





**WEST VIRGINIA  
DEPARTMENT OF TRANSPORTATION**

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

Gaston Caperton  
Governor

Charles L. Miller, P.E.  
Secretary

December 13, 1994

Honorable Ken Hechler  
Secretary of State  
State Capitol Building  
Charleston, West Virginia 25305

Dear Mr. Hechler:

Agency Adoption of a Procedural Rule  
Public Port Authority, Series I

The attached information is submitted by the Acting Director of the West Virginia Public Port Authority with my consent and agreement in accordance with the provisions of Chapter 5G, Article 1 of the State Code. This proposed procedural rule addresses the application requirements for Port District Status. The rule defines the documentation that constitutes the application package and establishes guidelines for its submission to the West Virginia Public Port Authority.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles L. Miller".

Charles L. Miller, P.E.  
Secretary

CLM:e

Attachment

DATE: DECEMBER 14, 1994

TO: SECRETARY OF STATE

FROM: DEPT. OF TRANSPORTATION, WV PUBLIC PORT AUTHORITY

PROPOSED RULE TITLE: PORT DISTRICT APPLICATION REQUIREMENTS  
SERIES I

SUMMARY OF RULE CONTENT - This series was promulgated under the authority of West Virginia Code §17-16B-8. This proposed rule addresses the application requirements for Port District Status. The rule defines the documentation that constitutes the application package and establishes guidelines for its submission to the West Virginia Public Port Authority.

STATEMENT OF CIRCUMSTANCES REQUIRING THIS RULE - As provided in West Virginia Code §17-16B-8, the West Virginia Public Port Authority is responsible for authorizing the creation of local inland port authority districts. This granting of "Port District Status" must only be made to applicants that meet the criteria established by state code. To ensure uniformity and adequacy of the application information, the West Virginia Public Port Authority proposes these procedural rules.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Series I, Port District Application Requirements  
 Type of Rule: Legislative Interpretive  Procedural  
 Agency Public Port Authority Address Building 5, 1900 Kanawha Boulevard, East,  
Charleston, West Virginia 25305-0430

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
<u>ESTIMATED TOTAL COST</u>	\$0.00	\$0.00			
PERSONAL SERVICES	\$0.00	\$0.00			
CURRENT EXPENSE	\$0.00	\$0.00			
REPAIRS & ALTERATIONS	\$0.00	\$0.00			
EQUIPMENT	\$0.00	\$0.00			
OTHER	\$0.00	\$0.00			

2. Explanation of above estimates:

These rule changes do not impact any annual or fiscal year costs.

3. Objectives of this rule:

This procedural rule addresses the application requirements for Port District Status. The rule defines the documentation that constitutes the application package and establishes guidelines for its submission to the West Virginia Public Port Authority.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government

No Impact.

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

No Impact.

C. Economic Impact on Citizens/Public at Large.  
No impact.

5. Contact Person: Mr. Randall G. Biller  
558-0330

Date: December 14, 1994



Randall G. Biller  
Randall G. Biller  
Acting Director

FILING OF PROCEDURAL RULES  
BY THE  
DEPARTMENT OF TRANSPORTATION  
PUBLIC PORT AUTHORITY

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Exhibit A Port District Status Application, Form 1

FILED

WEST VIRGINIA PROCEDURAL RULES

DEPARTMENT OF TRANSPORTATION

DEC 19 11 27 AM '94

WEST VIRGINIA PUBLIC PORT AUTHORITY

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

TITLE 166

SERIES I

Title: Port District Application Requirements.

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Section 1 General

1.1 Scope. -- This rule addresses the application requirements for obtaining Port District status.

1.2 Authority. -- This rule is issued pursuant to authority granted to the West Virginia Public Port Authority under West Virginia Code §17-16B-8.

1.3 Filing Date. --

1.4 Effective Date. --

Section 2 Definitions

2.1 Applicant. -- Any public or private entity, or combination thereof, desiring Port District status.

2.2 Application. -- West Virginia Public Port Authority (WVPPA) Form 1.

2.3 Operating Agreement. -- Agreement outlining operating responsibilities of various principals at a port district on a project by project basis.

2.4 Port District. -- An entity authorized by the Port Authority.

2.5 Port District Status. -- Status requested by an entity and duly approved by a majority of Port Authority members.

2.6 Port Location. -- Geographical location of Port District.

2.7 Provisional Port District Status. -- Approval of Port District status with provisions and sometimes containing a time constraint.

Public Port Authority  
Proc. Rule, 166  
Series I, Sec. 2.8

2.8 WVPPA. -- West Virginia Public Port Authority

Section 3 - Application Package

3.1 Application. -- The applicant must complete and submit to the West Virginia Public Port Authority, WVPPA Form 1. (See Form 1, Exhibit A, Port District Application Requirements, 166 CSR 1.)

3.2 Plan For Future Development. -- This plan must be submitted to the West Virginia Public Port Authority coincident to the submission of the application, WVPPA Form 1 and will contain at a minimum the following information.

3.2.1 Cover letter

3.2.2 Organizational Structure and Proposed Project(s) - Describe the nature of the body desiring the establishment of a Port District. Is it a governmental agency(ies)? A private venture? A combination of the two? What type of venture - i.e., import, export, manufacturing, warehousing, processing? Estimated annual volume of activity in dollars, tons or other appropriate measure.

3.2.3 Officers - List the officers of the organization, their titles and addresses.

3.2.4 Multiple Projects - If more than one project, discuss each individually.

3.2.5 Location of Port District - Enclose a map showing the location of the Port District.

3.2.6 Port Infrastructure - Describe the existing port infrastructure, if any, its condition and deficiencies and needed improvements. Show these facilities on a map with adequate detail to inform Authority members.

Address transportation by mode - water, rail, highway, pipeline or conveyor, air, if applicable - adequacy of public utility services - electricity, gas, water supply and waste water treatment, solid waste disposal, etc. and other necessary or existing structure - warehouses, bulk storage sites, etc. Particular emphasis should be given to intermodal transfer points.

3.2.7 Financing - How will development of the Port District be financed? What are the funding sources?

3.2.8 Economic Impact - What will be the economic impact of the Port District? Will it provide new jobs and will they be of a temporary or permanent nature?

How will creation of this Port District contribute to the economic development of the area it will serve?

3.2.9 Insurance - Submit proof of insurance in accordance with this procedure and WVPPA Form 1.

3.2.10 Other - List any special factors which might make the proposed Port District unique or especially deserving of designation.

Conversely, list any potential problem areas involved with designating the site as a Port District, i.e. zoning restrictions, environmental, expressed local opposition, etc.

3.3 Agreements - Prepare an agreement with attached schedules as necessary for each project and submit as part of the application package.

#### Section 4 Liability

4.1 Independent Acts - It is expressly understood and agreed that the Applicant is and shall at all times throughout the application process be an independent contractor and operator, responsible to all parties for its acts and omissions, and that the West Virginia Public Port Authority and the State of West Virginia shall in no way be responsible therefor.

The applicant hereby assumes all risks incident to or in connection with its business to be conducted throughout the application and development process, and agrees to indemnify, defend and save harmless the West Virginia Public Port Authority, its members, officers, employees and agents, from any and all claims, suits, losses, or damages for injuries to persons or damage to property of whatsoever kind or nature rising directly or indirectly out of the operation of the "Port District", by its members, officers, employees or agents.

Public Port Authority  
Proc. Rule, 166  
Series I, Sec. 5

Section 5     Application Package Submission and WVPPA Decision

5.1     Timing. -- Application package shall be submitted at least 15 working days prior to a regularly scheduled Authority meeting.

5.2     Submission: -- Submit Application Package to:

West Virginia Public Port Authority  
West Virginia Department of Transportation  
1900 Kanawha Boulevard, E., Building 5, Room 931  
Charleston, West Virginia 25305-0330

5.3     Presentation. -- The applicant or sponsor shall make a verbal presentation to the Authority of their proposal at a scheduled Public Port Authority meeting.

5.4     Decision. -- The West Virginia Public Port Authority will review proposals and respond to the applicant in a timely manner.

EXHIBIT A

PORT DISTRICT STATUS APPLICATION, FORM 1



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WEST VIRGINIA PUBLIC PORT AUTHORITY

APPLICATION  
FOR  
PORT DISTRICT STATUS

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- I. We, the undersigned, do hereby make application to the West Virginia Public Port Authority hereafter referred to as "Authority" for Port District Status. In doing so, we agree to make available to the Authority information requested by WEST VIRGINIA PUBLIC PORT AUTHORITY, PORT OPERATING PROCEDURES, VOLUME 1, CHAPTER 1, PARAGRAPH II, SUBMITTALS, within \_\_\_\_\_ days.
- II. The applicant agrees that in the event this information cannot be fully developed to the satisfaction of the Authority within 180 days, the request may be downgraded to Provisional Port District Status to continue for \_\_\_\_\_ days/years. The applicant also agrees that if VOLUME 1, CHAPTER 1 requirements cannot be satisfactorily met after this time, the application may be considered nonresponsive by the Authority and discontinued.
- III. It is expressly understood and agreed that the Applicant is and shall at all times throughout the application and development process be an independent contractor and operator, responsible to all parties for its acts and omissions, and that the Authority and the State of West Virginia shall in no way be responsible therefor.
- IV. The applicant hereby assumes all risks incident to or in connection with its business to be conducted throughout the application and development process, and agrees to indemnify, defend and save harmless the Authority, its members, officers, employees and agents, from any and all claims, suits, losses, or damages for injuries to persons or damage to property of whatsoever kind or nature rising directly or indirectly out of the operation of the "Port District", by its members, officers, employees or agents.

V. The applicant, upon being granted "Port District" status by the Authority, shall within ninety (90) days, at its own expense, procure, carry and maintain in full force and effect throughout the term of its "Port District" status, public liability insurance in an amount not less than \$1,000,000. The "Port District" shall cause such insurance to name the Authority as an additional insured, and shall cause a copy of each such policy, or a certificate of such insurance, to be supplied to the Authority.

ACCEPTANCE CONDITIONS OF LOCAL "PORT DISTRICT" STATUS

VI. The applicant, upon acceptance of the local "Port District" status agrees that all rights granted by the Authority are made expressly subject and subordinate to the provisions set forth in the Port District Application Requirements and any future agreements between both parties.

IN WITNESS WHEREOF, the applicant by its authorized representative signs this application this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

APPLICANT

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

ACCEPTANCE BY THE AUTHORITY:

\_\_\_\_\_  
Chairman

DATE: \_\_\_\_\_

SUBMIT PLAN TO:

WEST VIRGINIA PUBLIC PORT AUTHORITY  
WEST VIRGINIA DEPARTMENT OF TRANSPORTATION  
1900 KANAWHA BOULEVARD, E., BUILDING 5, ROOM A-931  
CHARLESTON, WV 25305-0330

WVPPA Form 1  
October 19, 1993



KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

A. RENEE COE  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

(Plus all the volunteer  
help we can get)

FAX: (304) 558-0900

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

RECEIVED

APR 20 1995

TO: Randall Biller

DEPT. OF TRANSPORTATION

AGENCY: WV Public Port Authority

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: April 19, 1995

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 1 TITLE: 166 WV Public Port Authority

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Randall D. Biller

TITLE OF PERSON SIGNING: EXECUTIVE ASSISTANT, WV DEPARTMENT OF TRANSPORTATION

DATE: APRIL 27, 1995

OFFICE OF THE SECRETARY OF STATE  
MAY 1 11 37 AM '95  
FILED

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\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.