

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**

Form #5

Do Not Mark In This Box

**FILED**

2003 APR 23 A 10:53

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: WV Oil and Gas Conservation Commission TITLE NUMBER: 39

CITE AUTHORITY: 22C-9

RULE TYPE: PROCEDURAL  INTERPRETIVE

EXEMPT LEGISLATIVE RULE

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 2

TITLE OF RULE BEING PROPOSED: Procedural Rules of the Commission

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS May 23, 2003

  
Authorized Signature



Executive Office  
1356 Hansford Street  
Charleston, WV 25301  
304-558-5929  
FAX 304-558-6576

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## West Virginia Department of Environmental Protection

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Bob Wise  
Governor

Stephanie R. Timmermeyer  
Cabinet Secretary

April 15, 2003

The Honorable Joe Manchin, III  
Secretary of State  
State Capitol, Suite 157K  
1900 Kanawha Boulevard, East  
Charleston, WV 25305-0770

Dear Secretary Manchin:

I hereby approve filing of the following:

***Title 39, Series 2 – “Procedural Rules of the Commission”***

Yours truly,

Stephanie R. Timmermeyer  
Cabinet Secretary

SRT/jlw

Attachment



West Virginia Department  
of Environmental Protection

“Promoting a healthy environment.”

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State of West Virginia  
Department of Environmental Protection  
**OIL AND GAS CONSERVATION COMMISSION**

1356 Hansford Street  
Charleston, West Virginia 25301  
Telephone: (304) 558-6076  
Fax: (304) 558-6047

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Barry K. Lay, Chairman

Bob Wise, Governor

**M E M O R A N D U M**

**TO: Secretary of State's Office  
Administrative Law Division**

**FROM: Brett Coffin, Program Manager II  
Oil and Gas Conservation Commission**

**RE: Public Comment to Proposed Procedural Rules**

**DATE: April 23, 2003**

The public comment period was held regarding Procedural Rule Title 39, Series 2. No comments were received.

**TITLE 39**  
**PROCEDURAL RULES**  
**WEST VIRGINIA OIL AND GAS CONSERVATION COMMISSION**  
**SERIES 2**  
**RULES OF THE COMMISSION**

**§39-2-1. General.**

1.1. Scope. – All rules of a general nature are herein promulgated to set forth the rules of practice and procedure in all matters relating to the Oil and Gas Conservation Commission.

1.2. Authority. – W.Va. Code §22C-9

1.3. Filing Date. – April 23, 2003

1.4. Effective Date. -- May 23, 2003

**Rules of Practice and Procedure.**

2.1. Hearings -- The Commission Chairman shall preside over all hearings and meetings. In the event of the Chairman's absence, an appointed member of the Commission shall be elected by the members present to preside over the hearing or meeting.

2.2. Once a matter is heard by the Commission under the rules herein contained, the Commission will as soon as possible thereafter convene to deliberate the evidence and reach a conclusion as to the matters before the Commission. Upon consideration of the evidence, the Commission shall, by simple majority of the voting member present, vote and render a decision. The Commission will enter an order establishing its decision as soon thereafter as reasonable possible and issue an order defining its decision.

2.3. Conduct of attorneys before the Commission shall be the same as required of attorneys before the Circuit Courts of the State of West Virginia. Attorneys or persons representing themselves shall stand when addressing the Commission or a witness. Any person testifying in response to a subpoena or subpoena duces tecum issued by the Commission and any person testifying in support of an application, or in opposition thereto, shall be required to do so under oath or affirmation administered by the Commission. Witnesses shall be examined with courtesy and respect and their good faith shall be presumed.

2.4. Smoking shall not be permitted in the hearing room of the Commission, either during session or during recess. Taking photographs or broadcasting the proceedings in or from any hearing room or so closed thereto as to disturb the order and decorum thereof either while the hearing is in session or at recess is prohibited.

2.5. The conduct and demeanor of attorneys and persons when present during the proceedings shall be such as to reflect respect for the dignity and authority of the Commission and to maintain the proceedings as an objection search for the applicable facts and the correct principles of law.

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2.6. The electronic recording of any session is prohibited except as may be required by the Commission for preserving a record thereof for the use of the Commission in connection with the matter being heard. A transcript of testimony shall be taken and preserved as part of the permanent record. Interested parties may examine the official transcript or purchase a copy from the Commission.

2.7. In addition to any other notice required by law or this rule, any person who believes that he may be interested in any hearing before the Commission who has filed a request for notices, in writing, shall be entitled to receive a copy of the docket for the hearing mailed by the Commission not later than ten days before the date of the hearing. Upon request, such person will be furnished a copy of the application filed with the Commission.

2.8. In addition to any special hearings, which may be held, regularly scheduled meetings may be held by the Commission. Where circumstances permit, the Commission, after sounding the docket, may first call up and dispose of all noncontested matters and motions for continuance.

2.9. Any interested party may petition the Commission for the promulgation, amendment or repeal of any rule by filing a written petition setting forth such facts and arguments as support the petition. Upon receiving such petition, the Commission, as soon as practicable, shall either (a) deny the petition in writing (stating its reasons for denial), or (b) initiate rule-making proceedings pursuant to chapter twenty-nine-a, article three or other appropriate provisions of the Code of the State of West Virginia.

2.10. Any person who is bound by any order of the Commission shall have the right to compel a hearing on the matter if no such hearing has been held.