

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: 19

TITLE OF RULE BEING PROPOSED: Compliance by persons contemplated in Code 47-18-21 with any inquiry related to an investigation or action and priority of action to compel.

DATE OF PUBLIC HEARING: August 7, 1990 TIME: 11:00 a.m.

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

COMMENTS LIMITED TO: ORAL, WRITTEN, BOTH x

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

Antitrust Division 812 Quarrier St., 6th Fl. Charleston, WV 25301

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.

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

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

Handwritten signature of Constance R. Tsokanis

FISCAL NOTE FOR PROPOSED RULES

Compliance by persons contemplated in W. Va. Code 47-18-21.  
 Rule Title: W/any inquiry related to an investigation or action & priority  
or action to compel.

Type of Rule: x Legislative Interpretive Procedural

Agency Attorney General Address Antitrust Division  
812 Quarrier Street, Fifth Floor, Charleston, WV 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 of the West Virginia Antitrust Act.



TITLE 142

LEGISLATIVE RULE  
ATTORNEY GENERAL

SERIES 19  
COMPLIANCE BY PERSONS CONTEMPLATED IN  
W. VA. CODE § 47-18-21 WITH ANY INQUIRY  
RELATED TO AN INVESTIGATION OR ACTION  
AND PRIORITY OF ACTION TO COMPEL.

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§ 142-19-1. General.

1.1 Scope - This rule shall apply to any action brought by the Attorney General in state or federal court under W. Va. Code § 47-18-1 through 47-18-23 (1986).

1.2 Authority - This rule is authorized by W. Va. Code § 47-18-20.

1.3 Filing Date -

1.4 Effective Date -

1.5 Purpose - The purpose of this rule is to establish the procedure which the Attorney General shall use to compel any person contemplated by W. Va. Code § 47-18-21 to cooperate with any request for information pursuant to an investigation authorized by Chapter 47, Article 18.

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 circumstances is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other sections, sentences, clauses, 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  
§ 142-19-2.

§ 142-19-2. Compelled compliance by persons contemplated under W. Va. Code § 47-18-21 in the instance of an investigation or action by the Attorney General pursuant to Article 47, Chapter 18.

If any person contemplated by W. Va. Code § 47-18-21 fails to render and furnish to the Attorney General, his deputy or other designated representative, when so requested, any and all information and assistance in such person's possession or within such person's power, the Attorney General may apply to the Circuit Court where such person resides or is employed for an order compelling compliance.

§ 142-19-3. Priority in actions brought by the Attorney General to compel compliance with subpoenas or other investigative requests made pursuant to Chapter 47, Article 18.

If any person fails to comply with a subpoena or request for information made by the Attorney General, his deputy or other designated representative, any application made by the Attorney General to the Circuit Court for an order requiring compliance shall be given expedited hearing by that court.