

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III**

ADMINISTRATIVE LAW DIVISION

Form #3 ■

Do Not Mark In This Box

FILED

2001 JUL 25 A 9:23

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Division of Motor Vehicles TITLE NUMBER: 91

CITE AUTHORITY: W.Va. Code §§17A-2-9, 17C-16-4

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 91CSR12

TITLE OF RULE BEING AMENDED: Motor Vehicle Inspection Manual

IF NO, SERIES NUMBER OF RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature



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

Bob Wise
Governor

Fred VanKirk, P. E.
Secretary

June 19, 2001

The Honorable Joe Manchin III
Secretary of State
State Capitol Building
Charleston, WV 25305

Dear Mr. Secretary:

The Commissioner of Motor Vehicles is hereby authorized to promulgate proposed amendments to 91 CSR 12, Motor Vehicle Inspection Manual.

Very truly yours,

A handwritten signature in black ink that reads "Fred VanKirk".

Fred VanKirk, P.E.
Secretary/Highways Commissioner

FV:sd

Enclosure



**WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Motor Vehicles**

1800 Kanawha Boulevard East • Building Three
Charleston, West Virginia 25317

Bob Wise
Governor

Fred VanKirk, P. E.
Secretary

Roger Pritt
Commissioner

91 CSR 12

Motor Vehicle Inspection Program

Summary of Content

1. Changed the manner in which motor vehicle inspection stations apply for inspections stickers. Stations under the proposed rule mail applications and checks directly to the office of the State Treasurer.
2. Adds requirement that Inspection Stations have a State Tax Department Business License and be enrolled in Workers Compensation Program.
3. Allows Inspection Stations to exchange a total of one hundred inspection stickers, an increase from the current allowance of thirty-five inspection stickers.
4. Updating and clarification of other various standards, specifications and requirements.

A handwritten signature in cursive script that reads "Roger Pritt".

Roger Pritt
Commissioner



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Motor Vehicles

1800 Kanawha Boulevard East • Building Three
Charleston, West Virginia 25317

Bob Wise
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Secretary

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Commissioner

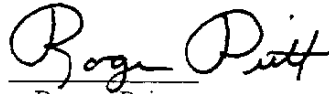
91 CSR 4

Motor Vehicle Inspection Manual

Statement of Circumstances Requiring Filing

The Motor Vehicle Inspection Program prescribed under West Virginia Code Chapter 17C, Article 16 is administered by the West Virginia State Police. The State Police are responsible for the licensing and regulation of the Inspection Stations as well as the establishment of inspection standards for motor vehicles. However, the provisions of West Virginia Code §17C-16-4 places the authority for the actual promulgation of the rules which govern the program with the Commissioner of Motor Vehicles.

The State Police have revised and updated the Motor Vehicle Inspection Manual. Consequently, the newly revised manual as promulgated by the State Police is by this rule incorporated by reference.


Roger Pritt
Commissioner

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Motor Vehicle Inspection Manual

Type of Rule: X Legislative Interpretive Procedural

Agency: Division of Motor Vehicles/ State Police

Address: Building 3, Capitol Complex
Charleston, WV 25317

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	0	0	0	0	0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

Changes contemplated by the proposed amendments to this rule will not significantly change the cost of administering the Motor Vehicle Inspection Program.

3. Objectives of These Rules:

This rule updates the existing criteria for the annual inspection of motor vehicles by the West Virginia State Police.

Rule Title: Motor Vehicle Inspection Program

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: June 19, 2001

Signature of Agency Head or Authorized Representative:

Rogan Pitt

(PROPOSED)
WEST VIRGINIA LEGISLATIVE RULES
DIVISION OF MOTOR VEHICLES
91 CSR 12

FILED
2001 JUL 25 A 9:23
OFFICE WEST VIRGINIA
SECRETARY OF STATE

Title: Motor Vehicle Inspection Manual

§91-12-1 General

1.1. Scope - This legislative rule relates to the Motor Vehicle Inspection Manual.

1.2. Authority- West Virginia Code §17A-2-9, §17C-16-4.

1.3. Filing Date -

1.4. Effective Date-

1.5. Repeal of Former Rule- This legislative rule repeals and replaces West Virginia Legislative Rules, Division of Motor Vehicles, 91 CSR 6, Vehicle Inspection Manual, as filed ~~April 2, 1986 and effective April 2, 1986~~: May 12, 1997 and effective May 13, 1997.

1.6. Application and Enforcement - This legislative rule applies to the administration and enforcement of the motor vehicle inspection laws of this state. Enforcement to this rule is vested with the Commissioner of Motor Vehicles and the Superintendent of the State Police.

§91-12-2 Motor Vehicle Inspection Manual

2.1. Incorporation by reference- The Commissioner of Motor Vehicles hereby incorporates by reference the Official Motor Vehicle Inspection Manual as promulgated by the Superintendent of the West Virginia State Police, and as revised ~~April, 1996~~: July, 2001.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 25, 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Division of Motor Vehicles
Building 3, Capitol Complex
Charleston, WV 25317
304 558-2723

LEGISLATIVE RULE TITLE: Motor Vehicle Inspection Manual 91CSR12

1. Authorizing statute(s) citation W. Va. Code §17C-16-4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 21, 2001

b. What other notice, including advertising, did you give of the hearing?
Please see attached list of persons notified of public comment period

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 23, 2001

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 25, 2001

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Steven O. Dale

Assistant to the Commissioner

Building 3, Room 113, Capitol Complex

Charleston, WV 25317

304 558-2723

fax 304 558-1987

email sdale@dot.state.wv.us

- g. **IF DIFFERENT FROM ITEM 'f',** please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

1st Sgt Sam Butcher/ 1st Sgt Chuck Zerkle

Director, Traffic Records

WV State Police

725 Jefferson Rd

South Charleston, WV 25309

304 746-2124

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Motor Vehicles

**1800 Kanawha Boulevard East • Building Three
Charleston, West Virginia 25317-0010**

**Bob Wise
Governor**

**Fred VanKirk, P. E.
Secretary**

**Roger Pritt
Commissioner**

91 CRS 12 (6/01)

Persons/Organizations Notified of Public Comment Period

W. V. Automobile and Truck Dealers
1618 Kanawha Boulevard East
Charleston, West Virginia 25311

West Virginia Motor Truck Association
Post Office Box 5187
Charleston, West Virginia 25361

Capitol Press Service
Main Building, Room 46
Capitol Complex

West Virginia Rebuilders Association
Patricia Bungard
RD1, Box 220
Glen Easton, West Virginia 26039

Executive Vice-President
American Automobile Association
West Virginia State Association
4100 MacCorkle Avenue, S. E.
Charleston, West Virginia 25304

Superintendent of the State Police
725 Jefferson Road
South Charleston, West Virginia 25309

John Canfield
State Farm Insurance
2403 Fairlawn Avenue
Dunbar, West Virginia 25064

West Virginia Gasoline Dealers and
Automotive Repair Association
1104 Norway Avenue
Huntington, West Virginia 25701

West Virginia Safety Council
1614A Washington Street East
Charleston, West Virginia 25311



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Motor Vehicles

**1800 Kanawha Boulevard East • Building Three
Charleston, West Virginia 25317-0010**

**Bob Wise
Governor**

**Fred VanKirk, P. E.
Secretary**

**Roger Pritt
Commissioner**

91 CSR 12

Motor Vehicle Inspection Manual

Summary of Public Comment

One Comment Received

Stephen B. McDonald, Director of Government Affairs
Specialty Equipment Market Association
1317 F St. NW, Suite 500
Washington, DC 20004

1. Mr. McDonald suggested adding the phrase "or operate in an equivalent manner" to a section of the Manual (Page 54, Body and Sheet Metal) dealing with bumpers.

The agency accepts the suggested amendment but with further amendment by striking "~~or~~" and substituting the word "and." This amendment to the amendment further reinforces the intent of the sentence which is to require replacement bumpers to meet the original manufacturer's specification. To require a lesser standard, such as might be construed if the commentator's suggested "or" were to stand, may result in a substandard bumper and weaken the ability of a vehicle to withstand a rear end collision.

2. Mr. McDonald further suggested adding the phrase "or be of an equivalent type" to a section of the Manual (Page 12. General Inspection Requirements)

Again, the Agency accepts the amendment but with further amendment by striking "~~or~~" and substituting the word "and". This amendment to the amendment further reinforces the intent of the sentence with is to require all parts to meet or exceed original manufacturer specifications.

The use of the term "equivalent" in both sections could be interpreted as allowing parts which do not meet or exceed the original manufacturer's specifications which is in direct conflict with the intent of both phrases.

July 20, 2001

VIA FAX: 304/558-1987

Mr. Steven O. Dale
Asst. to the Commissioner
Division of Motor Vehicles
State Capitol Complex, Bldg. 3
1900 Kanawha Blvd.
East Charleston, WV 25317

RE: Proposed Rule of the Division of Motor Vehicles to Amend Regulations Under 91 WVCSR 12

Dear Mr. Dale:

The following are the comments and recommendations of the Specialty Equipment Market Association (SEMA) regarding the West Virginia Division of Motor Vehicles' proposal to amend and clarify existing sections of the Motor Vehicle Inspection manual, and to adopt new rules regulating vehicle inspections.

SEMA is a national trade association comprised of over 4,700 member businesses, many of which are based or do business in the state of West Virginia and include manufacturers, distributors and retailers of specialty automotive parts and accessories. Products manufactured by SEMA members include suspension systems and components, wheels, tires and bumpers for street and off-road vehicle use, as well as engines and other performance and emissions-related products. All combined, the markets add up to \$24.68 billion in retail business annually.

SEMA supports reasonable vehicle safety and emissions regulations at both the state and federal levels and encourages efforts to improve highway safety and clean air. We are concerned, however, that certain of the amendments being considered by the Division of Motor Vehicles could unfairly discriminate against the aftermarket parts industry without actually improving safety. Our comments will request that inspected items be allowed to be of an "equivalent" type to original equipment, operate in an "equivalent" manner to provide for legitimate vehicle modifications that involve aftermarket parts that may be of a different configuration than original equipment parts. To follow are specific areas of concern and recommended amendments (in bolded type).

Headquarters: P.O. Box 4910, Diamond Bar, Calif. 91765-0910
Telephone: 909/396-0289 • Fax, general office: 909/860-0184 • Fax, publications: 909/860-1709
SEMA 1317 F Street N.W., Ste. 500, Washington, D.C. 20004
Telephone: 202/783-6007 • Fax 202/783-6024



Page 54. Body and Sheet Metal

The proposed language states:

"Bumpers must be present if equipped or designed to be equipped from the manufacturer. If replaced, must be of original equipment or a replica thereof. Wooden bumpers are not acceptable."

We recommend amending the above to read:

"Bumpers must be present if equipped or designed to be equipped from the manufacturer. If replaced, must be of original equipment or a replica thereof **or operate in an equivalent manner**. Wooden bumpers are not acceptable."

Page 12. General Inspection Requirements

The proposed language at No. 24 states:

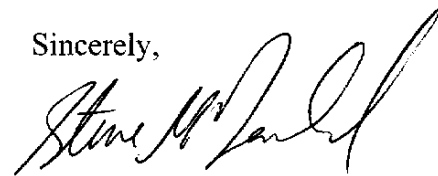
"All parts and equipment used on any vehicle must meet or exceed original vehicle manufacturer specifications to properly be approved for a valid West Virginia Inspection Certificate."

We recommend amending the above to read:

"All parts and equipment used on any vehicle must meet or exceed original vehicle manufacturer specifications **or be of an equivalent type** to properly be approved for a valid West Virginia Inspection Certificate."

Thank you for your consideration of our concerns. Again, we are extremely concerned about the discriminatory effect this regulation could have on aftermarket manufacturers, retailers and installers. I would be pleased to speak with you regarding these issues. Please feel free to call me at 202/783-6007.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve McDonald", written over a horizontal line.

Stephen B. McDonald
Director, Government Affairs