

**NOVEMBER** 14

Tuesday, November 14, 2006

4:00 p.m. to 6:00 p.m.

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

Earl Ray Tomblin  
ex officio nonvoting member

Robert "Bob" Kiss  
ex officio nonvoting member

**Senate**

**House**

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

Mahan, Chairman  
Palumbo, Vice Chair  
Cann  
Pino  
Armstead  
Overington

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

The minutes of the October 17, 2006 meeting was approved.

Debra Graham, Chief Counsel, reviewed her abstract on the rule proposed by the **Division of Human Services, Day Care Centers Licensing, 78CSR1**, and stated that the Division has agreed to technical modifications.

Jason Webb with the West Virginia Child Care United addressed the Committee.

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

Ms. Graham explained her abstract on the rule proposed by the **Division of Human Services, Child Placing Agencies Licensure, 78CSR2**, and stated that the Division has agreed to technical modifications.

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

Ms. Graham reviewed her abstract on the rule proposed by the **Division of Human Services, Family Child Care Home Registration Requirements, 78CSR19**, and stated that the Division has agreed to technical modifications.

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

Joe Altizer, Associate Counsel, explained his abstract on the rule proposed by the **Division of Air Quality, Control of Air Pollution From Combustion of Refuse, 45CSR6**.

Joe Mason with the Division of Air Quality responded to questions from the Committee.

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, Ambient Air Quality Standards, 45CSR8**, and stated that the Division has agreed to technical modifications.

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

Ms. Mahan moved that Counsel draft repeal and replacement legislation. The motion was adopted.

Don Garvin with the West Virginia Environmental Council addressed the Committee and responded to questions.

Mr. Altizer explained his abstract on the rule proposed by the **Division of Air Quality, Control of Air Pollution From Combustion of Solid Waste, 45CSR18**, and stated that the Division has agreed to technical modifications.

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

Mr. Altizer explained 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 his abstract on the rule proposed by the **Division of Air Quality, Emission Standards for Hazardous Air Pollutants, 45CSR34**, and stated that the Division has agreed to technical modifications.

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

Mr. Altizer explained his abstract on the rule proposed by the **Division of Air Quality, Control of Ozone Season Nitrogen Oxides Emissions, 45CSR40**, and stated that the Division has agreed to technical modifications.

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

Mr. Altizer explained his abstract on the rule proposed by the **Division of Air Quality, Control of Annual Sulfur Dioxides Emissions, 45CSR41**, and stated that the Division has agreed to technical modifications.

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

Brian Skinner, Associate Counsel, reviewed his abstract on the rule proposed by the **WV Conservation Agency, State Conservation Committee, 63CSR1**, stated that the Agency has agreed to technical modifications and responded to questions from the Committee.

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

Mr. Skinner explained his abstract on the rule proposed by the **Division of Personnel, Administrative Rule of the West Virginia Division of Personnel, 143CSR1**, stated that the Division has agreed to technical modifications and responded to questions from the Committee.

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

Mr. Skinner explained his abstract on the rule proposed by the **Department of Administration, Administration of State Funds and Grants, 148CSR18**, stated that the Department has agreed to technical modifications and responded to questions from the Committee.

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

The meeting was adjourned.

NOVEMBER INTERIM ATTENDANCE  
Legislative Interim Meetings  
November 13, 14 and 15, 2006

Tuesday, November 14, 2006

4:00 pm - 6:00 pm

Legislative Rule-Making Review Committee

Earl Ray Tomblin, ex  
officio nonvoting member

Robert S. Kiss, ex  
officio nonvoting member

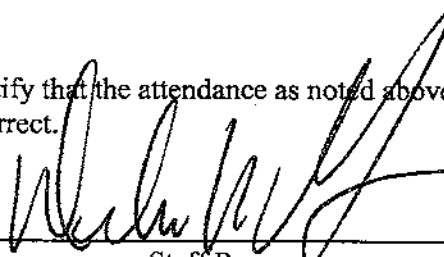
Senate

Minard, Chair ✓  
Fanning, Vice Chair ✓  
Prezioso \_\_\_\_\_  
Unger \_\_\_\_\_  
Boley ✓  
Minear ✓

House

Mahan, Chair ✓  
Palumbo, Vice Chair ✓  
Cann ✓  
Pino ✓  
Armstead ✓  
Overington ✓

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, November 14, 2006

4:00 p.m. and 6:00 p.m.

Senate Finance Committee Room

**1. Review of Legislative Rules:**

- a. **Human Services, Division of**  
*Day Care Centers Licensing, 78CSR1*
- b. **Human Services, Division of**  
*Child Placing Agencies Licensure, 78CSR2*
- c. **Human Services, Division of**  
*Family Child Care Home Registration Requirements, 78CSR19*
- d. **DEP - Air Quality, Division of**  
*Control of Air Pollution From Combustion of Refuse, 45CSR6*
- e. **DEP - Air Quality, Division of**  
*Ambient Air Quality Standards, 45CSR8*
- f. **DEP - Air Quality, Division of**  
*Control of Air Pollution From Combustion of Solid Waste, 45CSR18*
- g. **DEP - Air Quality, Division of**  
*To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities, 45CSR25*
- h. **DEP - Air Quality, Division of**  
*Emission Standards for Hazardous Air Pollutants, 45CSR34*
- i. **DEP - Air Quality, Division of**  
*Control of Ozone Season Nitrogen Oxides Emissions, 45CSR40*
- j. **DEP - Air Quality, Division of**  
*Control of Annual Sulfur Dioxide Emissions, 45CSR41*
- k. **Conservation Agency, WV**  
*State Conservation Committee, 63CSR1*
- l. **Personnel, Division of**  
*Administrative Rule of the West Virginia Division of Personnel, 143CSR1*
- m. **Administration, Department of**  
*Administration of State Funds and Grants, 148CSR18*

**3. Other Business**

**TENTATIVE AGENDA**  
**LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**  
**Tuesday, November 14, 2006**  
**4:00 p.m. and 6:00 p.m.**  
**Senate Finance Committee Room**

1. Review of Legislative Rules:

*Approved ✓  
as modified*  
Human Services, Division of  
Day Care Centers Licensing, 78CSR1

- Approved as Modified

*Approved ✓  
as modified*  
Human Services, Division of  
Child Placing Agencies Licensure, 78CSR2

- Approved as Modified

*Approved ✓  
as modified*  
Human Services, Division of  
Family Child Care Home Registration Requirements, 78CSR19

- Approved as Modified

*Approved ✓*  
DEP - Air Quality, Division of  
Control of Air Pollution From Combustion of Refuse, 45CSR6

- Approve

*Approved ✓  
as modified*  
DEP - Air Quality, Division of  
Ambient Air Quality Standards, 45CSR8

- Approved as Modified

*Approved ✓  
as modified*  
DEP - Air Quality, Division of  
Control of Air Pollution From Combustion of Solid Waste,  
45CSR18

- Approved as Modified

*Approved ✓*  
DEP - Air Quality, Division of  
To Prevent and Control Air Pollution from Hazardous Waste  
Treatment, Storage, or Disposal Facilities, 45CSR25

- Approve

*Approved ✓  
as modified*  
DEP - Air Quality, Division of  
Emission Standards for Hazardous Air Pollutants, 45CSR34

- Approve *as modified*

Approved ✓  
as modified

DEP - Air Quality, Division of  
Control of Ozone Season Nitrogen Oxides Emissions, 45CSR40

- Approve as modified

Approved ✓  
as modified

DEP - Air Quality, Division of  
Control of Annual Sulfur Dioxide Emissions, 45CSR41

- Approve as modified

Approved ✓  
as modified

Conservation Agency, WV  
State Conservation Committee, 63CSR1

- Approved as Modified

1. **Personnel, Division of**  
Administrative Rule of the West Virginia Division of  
Personnel, 143CSR1

- Approved as Modified

Approved ✓  
as modified

Administration, Department of  
Administration of State Funds and Grants, 148CSR18

- Approved as Modified

3. **Other Business**



**NOVEMBER INTERIM ATTENDANCE**

Legislative Interim Meetings

November 13, 14 & 15, 2006

Tuesday, November 14, 2006

4:00 p.m. - 6:00 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

Minear

✓  
✓  
\_\_\_\_\_  
✓  
✓  
✓

Mahan, Chair

Palumbo, Vice Chair

Cann

Pino

Armstead

Overington

✓  
✓  
✓  
✓  
✓  
✓

DEP - Air Quality - Refuse

Joe explained & responded to questions

Jim Mason, DEP responded to questions

Mahan

Approve

DEP - Ambient Air

Joe explained

Rees draft repealer

Mahan

Approve as mod.

Mahan

Direct Joe to draft repealer legislation

~~Don~~ Gavin - addressed the C

DEP - Solid Waste

Joe explained

Mahan

Approve as mod.ified

DEP - Hazardous Waste

Joe explained

Mahan

Approve

DEP - Emission state Haz

Joe explained

Mahan

Approved as modified

DEP - Ozone

Joe explained

Mahan

Approve as modified

DEP - Sulfer Dioxide

Joe explained

Mahan

Approve as mod

Conservation Agency

Brian explained & responded to questions

Mahan

Approve as modified

Personnel

Brian explained & responded to questions

Administration - State Funds and Grants

Brian explained

Mahan

Approve as modified

**TENTATIVE AGENDA**  
**LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**  
Tuesday, November 14, 2006  
4:00 p.m. and 6:00 p.m.  
Senate Finance Committee Room

1. Review of Legislative Rules:

- a. ✓ **Human Services, Division of**  
*Day Care Centers Licensing, 78CSR1*
  - Approved as Modified
- b. ✓ **Human Services, Division of**  
*Child Placing Agencies Licensure, 78CSR2*
  - Approved as Modified
- c. ✓ **Human Services, Division of**  
*Family Child Care Home Registration Requirements, 78CSR19*
  - Approved as Modified
- d. ✓ **DEP - Air Quality, Division of**  
*Control of Air Pollution From Combustion of Refuse, 45CSR6*
  - Approve
- e. ✓ **DEP - Air Quality, Division of**  
*Ambient Air Quality Standards, 45CSR8*
  - Approved as Modified
- f. ✓ **DEP - Air Quality, Division of**  
*Control of Air Pollution From Combustion of Solid Waste, 45CSR18*
  - Approved as Modified
- g. ✓ **DEP - Air Quality, Division of**  
*To Prevent and Control Air Pollution from Hazardous Waste Treatment, Storage, or Disposal Facilities, 45CSR25*
  - Approve
- h. ✓ **DEP - Air Quality, Division of**  
*Emission Standards for Hazardous Air Pollutants, 45CSR34*
  - Approve *as modified*

- i. ✓ **DEP - Air Quality, Division of**  
*Control of Ozone Season Nitrogen Oxides Emissions, 45CSR40*
  - Approve *as modified*
- j. ✓ **DEP - Air Quality, Division of**  
*Control of Annual Sulfur Dioxide Emissions, 45CSR41*
  - Approve *as modified*
- k. ✓ **Conservation Agency, WV**  
*State Conservation Committee, 63CSR1*
  - Approved as Modified
- l. ✓ **Personnel, Division of**  
*Administrative Rule of the West Virginia Division of Personnel, 143CSR1*
  - Approved as Modified
- m. ✓ **Administration, Department of**  
*Administration of State Funds and Grants, 148CSR18*
  - Approved as Modified

3. **Other Business**

**NOVEMBER INTERIM ATTENDANCE**  
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 officio nonvoting member

Robert "Bob" Kiss, ex  
 officio nonvoting member

**Senate**

**House**

Minard, Chair	✓
Fanning, Vice Chair	✓
Prezioso	_____
Unger	_____
Boley	✓
Miner	✓

Mahan, Chair	✓
Palumbo, Vice Chair	✓
Cann	✓
Pino	✓
Armstead	✓
Overington	✓

*Minard called to order  
 Approve minutes of October 17, 2006*

- *87CSR Human Services*

*Debra explained*

*Mahan moved as modified*

*Jason Hebb, WV Child Care Center United, Addressed by Comm*

*Approved as modified*

- *Human Services 78CSR.2*

*Debra explained*

*Mahan moved as modified*

*Approved as modified*

- *Human Services 78CSR19*

*Debra explained*

*Mahan moved as modified*

*Approved as modified*

- Air 45CSR6  
JOE explained  
JOE Mason responded to questions  
Mahaw moves  
Approved

- Air 45CSR8  
JOE explained  
Mahaw moved as modified  
Approved as modified

Mahaw moved <sup>Counsel</sup> to draft legislation  
for Reptal ? Replaces  
Approved

- Don Garvin w/ the WV Environmental Council  
addressed the Committee ? responded to ?'s

- Air 45CSR18  
JOE explained  
Mahaw moved as modified  
Approved as modified

- Air 45CSR25  
JOE explained  
Mahaw moved  
Approved

- Air 45CSR34  
Joe explained  
Mahan moved as modified  
Approved as modified
- Air 45CSR40  
Joe explained  
Mahan moved as modified  
Approved as modified
- Air 45CSR41  
Joe explained  
Mahan moved as modified  
Approved as modified
- Conservation 63CSR1  
Brian explained & responded to ?'s  
Mahan moved as modified  
Approved as modified
- Personnel 143CSR1  
Brian explained & responded to ?'s  
Mahan moved as modified  
Approved as modified
- Administration 148CSR18  
Brian explained  
Mahan moved as modified

REGISTRATION OF PUBLIC  
AT COMMITTEE MEETINGS

WEST VIRGINIA LEGISLATURE

Committee: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Date: 11.14.06

Please print or write plainly.

NAME	ADDRESS	REPRESENTING	Please mark with an (X) if you desire to make a statement.
✓ DON GARVIN	Buckhannon, WV 26201	West Virginia Environmental Council	X (45 CSR 8)
✓ Jason Webb	Cross Lanes, WV 25313	WV ChildCare United WV Association for Young Children	X (78 CSR 1) (78 CSR 19)





## West Virginia Environmental Council

1324 Virginia Street East ~ Charleston, WV 25301  
(304) 346-5905 www.wvecouncil.org

November 13, 2006

### Legislative Rule-Making Review Committee Comments on Proposed DEP Air Quality Rules Generally And Rule 45-CSR-8 on Ambient Air Quality Standards

We respectfully offer the following comments regarding DEP's proposed air quality rules:

**Once again the DEP Division of Air Quality has presented to the Legislature a set of proposed air quality rule changes that contain no assessment of the impacts of the proposed changes on human health and the environment.** Such assessment would provide the essential context for sound decision making by the agency and the Legislature. WVEC reiterates our previously voiced position that the Legislature should require DEP and DHHR to prepare a "Public Health Impact Assessment" for all air quality and water quality rules.

**Specific Comment on Rule 45-CSR-8 (Ambient Air Quality Standards):** This rule combines the ambient air quality standards for SO<sub>2</sub>, ozone, particulates, NO<sub>x</sub>, carbon monoxide, and lead into a single rule. Our primary concern with this rule as proposed is the radical change it makes in the antidegradation provisions contained in the existing rule, 45-CSR-8.2.

The existing antidegradation language directs DEP to develop long-range plans to protect existing air quality where that air quality is better than minimum federal standards, and to base those plans on the best available forecasts of probable land uses in that area. While we do not object to the addition of the counterpart federal rule (40-CFR-50.2(c)), the deletion of the existing language leaves the rule without any action-forcing mechanism to achieve anti-degradation goals. Without the current language, the agency would never actually DO anything pro-active to protect air quality.

We note that while DEP has chosen to adopt the language contained in federal rule 40-CFR-50.2(c), the agency chose NOT to add the language from the next clause of the federal rule, 40-CFR-50.2(d). WVEC recommends that it be adapted and incorporated as follows: "The proposal, promulgation, adoption, or revision of national primary and secondary ambient air quality standards shall not prohibit the Secretary from establishing ambient air quality standards which are more stringent than the national standards when necessary to protect existing air quality."

Thank you again for considering our concerns.

Donald S. Garvin, Jr.  
WVEC Legislative Coordinator

Representing West Virginia "Special Interests":  
People Who Want to Breathe Clean Air and Drink Clean Water



# Beneficial Use of Water Treatment Plant Filtrate



What is filtrate generated by the water treatment process?

During the water purification process, sediment and suspended matter from the raw water and water treatment chemicals are recovered as water treatment plant filtrate.



## Beneficial Use Options for Water Treatment Plant Filtrate



Filtrate used as Landfill Cap Material for Revegetation



Liquid Filtrate Being Land Applied as a Soil Conditioner



Filtrate used on Strip Mined Land as a Soil Enhancer to Aid in Revegetation



De-watered Filtrate used as a Soil Conditioner for Flower Gardens and on a Christmas Tree Farm

