

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #1

FILED IN THE OFFICE OF THE SECRETARY OF STATE THIS DATE July 6 1990 ADMINISTRATIVE LAW DIVISION

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Attorney General TITLE NUMBER: 142

RULE TYPE: Legislative; CITE AUTHORITY Code 47-18-20

AMENDMENT TO AN EXISTING RULE: YES NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED:

TITLE OF RULE BEING AMENDED:

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 16

TITLE OF RULE BEING PROPOSED: Investigatory Powers

DATE OF PUBLIC HEARING: August 6, 1990 TIME: 1:00 p.m.

LOCATION OF PUBLIC HEARING: Antitrust Division 812 Quarrier Street, Sixth Floor Charleston, West Virginia 25301

COMMENTS LIMITED TO: ORAL, WRITTEN, BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Constance R. Tsokanis Antitrust Division

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

812 Quarrier St., Sixth F Charleston, WV 25301

The issues to be heard shall be limited to the proposed rule.

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

[Handwritten Signature]

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Investigatory Powers

Type of Rule: Legislative Interpretive Procedural

Agency Office of the Attorney Gen. Address Antitrust Division
812 Quarrier St., Fifth Floor
Charleston, West Virginia 25301

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Personal Services	0	0	0	0	0
Current Expense	0	0	0	0	0
Repairs and Alterations	0	0	0	0	0
Equipment	0	0	0	0	0
Other	0	0	0	0	0

2. Explanation of above estimates:

No additional personnel, equipment, or facilities will be required to implement the provisions of this rule.

3. Objectives of these rules:

The objective of these rules is to clarify the application of the West Virginia Antitrust Act.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

None

C. Economic Impact on Citizens/Public at Large.

None

Date:

7/6/90

Signature of Agency Head or Authorized Representative

David N. Hoch

TITLE 142

LEGISLATIVE RULE
ATTORNEY GENERAL

SERIES 16
INVESTIGATORY POWERS

§ 142-16-1 General.

1.1 Scope - This rule shall apply to any investigation commenced pursuant to the provisions of Chapter 47, Article 18, Section 7 of the Code by the West Virginia by the Attorney General into alleged anticompetitive activity.

1.2 Authority - Chapter 47, Article 18, Section 20 of the West Virginia Code.

1.3 Filing Date -

1.4 Effective Date -

1.5 Purpose - The purpose of this rule is to expressly allow the Attorney General to investigate allegations of anticompetitive activities pursuant to Chapter 47, Article 18, Section 7 using the most cost effective means for both the state and the target of the investigation; and to bring the application of the West Virginia Antitrust Act into conformity with those of other jurisdictions.

1.6 Construction - This rule shall be liberally construed to effectuate the beneficial purposes of the West Virginia Antitrust Act.

1.7 Severability - If, for any reason, any section, sentence, clause, phrase, or provision of this rule or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality shall not affect other sections, sentences, phrases, or provisions or their application to any other person or circumstance, and to this end, each and every section, sentence, clause, phrase, or provision of this rule is hereby declared severable.

Attorney General
Legislative Rule
§ 142-16-2

§ 142-16-2 Interrogatories in the Attorney General's
Investigative Subpoena pursuant to
West Virginia Code § 47-18-7.

The authority granted under West Virginia Code § 47-18-7(a), which permits the Attorney General to "require the production of any matter which is relevant to the investigation," shall include the authority to pose interrogatories in addition to, or in lieu of, any other express or implied investigatory practice contemplated in W. Va. Code § 47-18-7(a).



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON 25305

ROGER W. TOMPKINS
ATTORNEY GENERAL

(304) 348-2021

CONSUMER HOTLINE
(800) 368-8808

July 6, 1990

The Honorable Ken Hechler
Secretary of State
State Capitol, Room 157
Charleston, West Virginia 25305

Re: Promulgation of Proposed Legislative Rule
on Investigatory Powers.

Dear Secretary Hechler:

Enclosed please find for filing each of the following documents:

- One (1) copy of the proposed rule;
- One (1) copy of the fiscal note for the proposed rule; and
- One (1) copy of the Notice of Public Hearing for the proposed rule.

Your attention and courtesies in this matter are greatly appreciated. If you or your staff have any questions regarding this matter, please do not hesitate to call Daniel N. Huck, Deputy Attorney General, Antitrust Division at 348-0246.

Sincerely,

ROGER W. TOMPKINS
ATTORNEY GENERAL

RWT/jar

Enclosures