

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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1990 MAY 1 AM 10:13
OFFICE OF THE SECRETARY OF STATE
MARTINSBURG, WV

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Bureau of Workers' Compensation TITLE NUMBER: 85

RULE TYPE: Procedural; CITE AUTHORITY W.Va. Code, §§ 23-1-1; 23-1-8; 23-1-9; 23-1-10; 23-1-11; 23-1-12; 23-1-13; 23-1-15; 23-4-8a; 23-4-8b; 23-4-8c; 23-4-15b; 23-5-1; & 23-5-3a.
AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

TITLE OF RULE BEING AMENDED: Hearings

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

AN ADDITIONAL AN EXTENDED
IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH
ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS
COMMENT PERIOD WILL END ON May 22, 1990 AT 5:00 P.M.
ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE ^{HAND DELIVERED OR} MAILED TO THE FOLLOWING
ADDRESS.

Bureau of Workers' Compensation

ATTN: John H. Kozak

P.O. Box 3824 or 601 Morris Street

Charleston, WV 25338

THE ISSUES TO BE HEARD SHALL BE
LIMITED TO THIS PROPOSED RULE.

Emily A. Spuler
Commissioner

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FILED

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OFFICE OF PERSONNEL
STATE OF WEST VIRGINIA

TITLE 85
WEST VIRGINIA PROCEDURAL RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU OF WORKERS' COMPENSATION

SERIES 7
HEARINGS

SUMMARY OF PROPOSED RULE

This proposed procedural rule amends the prior series 7 Hearings rule. The new rule is specifically designed to resolve critical problems in the litigation of protests pursuant to West Virginia Code, §23-5-1 et. seq., and the prior series 7 rule. In particular, parties failed to comply with, and the commissioner failed to enforce, that section of the prior rule, specifically section 2.11(b), which set time limits for the submission of protests. No consistent attempt was previously made to require parties to comply with the time limits. This created a severe administrative problem which resulted in the denial of timely and expeditious resolution of claims, as required by West Virginia Code, §23-5-3(a), and case law developed thereunder.

The rule addresses time periods for the submittal of pending claims by creating specific time periods for each pending claim based upon how long it has been on the docket. The rule also addresses evidentiary depositions and delegates to the Director of the Legal Division responsibility for docketing and managing the claims on protest. The rule also addresses a number of issues common to administrative hearings such as continuances, subpoenas, costs of transcripts, procedures for classes of claims with common elements, and numerous other matters.

The amended rule will govern all protests in litigation as of the effective date of the rule, as well as any protests which are acknowledged after the effective date of the rule. It is intended to resolve the backlog of claims in litigation in order to make speedy and expeditious resolution of claims possible, as is required by law, and in order to allow for any future changes in the litigation process without concern for the resolution of a large backlog of old claims.