WEST VIRGINIA CODE: §22-1-3

§22-1-3. Rulemaking generally; relationship to federal programs.

(a) The director has the power and authority to propose legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code to carry out and implement the provisions of this chapter and to carry out and implement any other provision of law relating to offices or functions of the division.

(b) The requirements and limitations set forth in this section apply to any rule-making authority granted pursuant to this chapter or chapters twenty-two-b and twenty-two-c of this code.

(c) Prior to the proposal of any new rule, the director shall consult with the Division of Environmental Protection advisory council and after such consultation, the director may determine that such a rule should be the same in substance as a counterpart federal regulation. If the director determines that the rule should be the same in substance as a counterpart regulation, then to the greatest degree practicable, such proposed rule shall incorporate by reference the counterpart federal regulation. The director shall file, contemporaneously with the proposed rule, a statement setting forth whether the rule is the same in substance as a counterpart federal regulation. If the director determines that the rule should not be the same in substance as a counterpart federal regulation, then the director shall file contemporaneously with the proposed rule, a statement setting forth the differences between the proposed rule and the counterpart federal regulation. In addition, the director shall file a statement setting forth the results of the consultation with the advisory council.

(d) Whenever any existing rule is modified, amended or replaced, the provisions of subsection (c) of this section apply to the proposal of any such modification, amendment or replacement rule.

(e) Notwithstanding the provisions of article three, chapter twenty-nine-a of this code, at least one public hearing shall be held by the division in conjunction with each rule making prior to the expiration of the public comment period for the proposed rules.

WV Legislature