

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

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OFFICE OF THE SECRETARY OF STATE

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

AGENCY: Regional Jail and Correctional Facility Authority TITLE NUMBER: 94

CITE AUTHORITY: HB-2698

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: 94CSR2

TITLE OF RULE BEING AMENDED: Regulations for Public Hearings to be held before beginning construction, acquisition or renovation of new facilities or existing facilities not currently being used as jails for use as a regional jail, or prison

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

TITLE OF RULE BEING ADOPTED: Regulations for Public Hearings to be held before beginning construction, acquisition or renovation of new facilities or existing facilities not currently being used as jails, for use as a regional jail, correctional facility, or private prison.

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS April 5, 1999



\$3.00

TITLE 94
PROCEDURAL RULES
WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY

SERIES 2

REGULATIONS FOR PUBLIC HEARINGS TO BE HELD BEFORE
BEGINNING CONSTRUCTION, ACQUISITION OR RENOVATION
OF NEW FACILITIES OR EXISTING FACILITIES NOT
CURRENTLY BEING USED AS JAILS FOR USE AS A REGIONAL
JAIL, CORRECTIONAL FACILITY, OR PRIVATE PRISON

§94-2-1. General.

1.1. Scope. -- Chapter 31, Article 20, Section 5 and Chapter 25, Article 5, Section 10 of the West Virginia Code of 1931, as amended, mandates that the West Virginia regional jail and correctional facility authority promulgate rules and regulations for site selection and the public hearings required to be held prior to beginning construction, acquisition or renovation of any new facility or any existing facility not then used as a jail for use as a regional jail or prison facility. Rules for notice and other procedures of said public hearings shall be as similar as practicable to those hearings conducted regarding the construction of bridges by the West Virginia Department of Highways.

1.2. Authority -- WV Code §31-20-5, WV Code § 25-5-10

1.3. Filing Date --

1.4. Effective Date --

1.5. Repeal of Former Rule --

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§94-2-2. Application and Enforcement

2.1. Application and Enforcement -- These procedural rules shall apply to the West Virginia regional jail and correctional facility authority, its board and any and all individuals desiring to attend or to address the board. The enforcement of these regulations shall be vested with the Chairman of the West Virginia regional jail and correctional facility authority.

§94-2-3. Definition.

3.1. Authority -- The West Virginia regional jail and correctional facility authority.

3.2. Regional jail, correctional facility or private prison -- Any facility authorized by West Virginia Code §31-20-1 et seq. or West Virginia Code WV Code § 25-5-10

§94-2-4. Public Hearings

4.1. Public Hearings -- Before beginning construction, acquisition or renovation of a regional jail or prison facility except in the case of the acquisition and renovation of an existing facility used as a jail, prison or secure facility for the detention of juveniles or other involuntarily committed or confined persons, the authority shall hold a public hearing for comment on all aspects relating to the advisability of the use of the site for that regional jail, correctional facility or private prison.

§94-2-5. Notice

5.1. Prior to said public hearing, the authority shall give notice to the public by causing to be published a Class II legal advertisement in each county to be served by the regional jail, correctional facility or private prison. The authority shall attempt to ensure that the first notice shall appear at least ten days prior to said public hearing. The notice shall contain the following information:

- a. The time, date, place and purpose of the public hearing.
- b. A description of the project.
- c. A statement that the social, economic and environmental effects of the projects will be explained and discussed at the public hearing.
- d. A tentative schedule for property acquisition, relocation assistance, if any, and construction.
- e. A map or drawing, if possible.
- f. A description of the material to be available at the public hearing and the location at which such descriptive information is available for inspection and copying.

5.2. A press release giving the time, date, place and purpose of the public hearing shall be given to radio, television and newspapers in and serving the counties to be served by the regional jail or prison facility.

5.3. The maps or drawings, if available, and information descriptive of the project shall be available for inspection and copying at the authority's office and at least one location in each county to be served by the regional jail, correctional facility or private prison. Said county location may be the office of the clerk of the county commission, mayor's office or library.

§94-2-6. Conduct of Hearings

6.1. The public hearing shall be moderated by a member or employee of the authority and the authority shall ensure persons capable of explaining all aspects of the project attend the public hearing.

6.2. The public hearing shall begin with a presentation which shall include, but not be limited to the following:

- a. The need for the project.
- b. The alternative courses of action.
- c. Alternative project locations and major features
- d. The social, economic, environmental and other effects of the project and the consistency with the local planning goals and objectives.

6.3. The moderator shall then allow public comment and questions. Wide latitude shall be given public comment and questions, but the moderator may impose reasonable time limits.

6.4. The moderator will announce that written comments will be accepted by the authority for ten days following the public hearing.

6.5. A verbatim transcript of the public hearing shall be made and maintained at the authority office and will be available for public inspection.

§94-2-7 Site Selection Criteria

7.1. All sites considered shall be evaluated pursuant to the following criteria:

- a. Adequate acreage for the size and intended use of the proposed facility.
- b. Adequate access to water, electrical, sewage, and highway systems to support the size and intended use of the proposed facility.

STATE OF WEST VIRGINIA



REGIONAL JAIL and CORRECTIONAL FACILITY AUTHORITY

CAPITOL COMPLEX
307 JEFFERSON STREET
P. O. BOX 50285
CHARLESTON, WV 25305-0285
(304) 558-2110
FAX: (304) 558-2115

CECIL H. UNDERWOOD
Governor

STEVEN D. CANTERBURY
Executive Director

MEMORADUM

TO: Ken Heckler, Secretary of State

FROM: Bob G. Workman
Deputy Director

A handwritten signature in black ink, appearing to read "B. G. Workman".

DATE: February 3, 1999

SUBJECT: Reference 94CSR2

Please be advised that no public comment was received concerning 94CSR2, Regulations for Public Hearing to be held before beginning construction, acquisition or renovations of new facilities or existing facilities not currently being used as jails for use as a regional jail, correctional facility, or private prison.

If you have any questions, please feel free to contact me at (304) 558-2110. Thank you.

BGW:bgw