

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #4

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Division of Motor Vehicles TITLE NUMBER: 91

CITE AUTHORITY: WV Code §17A-2-9, §17B-2-7, §17B-2-15 and §17E-1-18

AMENDMENT TO AN EXISTING RULE: YES NO

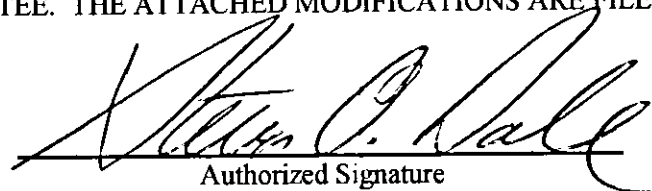
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: Examination and Issuance of Driver's License

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature



WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION
1900 Kanawha Boulevard East • Building Five • Room 109
Charleston, West Virginia 25305-0440 • (304) 558-0444

Earl Ray Tomblin
Governor

Paul A. Mattox, Jr., P. E.
Cabinet Secretary

December 29, 2014

The Honorable Natalie Tennant
Secretary of State
State Capitol Building
Charleston, WV 25305

Dear Madam Secretary:

The Commissioner of Motor Vehicles is hereby authorized to file the Agency modified changes to Legislative Rule 91 CSR 4, Examination and Issuance of Driver's Licenses.

Comments and concerns about the contents of this rule should be directed to the Commissioner of Motor Vehicles. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Paul A. Mattox, Jr.".

Paul A. Mattox, Jr., P.E.
Secretary of Transportation
Commissioner of Highways

PAM:mh
Enclosure

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TITLE 91
LEGISLATIVE RULE
DIVISION OF MOTOR VEHICLES
OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 4
EXAMINATION AND ISSUANCE OF DRIVER'S LICENSES

§91-4-1. General.

1.1. Scope. -- This rule establishes the procedures for the examination of applicants for driver's licenses and the issuance of driver's licenses.

1.2. Authority. -- W. Va. Code §17A-2-9, §17B-2-7, §17B-2-15 and §17E-1-18.

1.3. Filing Date. -- ~~April 15, 2008.~~

1.4. Effective Date. -- ~~July 1, 2008.~~

§91-4-2. Application and Enforcement.

2.1. Application. -- This rule applies to the examination of applicants for driver licenses and the issuance and renewal of driver's licenses and identification cards.

2.2. Enforcement. -- Enforcement of this rule is vested with the Commissioner of Motor Vehicles or the Commissioner's lawful designee.

§91-4-3. Definitions.

3.1. Birth Certificate. -- Means the certified original or a certified copy of a birth certificate issued by a state or other governmental agency of the United States, its territories, or

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1 Puerto Rico responsible for the collection of vital records
2 indicating a person's name and date of birth. The term birth
3 certificate also means Form FS-240 Consular Report of Birth Birth
4 Abroad of a Citizen of the United States Citizen. For the purposes
5 of this rule, a document issued by a hospital is not considered a
6 birth certificate. For the purposes of this rule the term birth
7 certificate shall also include a valid United States Passport or a
8 military identification card subject to the provisions of WV Code
9 §17B-2-8(I).

10 3.2. Certified. -- Means a validation of a document by a state
11 or other governmental agency responsible for the issuance,
12 collection or verification of documents with a raised or stamped
13 seal indicating the authenticity of the document. Duplicate copies,
14 or notarized copies not certified by the issuing agency are not
15 acceptable.

16 3.3. Court Order. -- Means a certified original or certified
17 copy of a court's official determination or final order.

18 3.4. Divorce Decree. -- Means a certified original or
19 certified copy of a court's judgment or decree dissolving a
20 marriage which also specifically states the name that a person is
21 to use for legal purposes.

22 3.5. Driver's License. -- Means any permit or license issued

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1 by this state or any other state or jurisdiction which authorizes
2 the person to operate a motor vehicle including an instruction
3 permit, level 1, 2 or 3 driver's license or a commercial driver's
4 license.

5

6 3.6. Full Legal Name. -- Means a person's first name, middle
7 names or family names and last name without the use of initials or
8 nicknames as established by identity documents.

9 3.7. United States Citizen and Immigration Services or USCIS.

10 -- Means the United States Department of Homeland Security,
11 Citizen and Immigration Services or if applicable, the Immigration
12 and Custom Enforcement Agency or either's successor agency of the
13 United States Department of Homeland Security. Where ever the term
14 United States Immigration and Naturalization Services or INS is
15 used, it shall be construed as referring to its successor agency,
16 the United States Citizen and Immigration Services or if applicable
17 the Immigration and Customs Enforcement Agency.

18 3.8. Marriage Certificate. -- Means the certified original or
19 certified copy of the record of marriage verified by the state or
20 other governmental agency responsible for the collection or
21 verification of marriage records.

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1 3.9. Residence Address. -- Means the address of the
2 applicant's principal residence required to be on the face of the
3 driver's license document by the provision of West Virginia Code
4 §17B-2-8 with the exception of:

5 3.9.a. An applicant who can verify that his or her principal
6 residence is physically located in West Virginia but who has no
7 fixed address or designated address to which mail can be delivered
8 by the United States Postal Service and who must use another
9 address for the purposes of receiving mail;

10 3.9.b. Addresses protected under the provisions of the
11 Violence Against Women and Department of Justice Reauthorization
12 Act of 2005 or another state sponsored address confidentiality
13 program;

14 3.9.c. Addresses protected under the Illegal Immigration
15 Reform and Immigrant Responsibility Act of 1996;

16 3.9.d. Addresses on restricted driver's licenses issued under
17 the provisions of the alcohol test and lock program established
18 under the provisions of West Virginia Code §17C-5A-3a; or

19 3.9.e. Addresses on licenses issued to participants in
20 witness protection programs, law enforcement officers, prosecutors
21 or members of the judicial system who in the opinion of the
22 commissioner face substantial risk of harm if ~~their~~ his or her

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1 license contains their residence address.

2 3.10. ~~School Enrollment Form~~ School Eligibility Certificate. --

3 Means the document approved by the State Department of Education
4 and issued by a county Board of Education indicating that an
5 applicant under the age of eighteen is in current compliance with
6 the provisions of West Virginia Code §18-8-11.

7 3.11. Social Security Card. -- Means the official document
8 issued by the Social Security Administration (SSA) indicating the
9 social security number assigned to a person. The Division requires
10 the social security number of every applicant for a driver's
11 license or identification card or holder of a driver's license or
12 identification card as required by the provisions of the Personal
13 Responsibility and Work Opportunity Act of 1996 as amended at 42
14 U.S.C. §666(a)(13) and as authorized by the provisions of the Tax
15 Reform Act of 1976 as amended at 42 U.S.C. §405(c). The social
16 security card is the proof of the actual issued number. For the
17 purposes of this rule, except when the United States Social
18 Security Administration electronically or otherwise fails to verify
19 the match between submitted name and number; the term social
20 security card or proof of social security number shall also
21 include;

22 ~~3.11.a. A Medicare card issued in the applicant's name which~~

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1 ~~contains the applicant's social security number and the signature~~
2 ~~of the applicant as card holder,~~

3 3.11.b.a. A military identification card with the social
4 security number issued to the applicant indicating active,
5 retired, reserve or dependant status in the military of the United
6 States in accordance with WV Code §17B-2-8(I).

7 ~~— 3.11.c. An original or a copy certified by a governmental~~
8 ~~entity of the Military Discharge Form DD 214 with the social~~
9 ~~security card; or and~~

10 3.11.d b. ~~At the discretion of the Division, A Wage and Tax~~
11 ~~Statement Form W-2 or payroll stub with the applicant's employer's~~
12 ~~name and employer identification number, the applicant's social~~
13 ~~security number and the applicant's name and address may be~~
14 ~~accepted in lieu of a social security card.; or~~

15 3.11.c. A Social Security 1099 Form with the applicant's full
16 social security number and the applicant's full legal name; and

17 3.11.e.d. At the discretion of the Division, an applicant
18 who is not a citizen of the United States but who presents proof of
19 legal presence, identity and residency in this state in accordance
20 with this rule, who is not eligible to receive either a social
21 security number may present a written statement subject to
22 verification in the manner prescribed by the Commissioner, that he

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1 or she is not eligible for a social security card in lieu of a
2 social security card and social security number.

3 3.12. State. -- Means a state of the United States, the
4 District of Columbia, Puerto Rico, The Virgin Islands, Guam,
5 American Samoa, or the Commonwealth of the Northern Mariana
6 Islands.

7 3.13. Valid Driver's License. -- Means a driver's license
8 issued to a person whose privilege to operate a motor vehicle has
9 not expired, and is not currently suspended, revoked or cancelled
10 for any reason.

11
12 **§91-4-4. Preliminary Examination of Applicants Never Licensed,**
13 **Holding a License Expired more than 6 Months or Holding an Expired**
14 **License from Another State or Jurisdiction.**

15 4.1. An applicant for an instruction permit to operate a motor
16 vehicle shall present a properly completed application on the form
17 designated by the Commissioner. The application shall include the
18 applicant's full legal name as evidenced by the applicant's
19 certified birth certificate, and the applicant's certified marriage
20 license if the applicant desires to use a name other than the full
21 legal name on the birth certificate, or a divorce decree or court
22 order which specifically states the name that the applicant is to

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1 use, and the applicant's social security number as evidenced by the
2 applicant's social security card. The application shall also
3 include the address and all other information required by the
4 provisions of the West Virginia Code and any other information
5 required by the Division. The applicant shall also comply with the
6 following:

7
8 4.1.a. The applicant shall provide the certified original or
9 certified copy of a birth certificate as evidence of the
10 applicant's full birth name, and date of birth. Foreign birth
11 certificates are not acceptable. If no record of birth exists, in
12 lieu of a birth certificate, the applicant shall provide any
13 documentation required by the Division to establish the applicant's
14 full birth name and date of birth. An applicant who is not a
15 citizen of the United States shall present all documents required
16 by the Division to verify his or her legal presence in the United
17 States, proof of identity, and proof of residency in this state;

18 4.1.b. The applicant shall provide proof of his or her social
19 security number or a written statement subject to verification by
20 the division that he or she is ineligible for a social security
21 number;

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1 4.1.c. If the applicant is under the age of eighteen, the
2 applicant must have the consent of his or her parent or guardian as
3 evidenced by the custodial parent or legal guardian's signature on
4 the application for an instruction permit. However, an applicant
5 under the age of eighteen who presents a marriage certificate as
6 proof of marital status is exempt from the parental consent
7 requirement;

8 4.1d. An applicant under the age of eighteen shall present
9 proof of current school enrollment in the form of certification
10 from the applicant's school dated less than thirty days prior to
11 the date of application. When application is made during summer,
12 the ~~school enrollment form~~ school eligibility certificate may be
13 dated as determined by the State Board of Education and is valid
14 through the summer until the beginning of the next semester. If the
15 applicant is not enrolled in school, he or she shall present
16 evidence of progress toward a general education degree, exemption
17 from school attendance or enrollment in an institution of higher
18 education as approved by the applicant's county board of education;

19 4.1.e. A marriage certificate does not exempt an applicant
20 from the requirement to submit a ~~school enrollment form~~ school
21 eligibility certificate or from compliance with the requirements of
22 the graduated driver's license program;

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1 4.1.f. An applicant ~~who has a~~ requesting to change of the
2 gender designation on their driver's license or identification card
3 ~~from the birth certificate shall provide a court order specifically~~
4 ~~indicating the change is complete~~ shall submit a completed Gender
5 Designation Form as proscribed by the commissioner; and

6 4.1.g. An applicant age eighteen or older shall provide two
7 documents showing residency as provided in section 10 and one
8 additional document verifying identity as provided in section 11 of
9 this rule.

10 4.2. The preliminary examination shall consist of five
11 components.

12 4.2.a. The Division shall administer a visual acuity test
13 with a standard eye testing chart or mechanical device.

14 1. An applicant with uncorrected visual acuity of 20/40 or
15 better in at least one eye will pass the visual acuity test.

16 2. An applicant with visual acuity of 20/40 or better in
17 at least one eye with the use of contact lenses or glasses will
18 pass the visual acuity test with the appropriate restriction placed
19 on his or her driver's license.

20 3. An applicant whose visual acuity is less than 20/40 will
21 fail the visual acuity test. An applicant who fails the visual
22 acuity test may request a Driver License Advisory Board Form 2.

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1 4. An applicant who presents a properly completed Driver
2 License Advisory Board Form 2 which indicates that the applicant is
3 within the parameters set forth in West Virginia Legislative Rules,
4 Division of Motor Vehicles, Denial, Suspension, Revocation or
5 Nonrenewal of Driving Privileges, 91 CSR 5 will pass the visual
6 acuity test with the appropriate restrictions placed on his or her
7 driver's license.

8 5. An applicant may not use special lens arrangements,
9 including but not limited to bioptic or telescopic lenses, to
10 satisfy the visual acuity standard.

11 6. An applicant for a Commercial Driver's License or
12 endorsement shall adhere to the visual acuity standard in section
13 14 of this rule.

14 7. An applicant or licensee who cannot meet the
15 requirements in paragraphs (1) - (6) of this subdivision is not
16 entitled to a license or instruction permit.

17 4.2.b. Before the Division issues an instruction permit, the
18 Division may require the applicant to pass a color vision test that
19 determines the applicant's ability to distinguish between the
20 colors green, amber and red.

21 4.2.c. Before the Division issues an instruction permit, the
22 Division may require the applicant to pass a depth perception test

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1 that detects deficiencies in depth perception.

2 4.2.d. An applicant shall pass a basic knowledge examination
3 consisting of not less than twenty-five questions based on
4 information contained in the West Virginia Driver Licensing
5 Handbook and other materials provided by the Division. An
6 applicant may test orally if the applicant presents documentation
7 from an adult basic education center or a county board of education
8 certifying that the applicant has reading comprehension difficulty.
9 At the Division's discretion, the applicant may use a translator.
10 An applicant shall answer at least seventy-six percent of the
11 questions correctly in order to pass the examination.

12 4.2.e. An applicant shall complete a driving while under the
13 influence awareness education component as prescribed by West
14 Virginia Code §17B-2-7(b).

15 4.3. The driver license examiner shall mark and return an
16 application for an instruction permit or a copy of the application
17 to an applicant who fails a portion of the preliminary knowledge
18 examination. The applicant may return in seven days for
19 reexamination.

20 4.4. The driver license examiner shall approve the application
21 of an applicant who successfully completes all components of the
22 preliminary knowledge examination. The applicant is eligible for

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1 an instruction permit subject to the following:

2 4.4.a. A national check of the applicant's driver license
3 status is completed and shows that the applicant's privilege to
4 operate a motor vehicle is not currently suspended or revoked by
5 this or any other state or jurisdiction; and

6 4.4.b. The applicant pays the required fee.

7 4.5. The instruction permit shall contain the full legal name
8 of the applicant and all other information required by law or
9 prescribed by the Commissioner. The Division shall maintain the
10 social security number as a part of the licensee's record but it
11 shall not appear on the face of the instruction permit.

12 4.6. The West Virginia Driver Licensing Handbook is the
13 instruction guide of the Division concerning the examination of
14 applicants for a driver's license and the qualifications required
15 of applicants.

16 **§91-4-5. Road Skill Examination.**

17 5.1. An applicant who presents a valid instruction permit and
18 who meets all other statutory requirements may complete the
19 appropriate application and take the road skills examination
20 subject to the following:

21 5.1.a. The applicant arrives at the examination site in a
22 lawful manner;

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1 5.1.b. The applicant presents his or her valid instruction
2 permit, and if under the age of eighteen, a ~~school enrollment form~~
3 school eligibility certificate. Applicants age eighteen and older
4 shall provide ~~one~~ two additional documents verifying residency as
5 required by section 10 of this rule;

6 5.1.c. The applicant presents current proof of insurance and
7 a valid registration card for the vehicle used for testing; and

8 5.1.d. The applicant who is under the age of eighteen
9 presents proof of completion of an approved course of driver's
10 education, or the form prescribed by the Division indicating
11 completion of a minimum of ~~thirty~~ fifty hours of behind the wheel
12 instruction, with a minimum of ten hours obtained during nighttime
13 driving conditions.

14 5.2. The road skills examination shall consist of:

15 5.2.a. A check of the safety equipment of the testing
16 vehicle; and

17 5.2.b. An examination of the applicant's ability to operate
18 a motor vehicle on a designated course consisting of a moderate
19 grade, right turn, left turn and a traffic control device or stop
20 sign. The applicant must show successful mastering of all skills
21 required to safely operate a motor vehicle including backing and
22 parallel parking. The applicant must give the proper turn signals,

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1 use good judgment in traffic situations and have the proper regard
2 for pedestrians and traffic control devices and signals. Available
3 occupant restraint devices must be properly adjusted and securely
4 fastened whenever the vehicle is in motion. Only the applicant and
5 the examiner or examiners and an interpreter may occupy the vehicle
6 during the test.

7 5.3. An applicant will fail the road skills examination if the
8 applicant:

9 5.3.a. Appears for the road skills test with a vehicle with
10 illegal or inoperable equipment. However, the Division may allow
11 an applicant to correct a minor defect and continue the
12 examination;

13 5.3.b. Has an ~~accident~~ crash involving any property damage or
14 personal injury or an ~~accident~~ crash was prevented only by the
15 action of another driver or the examiner;

16 5.3.c. Drives into or stalls the vehicle into a location
17 which may be hazardous under certain traffic conditions;

18 5.3.d. Passes another vehicle yielding to a pedestrian in a
19 crosswalk;

20 5.3.e. Makes two successive turns from the wrong lane under
21 conditions which make the action hazardous;

22 5.3.f. Fails to stop for a traffic control device or signal;

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1 5.3.g. Refuses to perform a maneuver which is part of the
2 test;

3 5.3.h. Makes it apparent that he or she is dangerously
4 inexperienced after proceeding a short distance on the course; or

5 5.3.i. Does not demonstrate the ability to locate and use all
6 electronic, mechanical and safety equipment on the vehicle.

7 5.4. The examiner shall evaluate the applicant's performance and
8 determine whether the applicant possesses the skills necessary to
9 operate a motor vehicle. He or she shall record the results of the
10 equipment check and road skills examination and record any
11 restrictions.

12 5.5. The applicant may use a translator at the Division's
13 discretion.

14 5.6. An unsuccessful applicant may return for reexamination
15 after a minimum of seven days have passed and if the applicant
16 still holds a valid instruction permit. The applicant for
17 reexamination must complete all of the components of the road
18 skills examination. The applicant is eligible for three attempts
19 to pass the examination while the instruction permit is valid.
20 After the third failed attempt to pass, or upon expiration of the
21 permit the applicant shall complete all requirements for an
22 instruction permit as if he or she was never previously licensed.

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1 5.7. An unsuccessful applicant under the age of eighteen is
2 eligible for three more attempts at the road skills test upon
3 payment of the ~~five-dollar~~ \$5 fee without obtaining a new permit,
4 taking the written test or serving an additional six month period
5 of infraction free driving under the level one permit.

6 5.8. Applicants who successfully complete the road skills
7 examination are eligible for a driver's license with the
8 appropriate restrictions and endorsements subject to the following:

9 5.8.a. The applicant shall complete an application on the
10 form prescribed by the Commissioner, endorsed by the examiner and
11 validated with the appropriate information;

12 5.8.b. A national check of the applicant's driver license
13 status shows that the applicant's privilege to operate a motor
14 vehicle is not currently suspended or revoked by this or any other
15 state or jurisdiction; and

16 5.8.c. The applicant who is under the age of eighteen
17 presents proof of completion of an approved course of driver's
18 education, or the form prescribed by the Division indicating
19 completion of a minimum of ~~thirty~~ fifty hours of behind the wheel
20 instruction-, with a minimum of ten hours obtained during nighttime
21 driving conditions.

22 5.9. An applicant who successfully completes either the

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1 passenger vehicle knowledge examination or road skills examination
2 shall obtain the appropriate instruction permit or driver's license
3 within thirty days of successfully passing the examination.
4

5 §91-4-6. Issuance and Content of the Driver's License and
6 Identification Card.

7 6.1. The driver's license or identification card shall contain
8 the full legal name of the applicant as evidenced by the
9 applicant's certified birth certificate, the applicant's certified
10 marriage certificate, if the applicant desires to use a name other
11 than the full legal name on the birth certificate, or a court order
12 which specifically states the name that the applicant is to use, a
13 color photograph of the applicant taken by the Division and all
14 other information required by law or prescribed by the
15 Commissioner. The Division shall maintain the social security
16 number as a part of the licensee's or identification card holder's
17 record but it shall not appear on the face of the driver's license
18 or identification card.

19 6.1.a. The Commissioner shall designate the color red for
20 licenses issued to drivers under the ages of eighteen and the
21 color blue for licenses issued to drivers under the age of twenty-
22 one in accordance with West Virginia Code §17B-2-1(b);

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1 6.1.b. In order for a driver to obtain the appropriately
2 colored license based upon his or her age, the Commissioner may
3 extend the license to thirty days after the expiration date that
4 appears on the front of the license; and

5 6.1.c. The applicant may choose from the following options as
6 to display of his or her name on the driver's license or
7 identification card. However, a court order specifying a change of
8 name supersedes a birth and or marriage certificate:

9 1. Last name, first name then middle name as evidenced by
10 the applicant's birth certificate;

11 2. Last name of spouse, as evidenced by the applicant's
12 marriage certificate, then first name and middle name as evidenced
13 by the applicant's birth certificate;

14 3. Last name as evidenced by the applicant's marriage
15 certificate, first name, then maiden name as evidenced by the
16 applicant's birth certificate to stand in place of the middle name;
17 or

18 4. Last name as a combination of the applicant's last name
19 as evidenced by the applicant's marriage certificate separated by
20 a hyphen from the applicant's maiden name as evidenced by the
21 applicant's birth certificate or as customarily used by a foreign
22 born applicant.

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1 6.2. The applicant may choose from the following types of driver's
2 license or identification cards:

3 6.2.a. "For Federal Use" driver's license or identification
4 card. This driver's license or identification card shall be marked
5 with a "gold star" in the upper right hand corner of the card.
6 This driver's license or identification card shall be issued in
7 accordance with the REAL ID Act of 2005 and the Department of
8 Homeland Security's rules, 6 CFR § Part 37 alt 21 (2008).

9 6.2.b. "Not For Federal Use" driver's license or
10 identification card. This driver's license or identification card
11 shall be marked with a gold band with the phrase "NOT FEDERAL
12 IDENTIFICATION" across the top of the card, in accordance with the
13 REAL ID Act of 2005 and the Department of Homeland Security's
14 rules, 6 CFR § Part 37.71 (2008).

15 6.3 ~~6.2.c~~ The applicant may upgrade to a "For Federal Use" driver's
16 license or identification card at anytime with the submission of the
17 documents required by the provisions of the REAL ID Act of 2005 and
18 Code of Federal Rules, 6 CFR § Part 37 (2008).

19
20 **§91-4-7. Renewal of Driver's License and Identification Card.**

21 7.1. The driver's license or identification card is valid for
22 the statutory period of time based on the age of the applicant and

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1 the length of the applicant's authorized legal presence in the
2 United States.

3 7.2. The Division shall may send via first class mail or by
4 electronic means an application for renewal to each licensee at
5 least ~~thirty~~ ninety days prior to the day of the license's
6 expiration to the licensee's address of record.

7 7.3. A licensee shall renew his or her license prior to or on
8 the expiration date in order to legally drive a motor vehicle in
9 this or any other state.

10 7.4. The Division shall complete a national check of the renewal
11 applicant's driver license status. Any licensee whose driving
12 privileges are suspended or revoked in this or any other state for
13 an offense for which this state would suspend or revoke a person's
14 privilege to operate a motor vehicle, is not eligible for renewal of
15 his or her driver's license.

16 7.4.a. The Division shall not refuse to renew a driver's
17 license for an offense that is more than ten years old and not
18 involving a driving under the influence related offense; and

19 7.4.b. The Division, at its' discretion, may renew an
20 applicant's driver's license if his or her driving privileges are
21 suspended or revoked by another state or jurisdiction for an offense
22 for which the jurisdiction of record can not provide records or

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1 assistance to clear the offense. The renewal applicant shall provide
2 written documentation from the suspending jurisdiction indicating
3 that the records to clear the suspension or revocation are
4 unavailable.

5 7.5. Any West Virginia licensee whose license is expired six
6 months or less may renew the license without resubmitting to a
7 written or road test. Any West Virginia licensee whose license is
8 expired more than six months, shall resubmit to the examination
9 requirements applicable to the type of license and endorsements the
10 licensee is renewing. At the discretion of the Division, this
11 requirement may be waived if the renewal applicant's driver's
12 license has been expired less than one year and he or she can
13 establish that he or she was hospitalized, incarcerated or otherwise
14 seriously incapacitated consequently preventing the applicant from
15 renewing his or her license in a timely manner. The retesting
16 requirement may not be waived unless the Division determines the
17 applicant has sufficiently recovered from any disability which may
18 prevent the applicant from safely operating a motor vehicle.

19 7.6 A licensee who will be out of state at the time his or her
20 license expires shall renew the license prior to departure. The
21 licensee may renew the license within two years prior to expiration.

22 7.7. The Division may, upon request, renew the driving

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1 privileges of a licensee who is temporarily located out of state at
2 the time his or her license expires. ~~The Division shall not issue~~
3 ~~a new driver's license to the licensee out of state. The Division~~
4 ~~may issue a certified driving record to the licensee indicating that~~
5 ~~the licensee has renewed his or her driver's license with a notation~~
6 ~~of the new expiration date. The licensee shall obtain a new license~~
7 ~~upon returning to West Virginia.~~

8 7.8. The Division shall upon request issue a certified driving
9 record to active duty military personnel licensed in West Virginia
10 which indicates that the license remains valid and shall not expire
11 until six months after the licensee's honorable discharge.

12 7.9. Any licensee or identification card holder seeking to renew
13 his or her license or identification card shall present ~~one~~ proof of
14 identity and ~~one~~ proof of residency as prescribed by the Division
15 and this rule and pay all required fees.

16 7.10. The Division, ~~in the event of system or equipment failure,~~
17 may at its discretion issue a non-transferable, temporary driver's
18 license valid for a period of time not to exceed ~~fourteen~~ sixty days
19 to an applicant with a class E or class F driver's license, whose
20 driving privileges are not suspended, revoked or cancelled and who
21 is otherwise eligible for renewal. ~~The temporary driver's license~~
22 ~~shall be marked not valid for transfer to another state or~~

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1 ~~jurisdiction.~~

2 7.11. For the purposes of this rule when an applicant's driver's
3 license expires on a weekend, holiday, or on a day that a full
4 service regional office is closed, the applicant has until the end
5 of the next business day to renew his or her license to avoid
6 payment for the additional penalty fee of ~~five dollars~~ \$5. If the
7 date upon which the driver's license has been expired more than six
8 months occurs on a weekend, holiday or on a day that a full service
9 regional office is closed, the applicant has until the end of the
10 next business day to renew his or her driver's license without being
11 required to take the vision, written and road skills examination.
12 Nothing in this provision may be interpreted to grant an applicant
13 relief from any criminal penalties associated with operating a motor
14 vehicle without a valid driver's license.

15
16 §91-4-7A. Online Renewal of Driver's License and Identification
17 Card.

18
19 7A.1. At the discretion of the Division, any licensee or
20 identification card holder seeking to obtain a duplicate driver's
21 license or identification card or to renew his or her license or
22 identification card may be eligible to renew online if his or her

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1 last driver's license transaction was completed in person at a
2 division office. Subject to:

3 7A.1.a. The applicant is eligible to renew his or her license or
4 identification card , in accordance with §91-4-7 of this rule.

5 7A.1.b. The applicant is a United States citizen and his or
6 her full legal name and address remain unchanged from the address on
7 file with the Division.

8

9 **§91-4-8. Transfer of Driver's License.**

10

11 8.1. A new resident who wishes to operate a motor vehicle in
12 this state shall obtain a West Virginia driver's license within
13 thirty days of establishing residency in this state. The applicant
14 shall substantiate identity, West Virginia residency, social
15 security number or substitute and legal presence with the documents
16 required under sections 3, 10, 11 and 12 of this rule.

17 8.2. An applicant age eighteen or older who holds a valid
18 driver's license from another state or jurisdiction of the United
19 States or from a foreign jurisdiction with which this state has a
20 reciprocal agreement may exchange the out of state driver's license
21 for a West Virginia driver's license without taking the written
22 examination or road skills examination prescribed in section 4 and

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1 5 of this rule subject to the following:

2

3 8.2.a. The Division completes a national check of the
4 applicant's driver's license status. Any licensee whose driving
5 privileges are suspended or revoked in this state, or in any other
6 state or jurisdiction for an offense for which this state would
7 suspend or revoke a person's privilege to operate a motor vehicle,
8 is not eligible for licensure;

9 8.2.b. The applicant surrenders his or her valid out of state
10 license. If the applicant's driver's license has been lost, the
11 applicant shall provide a certified driving record dated thirty days
12 or less from the date of application from the applicant's former
13 state of residence indicating that the applicant's driver's license
14 is valid and a written statement indicating his or her intention to
15 surrender his or her driving privileges and the circumstances of why
16 the applicant does not have a valid driver's license in his or her
17 possession;

18 8.2.c. The applicant presents his or her certified birth
19 certificate as evidence of the applicant's full legal name and age.
20 Any change of gender designation on their driver's license or
21 identification card from the birth certificate requires submission
22 of a completed Gender Designation Form, as proscribed by the

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1 ~~commissioner. a court order specifically indicating that the gender~~
2 ~~change is complete.~~ If no record of birth exists, the applicant
3 shall provide any documentation required by the Division to
4 establish the applicant's full birth name and date of birth;

5 8.2.d. The applicant presents his or her social security
6 number as evidenced by the applicant's social security card or other
7 evidence as provided in this rule;

8 8.2.e. The applicant passes the visual acuity test prescribed
9 by this rule, and completes the driving under the influence
10 awareness component as prescribed as prescribed by West Virginia
11 Code §17B-2-7(b);

12 8.2.f. The applicant presents two proofs of residence as
13 prescribed in section 10 of this rule; and

14
15 8.2.g. The applicant licensed by a foreign jurisdiction with
16 which this state has a reciprocal agreement shows proof of legal
17 presence as required under section 12 of this rule.

18 8.3. The Division may require a driving record from an
19 applicant's prior licensing state or jurisdiction to be incorporated
20 into the record maintained by the Division. The Division may
21 consider the entire record in a revocation or suspension action, or
22 consider any restrictions applied to an applicant's privilege to

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1 operate by the applicant's prior licensing state to determine
2 eligibility for a license.

3 8.4. An applicant under the age of eighteen who holds a valid
4 driver's license from another state or jurisdiction of the United
5 States which has a graduated driver's license system may exchange
6 the out of state driver's license for a West Virginia driver's
7 license at a comparable level, without taking the written
8 examination or road skills examination prescribed in section 4 and
9 5 of this rule subject to the following:

10 8.4.a. The applicant complies with the provisions of
11 subsection 8.2. of this rule and in addition presents a:

12 1. Valid ~~school enrollment form~~ school eligibility
13 certificate as prescribed in subdivision 4.1.d of this rule that
14 will also meet the proof of residency requirement of Section 10 of
15 this rule; and

16
17 2. Driving record dated thirty days or less from the
18 applicant's prior state or jurisdiction of licensure.

19 8.4.b. An applicant who does not possess a graduated driver's
20 license which equals or exceed this state's level 2 graduated
21 driver's license or who was previously licensed in a state or
22 jurisdiction which does not have a graduated driver's license

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1 system, shall comply with the provisions of section 4 and 5 of this
2 rule as if he or she never held a license. However, the applicant
3 will be credited with whatever time period the applicant held the
4 previous state or jurisdictions license toward any time periods
5 required for level 1 graduated driver's license if the applicant
6 presents a current driving record at the time of his or her initial
7 application for a West Virginia driver's license; and

8 8.4.c. An applicant's driving record from his or her previous
9 state of licensure will be transferred and become part of the
10 applicant's West Virginia driving record.

11

12 **§91-4-9. Reissuance of Driver's License with Changes or Issuance of**
13 **a Duplicate Driver's License or Identification Card.**

14

15 9.1. Change of Address. -- In accordance with law, all
16 licensees shall provide the Division with a correct address within
17 twenty days of moving to a new location. If a licensee's address is
18 changed by the United States Postal Service, the licensee shall
19 provide the Division with a correct address twenty days prior to the
20 final date on which mail with the old address is deliverable. If the
21 licensee chooses to obtain a new driver's license, he or she shall
22 present at least one proof of identity and ~~one~~ two proof proofs of

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1 residency as described in Sections 10 and 11 of this rule.

2 9.2. Change of Name. -- Any person who changes his or her name
3 shall apply for a new license or identification card within twenty
4 days of the name change and shall present at least one proof of
5 identity and one proof of residency as described in Sections 10 and
6 11 of this rule in addition to any documents required to
7 substantiate the change of name.

8 9.2.a. The licensee or identification card holder shall
9 substantiate a change of name by marriage with a marriage
10 certificate. The licensee or identification card holder may choose
11 from the following options as to display of his or her name on the
12 driver's license. However, a court order specifying a change of
13 name supersedes a birth and marriage certificate:

14 1. Last name, first name then middle name as evidenced by
15 the applicant's birth certificate;

16 2. Last name of spouse, as evidenced by the applicant's
17 marriage certificate, then first name and middle name as evidenced
18 by the applicant's birth certificate;

19 3. Last name as evidenced by the applicant's marriage
20 license, first name, then maiden name as evidenced by the
21 applicant's birth certificate to stand in place of the middle name;
22 or

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1 4. Last name as a combination of the applicant's last name
2 as evidenced by the applicant's marriage certificate separated by
3 a hyphen from the applicant's maiden name as evidenced by the
4 applicant's birth certificate.

5 9.2.b. The licensee or identification card holder shall
6 substantiate a change of name by divorce, or court order with a
7 copy of the certified divorce decree or certified court order that
8 specifically states the new name the applicant will use for legal
9 purposes; and

10 9.2.c. Any other change in the name requires a certified birth
11 certificate or a court order ordering the name change.

12 9.3. Any change in the birth date requires a certified birth
13 certificate.

14 9.4. Any change or correction of the social security number
15 requires a social security card.

16 9.5. Any change of gender requires submission of a completed
17 Gender Designation Form, as proscribed by the commissioner ~~a court~~
18 ~~order specifically indicating that the gender change is complete.~~

19 9.6. Any change to restriction or endorsement requires proper
20 documentation.

21 9.7. The Division shall collect the statutory fee for the
22 reissuance of any license or identification card.

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1 9.8. An applicant requesting a change to his or her driver's
2 license or identification card shall surrender the previously issued
3 driver's license or identification card.

4 9.9. An applicant under the age of eighteen requesting a
5 duplicate driver's license or a change to his or her driver's
6 license shall also present current proof of school enrollment which
7 shall also serve as proof of residency.

8

9 **§91-4-10. Residency Requirement.**

10 10.1. An applicant for any license or identification card shall
11 be a resident of the State of West Virginia except as provide under
12 subsection 10.4 of this rule. The West Virginia address of
13 residence shall appear on the face of the license or identification
14 card except as provided under subsection 3.9 of this rule. The
15 Division shall not license or issue an identification card to an
16 applicant who does not have a West Virginia address unless the
17 applicant resides in an area of West Virginia not served by a West
18 Virginia post office or in accordance with subsection 10.4 of this
19 rule. Acceptable documents for proof of residency are:

20 10.1.a. Current utility bills indicating a West Virginia
21 address;

22 10.1.b. Tax records indicating a West Virginia address;

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1 10.1.c. Residential rental and lease agreements for a West
2 Virginia residence;

3 10.1.d. Mortgage documents for a West Virginia residence;

4 10.1.e. A W-2 form not more than 18 months old with a West
5 Virginia address;

6 10.1.f. A current concealed weapons permit with a West
7 Virginia address;

8 10.1.g. A current West Virginia ~~School Enrollment Form~~ School
9 Eligibility Certificate if applicant is under the age of eighteen;

10 10.1.h. A motor vehicle registration card in the name of the
11 applicant issued by the Division with a West Virginia address;

12 10.1.i. West Virginia Voters Registration Card;

13 10.1.j. Proof of receipt of West Virginia Public Assistance;

14 10.1.k. West Virginia Homestead tax exemption; and

15 10.1.l. Notarized affidavit of homeowner or lessee that the
16 applicant lives at the household address and verified by two proofs
17 of residency in the name of the homeowner or lessee.

18 10.2. The Division may, at its discretion accept or require
19 other documentation to substantiate residency in this state.

20 10.3. The Division shall not license or issue an identification
21 card to persons who are not bona fide residents of this state except
22 as provided under section 10.4 of this rule. Nonresidents who

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1 previously resided and were licensed or issued an identification
2 card in West Virginia may not renew ~~their~~ his or her West Virginia
3 license or identification card until they again establish a
4 residence in this state.

5 10.4. The Division may issue applicants participating in an
6 Alcohol Test and Lock Program in compliance with the provisions of
7 West Virginia Code §17C-5A-3a a restricted driver's license
8 requiring the use of a motor vehicle equipped with an alcohol test
9 and lock device containing an address determined by the division.

10

11 **§91-4-11. Identity Requirements.**

12

13 11.1. Acceptable forms of proof of identity for citizens of the
14 United States are:

15 11.1.a. A certified original or certified copy of a birth
16 certificate;

17 ~~11.1.b. A valid photo driver's license or identification card~~
18 ~~expired six months or less issued the Division or by another state~~
19 ~~or jurisdiction;~~

20 11.1.c. b. A valid United States passport or passport card;

21 11.1.d. c. A valid United States active duty, retiree or
22 reservist Military photo identification card (DOD IDDD-2) subject to

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1 the provisions of WV Code §17B-2-8(I);

2 ~~11.1.e. A valid United States Uniform Service Identification~~
3 ~~and Privilege photo card (DD 1173),~~

4 11.1.f. d. A certificate of United States Citizenship Form N-
5 560; and

6 11.1.g. e. A certificate of United States Naturalization Form
7 N-550 or N-570.

8 11.2. The Division may at its discretion accept other
9 documentation to substantiate identity.

10 11.3. Acceptable forms of identity documents for persons who are
11 not citizens of the United States are valid USCIS documents with
12 a photo that can be verified with the United State Citizen and
13 Immigration Service.

14 11.4. All documents required by this rule to show age, identity,
15 residency and or legal presence in this country must show the same
16 name and/or date of birth, or an association between the information
17 on the forms. Additional documentation may be required if a
18 connection between the documents can not be established or if the
19 documents are not original or certified copies issued by the
20 authorized government agency. The Division may waive any documents
21 required to establish a connection, match or association between
22 names if the Division determines that the applicant is not
23 attempting to change his or her identity, to assume someone else's

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1 identity or to perpetuate a fraudulent identity.

2

3 §91-4-12. Proof of Legal Presence in the United States.

4

5 12.1. The Division shall not issue a driver's license or
6 identification card to a person who is not a citizen of the United
7 States, who does not submit proof satisfactory to the Division that
8 the applicant's presence in the United States is authorized under
9 federal law and who can not show that he or she is a resident of
10 West Virginia.

11 12.2. Acceptable documents to establish United States
12 citizenship are:

13 12.2.a. An original or certified birth certificate;

14 12.2.b. A valid United States passport ~~either valid or expired~~
15 or passport card;

16 12.2.c. A Certificate of Naturalization Form N-570;

17 12.2.d. A Certificate of Citizenship Form N-560, N-561, N-565;

18 or

19 12.2.e. A Temporary Resident Card N-688, N-688a, or N-688b.

20 12.3. The Division at its discretion may accept another document
21 which establishes a place of birth in the United States or its
22 territories or which indicates United States citizenship.

23 12.4. The following subdivisions describing categories of

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1 persons who are not citizens of the United States, prescribe the
2 documents required to establish that an applicant is authorized
3 under federal law to be in the United States and who is eligible to
4 receive a driver's license if he or she has complied with all other
5 requirements of West Virginia law and this rule.

6 12.4.a. Immigrants. -- Immigrants shall provide the
7 following documents:

8 1. The applicant's social security number as evidenced by
9 the applicant's social security card. If an applicant is not
10 eligible to receive a social security number, the applicant shall
11 provide a statement of ineligibility for a social security number in
12 accordance with section 3 of this rule;

13 2. Two forms showing West Virginia residency as identified
14 in section 10 of this rule; and

15 3. One of the following documents or similar successor
16 documents:

17 A. An Form I-551 Alien Registration Receipt Card;

18 B. A valid Temporary I-551 stamp in Foreign Passport
19 (with English translation) or on INS Form I-94; or,

20 C. Valid re-entry permit Form I-327.

21 D. The Division may at its discretion accept other INS or
22 USCIS documentation that establishes the applicant's legal presence.

23 12.4.b. Non-Immigrants. -- Non immigrants are persons granted

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1 temporary entry into the United States. Applicants who are Non-
2 Immigrants, granted temporary entry into the United States shall
3 provide:

4 1. The applicant's social security number as evidenced by
5 the applicant's social security card. If an applicant is not
6 eligible to receive a social security number, the applicant shall
7 present written documentation from the Social Security
8 Administration that he or she is not eligible for a number;

9 2. Two documents showing West Virginia residency as
10 identified in section 10 of this rule;

11 3. A valid foreign passport;

12 4. A form I-94;

13 5. A visa issued by the United States if applicant is from
14 a nation whose citizens are required by the United States to obtain
15 a visa; and

16 6. All original documents to verify status and length of
17 authorized stay.

18 A. If applicant's status is F-1 or F-2, a form I-20 and
19 written verification of attendance at the school listed on form I-20
20 is also required:

21 B. If the applicant's status is H1-A, H1-B, or H-3,
22 written verification from employer is also required.

23 C. If the applicant's status is J-1, or J-2, a form DS

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1 2019 and written verification of attendance at the school listed on
2 form DS 2019 is also required;

3

4 12.4.c. Refugee. -- An applicant who is a refugee with a
5 sponsoring organization shall provide:

6 1. The applicant's social security number as evidenced by
7 the applicant's social security card. If an applicant is not
8 eligible to receive a social security number, the applicant shall
9 present written documentation from the Social Security
10 Administration that he or she is not eligible for a number;

11 2. One form showing West Virginia residency as identified
12 in section 10 of this rule;

13 3. Form I-94 showing grant of refugee status;

14 4. A Reception and Placement Program Assurance Form; and

15 5. Written verification of identity and West Virginia
16 residency presented by an employee of a sponsoring organization
17 approved by the United States Department of State to resettle
18 refugees in West Virginia.

19 12.4.d. Applicants who are refugees who do not have an
20 approved sponsoring organization or an asylee shall provide the
21 following a:

22 1. The applicant's social security number as evidenced by
23 the applicant's social security card. If an applicant is not

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1 eligible to receive a social security number, the applicant shall
2 present written documentation from the Social Security
3 Administration that he or she is not eligible for a number;

4 2. Two forms showing residency as identified in section 10
5 of this rule;

6 3. Form I-94 stamped Refugee/Asylee; and

7 4. Form I-688 B and I-766 Employment Authorization Document.

8 12.5. The Division ~~may require~~ requires verification of any
9 submitted documents and the applicant's legal status by the United
10 States Citizen and Immigration Service before a driver's license or
11 identification card is issued.

12 12.6. All forms designations refer to the current form or to any
13 successor or substitute form promulgated by the Immigration and
14 Naturalization Service, United States Citizen and Immigration
15 Service or the United States Immigration Control Enforcement Agency.

16 12.7. The Division may at its discretion accept other INS,
17 USCIS, or ICE documentation that establishes the applicant's legal
18 presence in this ~~county~~ country.

19

20 **§91-4-13. Motorcycle License or Endorsement.**

21 13.1. An applicant for a motorcycle-only instruction permit
22 shall submit to the preliminary examination described in section 4
23 of this rule except that the written examination may contain

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1 information from the West Virginia Motorcycle Licensing Handbook as
2 well as the West Virginia Driver Licensing Handbook.

3 13.2. An applicant for a motorcycle endorsement instruction
4 permit shall present a valid West Virginia license, pass the visual
5 acuity test described in section 4 of this rule and pass a written
6 examination as described in section 4 of this rule except that the
7 examination may contain information from the West Virginia
8 Motorcycle Licensing Handbook in addition to the West Virginia
9 Driver Licensing Handbook.

10 13.3. Any applicant under this section shall pass a road skill
11 examination designed to test the skills of a motorcycle operator and
12 meet the requirements described in section 5 of this rule. The
13 Division may exempt any applicant who satisfactorily completes the
14 West Virginia motorcycle safety education program from the road
15 skill examination. No applicant is eligible for the road skill
16 examination until at least seven days after issuance of the
17 motorcycle instruction permit.

18 13.4. An applicant shall perform the motorcycle road skill
19 examinations on a motorcycle with a 50 cc engine or larger.

20 13.5. In addition to the West Virginia Driver Licensing
21 Handbook, the West Virginia Motorcycle Licensing Handbook is the
22 instruction guide of the Division concerning the examination and
23 qualification of applicants for a motorcycle license or endorsement.

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1 13.6. Any applicant for a motorcycle license or endorsement
2 under the age of eighteen shall complete the following Graduated
3 Driver's License requirements prior to application:

4 13.6.a. The applicant shall hold a level one instruction
5 permit conviction free for one hundred eighty days immediately
6 preceding the date of application;

7 13.6.b. The applicant shall complete either a driver's
8 education course approved by the state department of education or
9 ~~thirty~~ fifty hours of behind the wheel driving experience certified
10 by a parent or legal guardian or other responsible adult over the
11 age of twenty-one on the form prescribed by the division: Provided,
12 That nothing in this subdivision shall be construed to require any
13 school or any county board of education to provide any particular
14 number of driver's education courses or to provide driver's
15 education training to any student; and

16 13.6.c. The applicant shall present a current ~~school~~
17 ~~enrollment form~~ school eligibility or otherwise show compliance with
18 West Virginia Code §18-8-11.

19 13.7. Applicants for a motorcycle license or endorsement shall
20 comply with all identity, residency and legal presence requirements
21 of this rule.

22

23 §91-4-14. Commercial Driver's License.

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1 14.1. An applicant for a commercial driver's license instruction
2 permit shall complete a Commercial Driver's License Application.
3 The applicant shall include a current Federal Motor Carrier Safety
4 Administration Medical Examiners ~~Certificate~~ Report (physical long
5 form) and Medical Examiners Certificate (Department of
6 Transportation (DOT) Medical Card) unless he or she is exempt under
7 Title 49 CFR §390.3 of the Federal Motor Carrier Safety Regulations.
8 The applicant shall satisfactorily complete a written examination
9 for the Commercial Driver's License and each endorsement as
10 prescribed by the Commissioner.

11 14.2. An applicant for a Commercial Driver's License or
12 endorsement shall present a Commercial Driver instruction permit and
13 satisfactorily complete any applicable road skill examination as
14 determined by the Commissioner.

15 14.3. In addition to the West Virginia Driver Licensing
16 Handbook, the West Virginia Division of Motor Vehicles Commercial
17 Driver's License Manual is the instruction guide of the Division
18 concerning the examination and qualification of applicants for a
19 Commercial Driver's License.

20 14.4. A licensee shall maintain a current Federal Motor Carrier
21 Safety Administration Medical Examiners Certificate (DOT ~~physical~~
22 ~~long form~~ Medical Card) on file with the Division. In accordance
23 with federal law, any certificate more than two years old is not

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1 current. A licensee with a Class D driver's license who operates a
2 commercial vehicle over 10,000 pounds but less than 26,001 pounds is
3 required to comply with requirements related to submitting and
4 maintaining a current Federal Motor Carrier Safety Administration
5 Medical Examiners Certificate.

6 14.5. The Division ~~may~~ shall cancel the license of any licensee
7 that does not provide a current Federal Motor Carrier Safety
8 Administration Medical Examiners Certificate (~~physical long form~~
9 Medical Card) within twenty thirty days from the date the previous
10 Certificate is no longer current.

11 14.6. The following provisions apply to the Intrastate Waiver
12 Program for drivers of commercial vehicles with either a Commercial
13 Driver's License or a Class D Driver's License:

14 14.6.a. Licensees who do not meet the requirements of Title 49
15 CFR §391.41(b) and cannot obtain a federal interstate waiver may
16 apply for an intrastate waiver with the Division;

17 14.6.b. A commercially licensed driver with an intrastate
18 waiver ~~may~~ shall only operate a commercial vehicle in West Virginia.
19 Individuals with an intrastate waiver ~~may~~ shall not drive a
20 commercial vehicle in furtherance of interstate commerce;

21 14.6.c. A licensee with an intrastate waiver is not eligible
22 for passenger and hazardous material endorsements except that an
23 individual who has a passenger or hazardous material endorsement

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1 prior to passage of this rule may, in the Commissioner's discretion,
2 maintain the endorsement as long as all other criteria in this rule
3 and federal law and rule are met;

4 14.6.d. A licensee shall complete and submit a Commercial
5 Driver License Application, a Federal Motor Carrier Safety
6 Administration Medical Examiners ~~physical long form~~ (DOT) Medical
7 Card, a supplemental Medical History Form and/or a Vision Form, and
8 any other information considered necessary; and

9 14.6.e. An applicant may submit any other information
10 pertaining to the applicant's ability to safely operate a commercial
11 motor vehicle such as letters from a treating physician, a
12 specialist or an employer.

13 14.7. The Commissioner, or his or her designee, shall review the
14 documents provided in subdivision (d) and (e), the driver history
15 record of the applicant, and the following medical guidelines:

16 14.7.a. Limb Impairment: The Division shall not issue an
17 intrastate waiver to an applicant disqualified from an interstate
18 license because of a loss or impairment of a foot, leg, arm, hand or
19 fingers unless the applicant passes a skills test in a commercial
20 vehicle adapted for the specific disability. Any waiver issued
21 shall be vehicle specific;

22 14.7.b. Vision: The Division shall not issue an intrastate
23 waiver to an applicant disqualified from an interstate license

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1 because of vision problems unless it is found that:

2 1. The applicant has a distance visual acuity of 20/60 or
3 better with or without corrective lenses in at least one eye;

4 2. The applicant uses only conventional corrective lenses
5 which excludes bioptic lenses;

6 3. The applicant does not exhibit uncorrectable double
7 vision;

8 4. The applicant does not show evidence of disease or rapid
9 deterioration of vision;

10 5. The applicant can readily distinguish which light is
11 illuminated on a traffic signal showing standard red, amber, and
12 green; or

13 6. An ophthalmologist or optometrist reports on the
14 supplemental Vision Form that the applicant can safely operate a
15 motor vehicle with appropriate restrictions.

16 14.7.c. Epilepsy: The Division shall not issue an intrastate
17 waiver to an applicant disqualified from an interstate license
18 because of epilepsy or any other condition likely to cause loss of
19 consciousness unless the applicant is seizure free for three years
20 immediately preceding application and free from loss of
21 consciousness, a blackout, fainting or disorientation for one year
22 immediately preceding application. The applicant shall prove
23 reliability in taking prescribed medication by providing blood

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1 content level readings;

2 14.7.d. Cardiovascular: The Division shall not issue an
3 intrastate waiver to an applicant disqualified from an interstate
4 license because of cardiovascular problems unless there is no
5 current clinical diagnosis of myocardial infarction, angina
6 pectoris, coronary insufficiency, thrombosis, or any other
7 cardiovascular disease of a variety known to be accompanied by
8 syncope, dyspnea, collapse, or congestive cardiac failure. The
9 Division shall not grant an intrastate waiver to any applicant who
10 is disqualified from an interstate license because of a blood
11 pressure reading outside of acceptable federal limits;

12 14.7.e. Diabetes: The Division shall not issue an intrastate
13 waiver to an applicant disqualified from an interstate license
14 because of diabetes unless a board certified/eligible
15 endocrinologist attests that the applicant:

16 1. Is free from insulin reactions which means the applicant
17 does not have severe hypoglycemia or hypoglycemia unawareness, and
18 has less than one documented, symptomatic hypoglycemic reaction per
19 month;

20 2. Is able to and has demonstrated willingness to properly
21 monitor and manage his or her diabetes;

22 3. Is not likely to suffer any diminution in driving ability
23 due to his or her diabetic condition; and

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1 4. Has not exhibited any instances of diabetic shock or coma
2 in the year immediately preceding the application for an intrastate
3 waiver.

4 14.7.f. Alcohol or Drugs: The Division shall not issue an
5 intrastate waiver to an applicant disqualified from an interstate
6 license until the applicant has been free from addiction to or abuse
7 of alcohol or other drugs for one year immediately preceding
8 application;

9 14.7.g. Psychiatric Disorders: The Division shall not issue an
10 intrastate waiver to an applicant disqualified from an interstate
11 license because of a mental, nervous, organic, or functional disease
12 or psychiatric disorder if:

13 1. The applicant exhibits homicidal, suicidal, or
14 destructive behavior;

15 2. The applicant has experienced extreme anxiety,
16 depression, paranoia, confusion, delusions or hallucinations in the
17 year immediately preceding application; or

18 3. The applicant has been hospitalized for any condition
19 described in Paragraph (A) or Paragraph (B) in the three years
20 immediately preceding the application.

21 14.7.h. An applicant disqualified from an interstate license
22 for a medical condition not discussed in this subdivision may apply
23 for an intrastate waiver. The Division shall review applications on

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1 a case by case basis with due regard for the applicant's ability to
2 safely operate a commercial motor vehicle. The Division shall not
3 issue an intrastate waiver to an applicant who does not meet the
4 federal standards for hearing found in Title 49 CFR §391.41 (11);

5 14.7.i. After reviewing the relevant material, the Commissioner
6 or his or her designee may grant or deny a intrastate waiver, or
7 refer the application to the Medical Advisory Board for a
8 recommendation. If an intrastate waiver is granted, the
9 Commissioner or his or her designee may apply restrictions or
10 conditions to the license as determined necessary;

11 14.7.j. If at any time after issuing the license, it is
12 determined the applicant failed to meet a condition or no longer
13 qualifies for an intrastate waiver, then the Commissioner shall
14 cancel the license or modify it with appropriate restrictions,
15 endorsements and/or conditions;

16 14.7.k. If an intrastate waiver is denied or canceled, the
17 applicant may reapply with additional information at any time. An
18 applicant or licensee who is denied an intrastate waiver is not
19 entitled to an administrative hearing; and

20 14.7.l. Intrastate waivers granted by another state are not
21 valid in West Virginia.

22 14.8. A licensee whose commercial driving privileges are
23 disqualified based on a sworn report submitted by a law-enforcement

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1 officer in accordance with West Virginia Code §17E-1-15 may request
2 a hearing in accordance with West Virginia Legislative Rules,
3 Division of Motor Vehicles, Administrative Due Process, 91 CSR 1.
4 The docket fee for the hearing is ~~fifty dollars~~ \$50.

5
6 14.9. A third party examiner who has paid either the initial-
7 application fee of \$100 or a fifty-dollar the \$50 renewal application
8 fee and has contracted with the Division may conduct a road skills
9 examination test. The Division may dismiss a third party examiner
10 who fails to comply with the terms of any contract or agreement with
11 the Division.

12 14.10. Designated employees of the Division shall conduct random
13 checks of third party examinations for compliance with state rules
14 and federal regulations and any written agreement. All third party
15 examiners shall maintain current certification.

16 14.11. The Division shall conduct the hazardous material
17 endorsement examination in the English language only and shall issue
18 the endorsement in accordance with the provisions of Section 1012
19 of the USA Patriot Act as codified at 49 U.S.C. §5103 and Federal
20 Rules implementing the provisions of Section 1012.

21 14.11.a. In accordance with the provisions of 49 U.S.C. §5103
22 and 49 CFR §Part 1572 (2004), all applicants for either an original
23 or renewal of a hazardous material endorsement shall submit finger

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1 prints in the manner prescribed by the Division and undergo a
2 security threat assessment check by the United States Department of
3 Homeland Security Transportation Security Administration and by the
4 United States Department of Justice, Federal Bureau of Investigation;
5 and

6 14.11.b. Any appeal of a denial of a hazardous material
7 endorsement by the United States Department of Homeland Security,
8 Transportation Security Administration shall be heard by the
9 appropriate federal agency and not by the Division of Motor Vehicles.

10 14.12. The division may, upon appropriate application allow a
11 licensee with a commercial driver's license to temporarily downgrade
12 his or her driver's license status to a Class E passenger vehicle
13 driver's license at the time of renewal if he or she has a temporary
14 disability which prevents the licensee from immediately meeting the
15 Federal Motor Carrier Safety Administration medical criteria. The
16 licensee may restore his or her driver's license to CDL status
17 without retesting if the licensee meets the federal medical criteria
18 within two years of the initial downgrade.

19 14.13. A commercial driver's licensee whose privilege to operate
20 a commercial motor vehicle has been revoked, suspended or
21 disqualified for more than three years must pass the written and road
22 skills examination prior to reinstatement of ~~their~~ his or her CDL
23 driver's license.

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1 14.14 A commercial driver's licensee whose privilege to operate
2 a commercial motor vehicle has been downgraded to a Class E driver's
3 license due to an expired medical examination certificate has two
4 years to acquire a valid medical examination certificate and upgrade
5 back to a CDL without retesting. If a driver has been downgraded
6 longer than two years, retesting is required for both the written and
7 road skills in order to requalify for a CDL.

8

9 §91-4-15. Non Driver Identification Cards.

10

11 15.1. The Division may issue a children's identification card to
12 any person two years old or older but younger than sixteen years old
13 subject to the following:

14 15.1.a. A custodial parent or legal guardian accompanies the
15 child at the time of application;

16 15.1.b. The parent or legal guardian provides the child's
17 certified birth certificate and social security card. If the child
18 is not a citizen of the United States, the parent or legal guardian
19 shall provide in lieu of the birth certificate, proof of the child's
20 legal presence in accordance with section 12 of this rule;

21 15.1.c. The parent or legal guardian provides proof of West
22 Virginia residency;

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1 15.1.d. The Division may issue children's identification card
2 containing less information than a non-driver identification card;
3 and

4 15.1.e The Division may use the information from a children's
5 identification card to assist law-enforcement officials to locate
6 a missing or kidnapped child.

7 15.2. The Division may issue a non-driver identification card to
8 any person sixteen years old or older subject to the following:

9 15.2.a. The applicant does not have a valid driver's license;

10 15.2.b. The applicant provides a certified birth certificate
11 and social security card; and

12 15.2.c. The applicant complies with the applicable provisions
13 of this rule pertaining to identity, residency and legal presence.

14 15.3. The holder of an identification card or children's
15 identification card shall surrender the card to the Division when the
16 holder is issued a driver's license. A holder of a identification
17 card who has surrendered his or her driver's license in order to
18 obtain an identification card may obtain a driver's license without
19 the requirement of retesting if otherwise eligible under section 7.5
20 of this rule, if he or she reinstates his or her driver's license
21 within six months of obtaining the identification card.

22 15.4. The Division may issue a non-transferable temporary
23 identification card valid for a period not to exceed 60 days to

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1 applicants who appear otherwise eligible but who submit documents
2 that require additional verification.

3

4 **§91-4-16. Review and Verification of Documents.**

5 16.1. The Division reserves the right to photocopy, review, and
6 verify any document submitted to meet the requirements of this rule
7 prior to the issuance of a driver's license or identification card.

8 16.2. The Division shall notify the applicant or licensee by
9 regular mail to the address of record of its determination, and may
10 require the applicant to provide the original documents upon his or
11 her return to the office for issuance of the driver's license or
12 identification card.