS AT LAW

1600 LAIDLEY TOWER

P. O. BOX 553

CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000

TELECOPIER 304-340-1130

<http://www.jacksonkelly.com>

(304) 340-1293

E-mail: Thoskins@jacksonkelly.com

October 5, 1999

300 FOXCROFT AVENUE
MARTINSBURG, WEST VIRGINIA 25401
TELEPHONE 304-263-8800

256 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1751

6000 HAMPTON CENTER
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-3000

412 MARKET STREET
PARKERSBURG, WEST VIRGINIA 26101
TELEPHONE 304-424-3490

1000 TECHNOLOGY DRIVE
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-2000

1144 MARKET STREET
WHEELING, WEST VIRGINIA 26003
TELEPHONE 304-233-4000

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-390-0003

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40595
TELEPHONE 606-255-9500

2401 PENNSYLVANIA AVENUE N.W.
WASHINGTON, D.C. 20037
TELEPHONE 202-973-0200

MEMBER OF LEX MUNDI,
THE WORLD'S LEADING ASSOCIATION
OF INDEPENDENT LAW FIRMS

VIA HAND DELIVERY

Judy Cooper
Director, Administrative Law
Secretary of State
Building 1, Room 157-K
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Re: Open Governmental Proceeding Act - - Procedural Rule

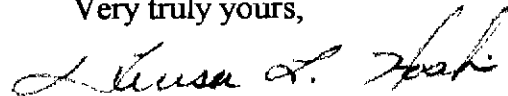
Dear Judy:

I have enclosed the Notice of Agency Adoption of a Procedural Rule (Form #5) of the West Virginia Water Development Authority for filing with the West Virginia Secretary of State's office.

The comment period ended on October 4, 1999 at 5:00 p.m. and there were no written or oral comments received.

If you have any questions or comments, please feel free to give me a call.

Very truly yours,



Teresa L. Hoskins
Legal Assistant

/tlh/CO321946

Enclosure

cc: Daniel B. Yonkosky (w/encl.)