

**WEST VIRGINIA  
SECRETARY OF STATE  
BETTY IRELAND  
ADMINISTRATIVE LAW DIVISION**

FILED

APR 14 2 17

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Department of Transportation, Division of Highways TITLE NUMBER: 157

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 9

TITLE OF RULE BEING PROPOSED: Special Crossing Permits

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 353

SECTION §§ 64-8-1(a), PASSED ON March 11, 2006

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE

ON THE FOLLOWING DATE: April 14, 2006

  
Cabinet Secretary Transportation

157 CSR 9  
APR 14 P 2:18  
WEST VIRGINIA  
SECRETARY OF STATE

TITLE 157  
LEGISLATIVE RULE  
DEPARTMENT OF TRANSPORTATION  
DIVISION OF HIGHWAYS

SERIES 9  
SPECIAL CROSSING PERMITS

§157-9-1. General.

1.1. Scope. -- This legislative rule establishes the procedures and standards for issuance of special crossing permits authorizing certain vehicles to operate or move a vehicle or combination of vehicles which exceed the maximum weight allowance specified in W. Va. Code §17C-17A-3 (120,000 pounds) on limited sections of public highways. Special crossing permits may be issued only for vehicles hauling coal or coal by-products in the Coal Resource Transportation Road System.

1.2. Authority. -- This rule is issued pursuant to the provisions of W. Va. Code §17C-17A-3.

1.3. Filing Date. -- April 14, 2006.

1.4. Effective Date. -- April 14, 2006.

§157-9-2. Application for permit.

2.1. An applicant for a special crossing permit must complete an application form developed by the Division of Highways and submit it to a Highways District Permit Clerk within the district wherein the road that will be crossed or traveled is located or where it originates if the route lies within two districts.

2.2. The application must be accompanied by:

2.2.a. A \$500 application fee;

2.2.b. A list of all vehicles or combinations of vehicles, including axle weights and spacings and gross vehicle weights, that will be moving on or crossing the highway for which the permit is requested. If a vehicle will be hauling various tonnages of loads, the maximum weights will be listed; and

2.2.c. An estimate of the number of times per day that each listed vehicle or combination of vehicles will cross or travel the route.

2.3. Prior to the issuance of the permit, the applicant must:

2.3.a. Agree, in writing, to pay the actual costs for any necessary upgrading or repair of the public highway, including any necessary traffic control, which the applicant seeks the permit to cross;

2.3.b. Agree to post a bond in an amount of no less than \$50,000, as recommended to and approved by the Commissioner of Highways;

2.3.c. Furnish evidence of having at least the minimum amounts of insurance required of "West Virginia Division of Highways, Standard Specifications, Roads and Bridges, Adopted 2000", and supplements thereto;

2.3.d. Agree, in writing, to pay for the restoration of the public highway to its original condition after the permit has expired. The original condition of the highway may be documented by the applicant and/or the Division of Highways by photography, video recording, or any other means acceptable to both parties.

§157-9-3. Vehicles.

3.1. No listed vehicle or combination of vehicles is permitted to haul more than the manufacturer's weight rating.

3.2. Except as provided in the permit, all listed vehicles or combinations of vehicles must be in compliance with all other specifications given in W. Va. Code §17C.

3.3. All listed vehicles must be identified by vehicle identification number or, if a vehicle identification number is not available, by serial number.

3.4. If any vehicle is replaced during the course of a three year permit period, the applicant must submit supplemental information on each

vehicle to the District Permit Clerk. The District Maintenance Engineer and/or Bridge Engineer shall review the supplemental information and may require additional route analysis, route upgrading, an increase in the bond amount, or any other consideration deemed necessary.

**§157-9-4. Evaluation of permit application.**

4.1. Prior to the issuance of any Special Crossing Permit:

4.1.a. The District Maintenance Engineer(s) in the district(s) in which the proposed route is located will initiate a route analysis to determine the feasibility and potential costs associated with the applicant being permitted to cross or travel the route with any of the listed vehicles or combinations of vehicles. Considerations will include the road surface and any existing height or width restrictions, bridges, culverts, and potential traffic or safety problems;

4.1.b. If there are bridges or culverts on the route, the District Bridge Engineer(s) in the district(s) in which the route is located will initiate a bridge analysis to determine whether these structures can safely bear the weight of the listed vehicles or combinations of vehicles, or whether any will require reinforcement or replacement; and

4.1.c. The District Traffic Engineer(s) in the district(s) in which the route is located will perform an analysis to evaluate potential traffic and safety problems and recommend appropriate traffic control actions and/or devices.

4.2. The Commissioner of Highways may require additional evaluations or analyses in his or her discretion.

4.3. Once all of the necessary analyses have been performed by the appropriate party(ies), all necessary conditions and addendums required have been identified, and a proposed bond amount has been agreed upon, the District Maintenance Engineer will submit the application to the Commissioner of Highways for approval.

**§157-9-5. Approval or denial of permit**

**application.**

5.1. The Commissioner of Highways may deny the application if there is an existing alternate off-road route available, if the road or any bridge thereon is unsuitable for the load, or if it is determined that the permit cannot be granted without jeopardizing public safety.

5.1.a. The Commissioner of Highways may not approve an application which, in combination with another permit or permit application, would authorize a vehicle or combination of vehicles to operate in excess of the maximum weight allowance specified in W. Va. Code §17C-17A-3 on sections of public highways longer than one-half mile.

5.1.b. In the event the application is denied, the Commissioner of Highways may (at his or her discretion) refund any unexpended portion of the application fee to the applicant.

5.2. The Commissioner of Highways may require additional evaluations or agreements prior to approving any special crossing permit application.

5.3. If the application for a special crossing permit is approved by the Commissioner of Highways, the District Maintenance Engineer(s) shall assure that all necessary conditions and addendums are satisfied before delivering the permit to the applicant.

**§157-9-6. Duration, suspension, revocation or renewal of permit.**

6.1. A special crossing permit is valid for three years from the date of issuance.

6.2. While a special crossing permit is in effect, the permit holder shall maintain the road in a condition that is passable to the traveling public. The District Maintenance Engineer(s), accompanied by a representative of the permit holder, shall review the conditions of the approved route at least quarterly, or more frequently, if deemed appropriate by the District Maintenance Engineer(s), to assure the integrity of the roadway

and any structures adjacent thereto.

6.3. A special crossing permit may be suspended or revoked by the Commissioner of Highways at any time if the permit holder is found to be in violation of any of the conditions, requirements, addendums or provisions of the permit or to have maintained the roadway or crossing as required by the permit or this rule.

6.4. At the end of three years, a permit holder may apply to the Commissioner of Highways to renew the permit in the same manner as an application for an initial permit. The renewal application fee is \$500. The Commissioner of Highways may require the same stipulations, conditions and requirements, including the posting of a bond in excess of \$50,000, attendant to the issuance of the original permit or may impose additional stipulations, conditions or requirements as a condition of renewal. The Commissioner of Highways may also, in his or her discretion, require any or all of the route and safety evaluations described in this rule as required for issuance of an initial permit or require additional evaluations, analyses or requirements before renewing the permit.

6.5. The Commissioner may deny renewal of the permit for any of the reasons for which an initial application for a permit may be denied, if the permit holder failed to comply with any of the conditions or requirements of the previous permit or if the permit holder failed to satisfactorily maintain the highway or protect public safety.