WEST VIRGINIA CODE: §22A-6-5

§22A-6-5. Preliminary procedures for promulgation of rules.

(a) Prior to the posting of proposed rules as provided for in subsection (c), section four of this article, the board shall observe the preliminary procedure for the development of rules set forth in this section:

(1) During a board meeting or at any time when the board is not meeting, any board member may suggest to the Health and Safety Administrator, or such administrator on his or her own initiative may develop, subjects for investigation and possible regulation;

(2) Upon receipt of a suggestion for investigation, the Health and Safety Administrator shall prepare a report, to be given at the next scheduled board meeting, of the technical evidence available which relates to such suggestion, the staff time required to develop the subject matter, the legal authority of the board to act on the subject matter, including a description of findings of fact and conclusions of law which will be necessary to support any proposed rules;

(3) The board shall by majority vote of those members who are present determine whether the Health and Safety Administrator shall prepare a draft rule concerning the suggested subject matter;

(4) After reviewing the draft rule, the board shall determine whether the proposed rules should be posted and made available for comment as provided for in section four of this article;

(5) The board shall receive and consider those comments to the proposed rules as provided for in section four of this article;

(6) The board shall direct the Health and Safety Administrator to prepare for the next scheduled board meeting findings of fact and conclusions of law for the proposed rules, which may incorporate comments received and technical evidence developed, and which are consistent with section four of this article;

(7) The board shall adopt or reject or modify the proposed findings of fact and conclusions of law; and

(8) The board shall make a final adoption or rejection of the rules.

(b) By the concurrence of at least four members of the board, the board may dispense with the procedure set out in subsection (a) of this section or any other procedural rule established, except that the board shall in all instances when adopting rules prepare findings of fact and conclusions of law consistent with this section and section four of this article.

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(c) Without undue delay, the board shall adopt an order of business for the conduct of meetings which will promote the orderly and efficient consideration of proposed rules in accordance with the provisions of this section.

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