WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

DO NOT MARK IN THIS BOX

FILED

1990 SEP 11 [illegible]

NOTICE OF AN EMERGENCY RULE

AGENCY: Division of Public Safety TITLE NUMBER: 81

CITE AUTHORITY: West Virginia Code §17C-15-48(f)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES___, NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: IV

TITLE OF RULE BEING FILED AS AN EMERGENCY: Modified Vehicle Inspections

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

On March 9, 1990 the West Virginia Legislature passed Senate Bill 386 relating to the alteration of motor vehicle suspension systems. This legislation became effective on June 9, 1990 and mandated that the Division of Public Safety establish rules governing the inspection of the aforementioned vehicles.

This legislation also mandated that these vehicles be inspected by July 1, 1990.

The attached emergency rule will allow the Division of Public Safety to immediately implement the mandated inspection procedures and will ensure that all modified vehicle inspections are carried out in a consistent manner that will ensure the safety of the motoring public.

Use Additional Sheets If Necessary.

Department of Public Safety
(West Virginia State Police)
725 Jefferson Road
South Charleston, West Virginia 25309
Executive Office

Gaston Caperton
Governor

Colonel J. R. Buckalew
Superintendent

August 14, 1990

Major General Joseph J. Skaff
Secretary of Public Safety
Box 2930
Capitol Building
Charleston, West Virginia 25305

Dear General Skaff:

Attached are the procedures for modified vehicle inspections as required by Senate Bill 386. These procedures require your review and approval before submission to the Secretary of State's office.

Sincerely yours,

COLONEL J. R. BUCKALEW
SUPERINTENDENT

JRB:bp

Attachment

Approved Joseph J. Skaff 16 Aug 90
Secretary Public Safety

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Modified Vehicle Inspections

Type of Rule: X Legislative _____ Interpretive _____ Procedural

Agency Division of Public Safety Address 725 Jefferson Road

South Charleston, WV 25309

1. Effect of Proposed Rule	ANNUAL Increase	ANNUAL Decrease	FISCAL YEAR Current	FISCAL YEAR Next	FISCAL YEAR Thereafter
Estimated Total Cost	$ -0-	$ -0-	$ 46,996	$23,498	$ 23,498
Personal Services			31,335	15,668	15,668
Current Expense			7,384	3,692	3,692
Repairs and Alterations			-0-	-0-	-0-
Equipment			-0-	-0-	-0-
Other - Benefits			8,277	4,138	4,138

2. Explanation of above estimates: During the current fiscal year, we estimate that a total of $46,996 in expenses will be incurred in implementing the modified vehicle inspection program. After initial implementation, we estimate that costs will be reduced by 50%.

3. Objectives of these rules: These rules are implemented in accordance with West Virginia Code §17C-15-48(f) and are intended to govern the mandated inspection procedures for modified vehicles and to ensure that all such inspections are performed in a consistent manner.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government. The fee for the modified vehicle sticker is $10.00. We anticipate that this fee will generate $50,000 annually, which will be deposited into the Motor Vehicle Inspection Fund to offset costs associated with the inspection program for modified vehicles. In addition, it is estimated that $4,500 in state sales tax revenue will also be generated.

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

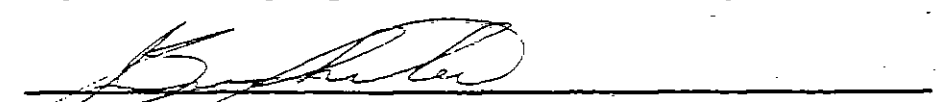
The inspection fee to be charged by inspection stations is $15.00. We estimate that a total of $75,000 in revenue will be realized by those stations performing the modified vehicle inspections.

C. Economic Impact on Citizens/Public at Large.

Each citizen having a modified vehicle will be required to pay $25.90 for s state inspection of said vehicle ($10.00 for sticker; $15.00 for inspection; and $.90 state sales tax).

Date: 9-6-90

Signature of Agency Head or Authorized Representative



Colonel J. R. Buckalew
Superintendent
Division of Public Safety

DATE:

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Division of Public Safety

EMERGENCY RULE TITLE: Modified Vehicle Inspections

1. Date of filing: _____

2. Statutory authority for promulgating the emergency rule: West Virginia Code §17C-15-48(f)

3. Date of filing of proposed legislative rule: _____

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?

This emergency rule adopts new language.

5. Has the same or similar emergency rule previously been filed and expired?

NO

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

See Attachment

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

West Virginia Code §17C-15-48(f); July 1, 1990

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

See Attachment

On March 9, 1990, the West Virginia Legislature passed Senate Bill 386 relating to the alteration of motor vehicle suspension systems. This legislation became effective on June 9, 1990 and mandated that the Division of Public Safety establish rules governing the inspection of the aforementioned vehicles.

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COLONEL J. R. BUCKALEW
SUPERINTENDENT
DIVISION OF PUBLIC SAFETY

WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF PUBLIC SAFETY
CHAPTER 17C-15
SERIES IV
FILING

Title: Modified Vehicle Inspections

Section 1. General

1.1 Scope - This rule governs and specifies the inspection procedures for vehicles with modified suspension systems.

1.2 Authority - West Virginia Code 17C-15-48(f), effective June 9, 1990.

1.3 Filing Date -

1.4 Effective Date -

Section 2. General Requirements

2.1 Any vehicle operated upon a public highway with a gross vehicle weight rating of less than 10,000 pounds which has been raised or lowered, or in any way modified in altitude from the original manufacturer's specifications or configuration must undergo a modified vehicle inspection.

2.2 Only new vehicle dealers certified as inspection stations will be authorized and must conduct modified vehicle inspections.

2.2.1. The Superintendent of the Division of Public Safety may authorize other inspection stations to conduct modified vehicle inspections provided the stations can produce proof that an inspector mechanic employed by them has a good working knowledge of original manufacturer's specifications.

2.2.2. Persons desiring inspection of a modified vehicle must deliver their vehicle to a dealer which sells that make of vehicle, (i.e. Chevrolet to Chevrolet dealer, Ford to Ford dealer, etc.) except in cases where the original manufacturer is no longer in business.

2.3 Inspector mechanics will follow the same preliminary guidelines in the inspecting of modified vehicles, i.e., proof of insurance and ownership, etc.

2.4 Upon examination of the insurance card and ownership forms, the standard motor vehicle inspection certificate will be removed.

2.5 The inspector mechanic will then conduct a standard state inspection and also inspect those areas as outlined in the Modified Vehicle Inspection Requirements.

2.5.1. If the vehicle fails to pass either the regular vehicle inspection or the modified vehicle inspection requirements, the inspector mechanic will place a rejection sticker on the vehicle in accordance with the already prescribed standards.

2.5.2. If the vehicle passes all requirements, a modified vehicle inspection emblem will be placed on the vehicle.

2.6 The modified vehicle inspection emblem will be the only inspection emblem required on these vehicles.

2.7 These emblems will be completed on the back by the inspector mechanic, and the appropriate date punched and placed in the lower left (driver's side) corner of the windshield, much the same as the original inspection certificate.

2.8 All inspections will be logged on a modified vehicle inspection record.

2.8.1. Upon completion of the modified vehicle inspection record, the original and all copies will be handled the same as with the standard inspection forms.

2.9 Modified vehicle inspection emblems will be requisitioned from the West Virginia State Police, Traffic Records Division, 725 Jefferson Road, South Charleston, West Virginia 25309, on the appropriate requisition form (DPS-MVI-4B) as per established rules and regulations.

2.10 Maximum charges of the modified vehicle inspection will be as follows:

Labor - $15.00

Sticker - 10.00

Tax - .90

Total Inspection Charges - $25.90

2.11 Where these regulations are silent, inspectors are directed to refer back to the provisions of the West Virginia State Police Inspection Manual for standard vehicle inspection.

Section 3. Modified Vehicle Inspection Definitions

3.1 Constant Velocity or C. V. Joint - On front wheel drive vehicles, the part of the drive axle shaft which allows for the application of torque and the turning of the wheels simultaneously.

3.2 F.M.V.S.S. - Federal Motor Vehicle Safety Standard.

3.3 Modified Vehicle - A vehicle which has been raised or lowered in altitude from the manufacturer's original height.

3.4 "OEM" - Original Equipment Manufacturer. A part or component of the vehicle which is identical to the part or component on the original vehicle and is supplied by the recognized manufacturer of the original vehicle.

3.5 "OER" - Original Equipment Replacement. A vehicle part or component which performs the identical function as the part or component of the original vehicle but is supplied by a manufacturer other than the recognized manufacturer of the original vehicle.

3.6 "OREP" - Original Replacement Essential Part means any part or component of a vehicle which is:

3.6.1. Identical in fact or in performance to any part or component offered as an option for that vehicle by the original manufacturer of the vehicle when new;

3.6.2. Essential for the safe operation of the vehicle; and

3.6.3. Purchasable through auto parts store or dealerships of the original vehicle manufacturer.

Examples include, but are not limited to, parts and components of a vehicle's engine, transmission, differential, steering system, suspension system, exhaust system, intake system, body parts or lamps and reflectors. A part or component which may alter the performance of a vehicle or may inherently affect adversely the safety or structural integrity of a vehicle, its occupants, or surrounding vehicles or individuals, unless specifically excepted in these rules, shall not be an original replacement essential part.

3.7 Recognized Motor Vehicle Manufacturer - A person engaged in the business of manufacturing or assembling motor vehicles who has filed an identification statement with the U. S. Department of Transportation and is applying certification tags to the vehicles being manufactured in accordance with Part 567 or Title 49, The Code of Federal Regulations.

3.8 SAE - Society of Automotive Engineers.

3.9 Shock Absorber - A Generic Term which is commonly applied to hydraulic or pneumatic mechanisms used for the purpose of damping or suppressing oscillatory motion of vehicle bodies.

3.10 Split Service Brake System - Means a brake system consisting of two or more sub-systems actuated by a single control design so that a leakage-type failure of a pressure component in a single sub-system (except structural failure of a housing that is common to two or more sub-systems) shall not impair the operations of any other sub-system.

3.11 Steering System - The assembly of mechanical, structural, pneumatic or hydraulic components which allow for movement of the vehicle to the right or left.

3.12 Street Rod - Vehicles constructed from parts or other vehicles and may not be readily recognizable by the existing title and/or registration descriptions. These vehicles may also include changes to steering, brake and suspension systems, engine and chassis components.

3.13 Suspension System - That assembly of mechanical, structural, pneumatic or hydraulic members which provides a flexible support between the ground or roadway and the engine, load and passenger carrying structure of the vehicle.

3.14 Wheel Base - The distance in inches from the center of the front wheel to the center of the rear wheel as measured in a straight line from the front to rear wheel of the same side of the vehicle. Whenever referred to within these regulations, wheel base will be the original manufacturer's specifications with no modification.

3.15 Wheel Track - The distance in inches from the center of the tire of one axle to the center of the opposite tire of the same axle as measured in a straight line across the vehicle. Whenever referred to within these regulations, wheel track will be the original manufacturer's specification with no modification.

Section 4. Modified Vehicle Inspection Requirements

4.1 Fuel System (combustion power units only).

4.1.1. Each fuel system orifice provided for the introduction of air to be used for the combustion of fuel (air intake) shall be equipped with a device which will:

a. Prevent the ejection into the atmosphere of any ignited fuel/air mixture.

4.1.2. All fuel system components, such as tank, tubing hoses, clamps, etc., shall:

a. Be located outside of any compartment intended for use by the driver or any passenger (except OEM or OREP components).

b. Be securely attached with fasteners designed for this purpose.

c. Not be positioned above, or nearer than three (3) inches to any exhaust system component, except in the engine compartment, unless appropriate shielding is provided (except OEM or OREP components).

d. Be positioned so as not to contact any moving vehicle component.

e. Be free of any fuel leakage.

4.1.3. Fuel line connection to the engine shall be of a flexible design, and of a length sufficient to accommodate all engine vibrations and movements of the engine with respect to the vehicle frame.

4.1.4. The fuel tank shall:

a. Not be located in the engine compartment (except OEM or OREP components).

b. Be shielded from any compartment intended for use by a flame-proof barrier (except OEM or OREP components).

c. Be securely mounted to the body or frame.

d. Comply with VESC-12 (minimum standard for fuel tanks) if not built by a recognized motor vehicle manufacturer.

e. Be equipped with an external vent or be vented to the engine through an evaporative emission control system (EEC).

f. Be equipped with a filler cap designed to vent fuel spillage from the filler opening when the cap is in place.

g. Be located within the lateral perimeter of the vehicle frame or unit body to minimize crash damage rupturing (unless originally equipped).

4.1.5. Auxiliary liquid fuel tanks described as an additional fuel tank and any other components attached directly thereto designed to supplement the vehicle's liquid fuel carrying capacity beyond that provided by the vehicle manufacturer shall meet the requirements of VESC-12.

4.2 Vehicle Body

4.2.1. Body Structure - The body structure of a modified vehicle shall be free of sharp edges and projections in all interior and exterior locations where they may be contacted by persons in the normal use and care of the vehicle. This requirement does not include those locations usually accessible only when the vehicle is hoisted or partially dismantled for the purpose of maintenance or repair.

a. The body to frame mounting hardware shall be in accordance with OEM specifications with a maximum three inch spacer block used, providing that appropriate modifications of the steering column, brake hose location and controls are made when required.

4.2.2. Doors and Latches

a. A modified vehicle shall be provided with a means of entry and exit on each side of the vehicle which provide ready access to the seats in the vehicle by vehicle occupants.

b. On vehicles not equipped with doors, approved type occupant restraining devices shall be installed within the vehicle and be readily accessible to the occupants.

c. The doors used to provide access to the passenger compartment of a modified vehicle shall be of a hinged type and shall be readily operable and be provided with a two-position self-acting latch which functions in each latching position to keep the door from opening (unless OEM). This requirement does not apply to doors that are designed to be easily attached to or removed from modified vehicles designed for operation without doors.

d. All doors shall be equipped with a manual latch control on the exterior of the door and a manual or electric latch on the interior of the door.

4.2.3. Hood and Trunk Latches

a. Hood - Street rods only. Street rod is required to have a hood which shall cover top of entire engine compartment. Street rod engine compartment sides may remain open.

b. A hood, a trunk lid, or any compartment cover forward of the windshield, which opens along the edge toward the front of a modified vehicle shall be equipped with a two-position self-acting latch which functions in each latching position to keep the hood, lid, or cover closed. A minimum of two hood pins designed for that purpose can be substituted for the two-position self-acting latch.

c. A hood, trunk lid, or compartment cover which opens along an edge toward the sides or the rear of a modified vehicle shall be equipped with at least one latch which holds the hood, lid or cover in the closed position.

4.2.4. Fenders - Each tire of a modified vehicle which contacts the surface of the road shall be equipped with a fender, or other body structure, which covers the entire width of the tire above that portion of the circumference from 15 degrees in front to 75 degrees to the rear of the vertical line through the center of the wheel hub (see attached Appendix A).

a. Any attachment added to the body or fender of the vehicle to meet the requirements of this part shall be securely mounted and free of any sharp edges or protuberances. Motorcycle type (movable) front fenders are permitted providing the vehicle is equipped with a front bumper.

4.2.5. Driver Visibility - Obstructions forward of the windshield can extend no more than three (3) inches upward into the horizontally projected vision area of the windshield except for windshield wiper components.

4.3 Vehicle Frame

4.3.1. Frame - A modified vehicle shall be equipped with a frame consisting of structural beams or channels, or structural tubing, or unitized construction capable of supporting the vehicle, its load, and the torque produced by the power source under all conditions of operation. The frame structure shall be essentially rigid, free of cracks and visual indications of weakness, such as bending, buckling or poor quality welded joints.

4.3.2. Floor Pan - A modified vehicle shall be equipped with a floor pan which:

a. Covers the area beneath the passenger compartment and any cargo (luggage) compartment that is not entirely separate from the passenger compartment. (Entirely separate means there are no components shared by both compartments, such as roof, floor, or sides).

b. Is capable of supporting the weight of the number of occupants, including seats and any cargo the vehicle is designed to carry.

c. Has sufficient strength to adequately anchor the seats and safety belts.

d. Is free of openings which are not sealed or provided with covers which are specifically designed to prevent the transit of fumes and airborne particles.

4.3.3. Bumpers - A modified vehicle shall be equipped with a bumper on the front and on the rear of the vehicle with the exception of trucks, utility and special motor vehicles where the original or predominant body configuration, provided by a recognized manufacturer, did not include such bumper or bumpers in the design of the vehicle. OEM or OREP bumpers are acceptable.

Front bumpers are required on any modified vehicle if the front fenders provide less than 75 degrees of tire circumference coverage measured from the vertical center line of the wheel to the front of the vehicle.

Front bumpers are required on any modified vehicle if there are any sharp or otherwise hazardous parts projecting from the front of the vehicle.

Front bumpers are required on any vehicle equipped with motorcycle type (movable) front fenders.

Rear bumpers are required on any modified motor vehicle if the fuel tank is located in the rear and is unprotected by the frame of the vehicle.

Whenever the bumpers installed on a modified vehicle are altered, modified, replaced, or whenever the vehicle ground clearance height has been altered or modified, the bumpers installed on the vehicle shall:

a. Be of sturdy construction.

b. Be securely attached to the vehicle frame with attaching components specifically designed for the purpose which are equivalent in strength to the bumper.

c. Have no pointed projections or sharp edges.

d. Have a smooth outward face.

e. Be at least three (3) inches in vertical height, be centered on the vehicle center line and extend horizontally no less than the wheel track distance.

f. Be mounted no higher than specified from the ground to the bottom of the bumper. Maximum bumper heights shall be as indicated below:

i. Vehicles 10,000 pounds or less: Maximum height to both front and rear bumper is thirty-one (31) inches as measured from the ground to the bottom of the bumper. The distance from the vehicle frame mount seat to the vehicle body mount seat cannot exceed three inches. No person may alter, modify, or otherwise move the original bumper mounting on the frame by more than four inches.

In the absence of bumpers, or if the original bumper has been moved more than four inches, bumper heights will be measured to the frame rail.

ii. All above measurements will be made with all tires on the vehicle inflated to the tire manufacturer's specifications.

4.4 Brake System

4.4.1. Every modified vehicle shall be equipped with a service brake system which:

a. Will provide braking action at each wheel.

b. Is actuated by pressure applied to a pedal control by the driver's foot.

c. Is actuated primarily by the use of hydraulic fluid (actuation primarily by mechanical means, rods, or cables, is not permitted even if the OEM system was so designed).

4.4.2. Modified vehicles shall be equipped with a service brake system which:

a. Is designed to prevent the complete loss of the braking function in the event of a rupture or leakage-type failure of any single pressure component except structural failures of the master cylinder (split system required).

b. Is equipped with a combination of components, i.e., master cylinders, calipers, wheel cylinders, metering valves, proportioning valves, etc., which is in accordance with current accepted automotive industry standards.

4.4.3. Brake tubing and brake hose installed on a modified vehicle shall be:

a. Securely attached with hardware designed for this purpose in a manner which will prevent chafing, kinking, or other mechanical damage.

b. Of sufficient length and flexibility to accommodate, without damage, all normal movements of the parts to which it is attached.

c. Located in a manner that prevents contact with any component of the vehicle's exhaust system.

d. Routed along the exterior of box or tubular frame chassis. (Routing tubing or hoses through the interior or along bottom edge of such frame or tubing is prohibited).

4.4.4. All tubing, other than OEM, used in the service brake system of a modified vehicle shall be of a type that meets the requirements of SAE Standard J1047, Tubing - Motor Vehicle Brake System, Hydraulic.

4.4.5. All brake tubing ends must be double flared in a manner consistent with SAE Standard J533b or formed in accordance with SAE recommended practice J1290.

4.4.6. All hoses, other than OEM, used in the service brake system of a modified vehicle shall be of a type that meets the requirements of FMVSS-106.

4.4.7. Every modified vehicle shall be equipped with a parking brake system which:

a. Provides braking action on at least two wheels of the same axle.

b. Is actuated by a control that is operated by the driver's hands or foot and remains set in the applied position until released by a separate action.

c. Is actuated by a means independent of the service brake system except that the brake shoes and drums, or pads and discs, may be common to both the service and parking brake systems.

4.5. Steering System

4.5.1. The steering control mechanism of a modified vehicle shall:

a. Consist of a circular steering wheel having an outside diameter of no less than 13 inches attached to a shaft in a manner such that the rotary motion of the control device turns the shaft which will cause the moving vehicle to move to the right when the control is rotated in a clockwise direction and to the left when the control is rotated in a counterclockwise direction.

b. Be securely attached to a structural member of the vehicle.

c. Be located forward of the driver's seating position.

d. Be operable through its entire control range by a person seated against the seat back at the driver's position.

e. Not interfere with the driver's vision through the windshield nor interfere with any other vehicle control mechanism.

f. Be so constructed that no components or attachments, including horn actuating mechanism and trim hardware can catch the driver's clothing or jewelry during normal driving maneuvers.

g. Have no other component or structure between the driver and the device except safety belts and/or air bags.

h. Have no other component or structure located in the plane of rotation nearer than three (3) inches outside of the path of the maximum radius of the control device (unless OEM).

i. Have a range of rotation (lock to lock) of no less than 2 turns (360 degree rotation per turn) and no more than 6 turns and shall be free of any jamming or binding throughout this range. From a straight ahead position, the number of turns to the right stop shall be equal to the number of turns to left stop. One quarter turn tolerance permitted.

4.5.2. A modified vehicle equipped with a steering system that has been modified in any manner except replacement of the steering wheel shall:

a. Have the steering components geometrically arranged in accordance with the manufacturer's specifications.

b. Comply with the original vehicle manufacturer's caster, camber and toe-in alignment specifications.

c. Have all nuts equipped with appropriate locking devices such as lock washers, cotter pins or self-locking devices. If self-locking nuts are used, at least one complete bolt thread must pass through the nut and be exposed.

d. Have flat washers installed on spherical rod ends to prevent bearing pull-out.

e. Be equipped with universal or other flexible joints which meet or exceed those used for similar purposes by recognized motor vehicle manufacturers. Such devices must be securely installed and used within designed parameters.

4.5.3. The steering gear box or other mechanism which translates the rotary motion of the control shaft to linear motion to move the wheels shall be securely attached to the vehicle frame with hardware designed for this purpose.

4.5.4. All components of the steering system shall be connected with fittings designed for the purpose and adjusted to eliminate any unnecessary free play or lash.

4.5.5. All welding used in the modification of any system component or attachment shall be accomplished by an electric arc welding process.

a. Gas welding is permitted for those types of metal not suitable for electric arc welding.

b. No welding repairs or welding modifications of any type shall be permitted on cast iron or factory cast steering components.

4.5.6. Any power steering device used on a motor vehicle shall be of a type which will permit the continued use of the power steering mechanism under manual control in the event of the failure of the power unit (except OEM).

4.5.7. Four wheel steering system, e.g., front and rear steering axles, are not permitted (except OEM).

4.5.8. All modified vehicles shall meet minimum scrub line requirements.

a. Scrub Line is an imaginary surface created if lines were drawn from bottom of wheel rim on one side to bottom of tire on other side. When lines are drawn from both sides, an " X" under the vehicle suspension is created. No suspension or chassis component shall be below top portion of this imaginary "X" (see attached Appendix B & C).

4.5.9. Any protective covering of C. V. joints, steering mechanisms, or other components commonly referred to as "Boots" cannot be cracked, broken, lose or in any way damaged or leaking.

4.6 Suspension System

4.6.1. Lift blocks of any type or configuration on the front suspension of a modified vehicle is expressly prohibited.

4.6.2. Every modified vehicle shall be equipped with a flexible primary suspension component (spring, torsion bar, etc.) mounted between the vehicle frame, or unit body, and each axle, or other component to which the wheels are mounted (trailing arms, control arms, etc.), which:

a. Permits vertical relative movement between the frame and axle.

b. Permits negligible lateral (side to side) or longitudinal (front to rear) horizontal movement between the frame and the axle.

c. Is securely attached to both the frame and the axle with mounting hardware designed for this purpose.

d. Provides adequate support for the safe control of the vehicle under all normal conditions of operation upon public streets and highways.

4.6.3. Each position on an axle of a modified vehicle where one or more wheels are mounted shall be equipped with at least one shock absorbent which:

a. Is mounted between, and securely attached to, the axle and the frame with mounting hardware designed for this purpose.

b. Provides a damping action on all vertical motion (double acting) throughout entire vertical motion range of the primary suspension component.

4.6.4. At each position where one or more wheels are mounted, the suspension system of a modified vehicle shall provide a minimum range of vertical motion between the axle and the frame of two inches for compression and two inches for rebound when the empty vehicle is standing upon a level surface.

4.6.5. The range of movement between the axle and the frame of a modified vehicle shall be limited in a manner which, under all normal conditions of suspension and rebound, will prevent:

a. Contact between the wheels, including the tires, and any part of the vehicle frame or chassis.

b. Contact between the suspended and unsuspended portions of the vehicle except at suspension component attachment points and at those points which are designed and suitably cushioned to limit extreme suspension movement.

c. Any brake hose from becoming fully extended.

d. Any shock absorber from reaching the limit of its travel.

4.6.6. Any primary or supplemental coil springs used in the suspension system of a modified vehicle shall not be capable of being fully compressed or fully extended within the limits of vertical motion of the system.

4.6.7. A modified vehicle shall have sufficient ground clearance between the vehicle body chassis and/or steering components and the road surface on which the vehicle rests so that it shall be able to be in motion on its four rims on a flat surface with no other parts of the vehicle touching that surface.

4.6.8. When used in the suspension system of modified vehicle, all leaf spring hanger (shackle) extensions shall:

a. Have a maximum effective length of no more than two inches over the OEM shackle as measured between the upper and lower bolt centers.

b. Be assembled with bolts and hangers specifically designed with adequate extra strength for this purpose.

4.6.9. No coil spring, leaf spring, or torsion bar used in the suspension system of a modified vehicle shall be heated or welded.

4.6.10. Any electric, hydraulic or pneumatic device used to adjust the height of a vehicle cannot be capable of raising the front or rear of the vehicle more than four (4) inches over the OEM ride height and can in no way alter the steering geometry of the vehicle (unless OEM).

4.6.11. The wheel base on one side of the vehicle must be the same as the wheel base on the opposite side. Tolerance + one inch.

4.7 Exhaust System (combustion power units only)

4.7.1. All modified vehicles shall be equipped with a system of components to conduct exhaust gases from the engine to a safe discharge point outside of the vehicle.

4.7.2. All exhaust system components, such as manifolds, headers, exhaust pipes, resonators, mufflers, converters, tail pipes, etc., shall:

a. Be located outside of any compartment intended for use by the driver or any passenger.

b. Be securely attached with fasteners designed for this purpose.

c. Be positioned so as not to contact any moving vehicle component.

d. Be free of any leakage.

e. Have suitable shielding provided for all components which may cause personal injury and are accessible to inadvertent contact by persons standing outside of the vehicle under normal operating conditions.

f. Have no temporary patches or makeshift repairs.

4.7.3. Suitable heat shielding shall be provided for:

a. Any catalytic converter located less than three (3) inches below the floor pan or from any flammable material.

b. Any other exhaust system component located less than one and one-half (1 1/2) inches below the floor pan or less than three (3) inches from any flammable material.

4.7.4. The exhaust system shall contain a muffler or mufflers. Such mufflers shall be the muffler originally installed by the manufacturer of the vehicle or, if a replacement, the equivalent thereof.

4.7.5. The exhaust system shall discharge the engine exhaust gases outward from the vehicle to the atmosphere.

a. Exhaust systems on property-carrying vehicles shall discharge the exhaust gases to the rear of that part of the vehicle designed and normally used for carrying the driver and passengers.

b. Exhaust systems on passenger vehicles shall discharge the exhaust gases at a location to the rear of the vehicle body or direct the exhaust gases outward from the side of the vehicle body at a location rearward of any operable side window.

c. No part of the exhaust system shall pass through any area of the vehicle that is used as a passenger compartment, nor in close proximity to the fuel system without being properly shielded. No part of the exhaust system may contain a muffler cut-out or by-pass.

4.8 Wheels and Tires

4.8.1. The rims mounted on a modified vehicle, if other than OEM (including options) or OREP, i.e., special rims, shall meet or exceed all applicable Federal Motor Vehicle Safety Standards.

4.8.2. All rims mounted on a modified vehicle shall be free of cracks, rim dents, warpage, and repairs of any kind.

4.8.3. All rim mounting studs, nuts or bolts shall be present, in good condition, and securely tightened.

4.8.4. All rims mounted on a particular axle or equivalent front or rear suspension component, shall be of identical size, design, and material (all front rims the same and all rear rims the same).

4.8.5. The rim diameter of the rims mounted on the front axle shall be no less nor no greater than two inches as the rim diameter of the OEM rims for the suspension system used.

4.8.6. The use of any combination of reverse mounted or special rims or adapters shall not increase the negative offset of the front or rear rims in a manner that will reduce the track width of the vehicle. The modified vehicle owner shall provide the rim offset specifications and the manner of measurement from the recognized manufacturer of the vehicle when it was new, if requested.

4.8.7. The use of any combination of reverse mounted or special rims or adapters shall not increase the positive offset of any of the rims by more than two (2) inches. Any increases in positive offset for wheels on one side of a vehicle should be the same as for the wheels on the opposite side.

4.8.8. All tires used on the rims of a modified vehicle shall have a load rating of sufficient capacity to support the weight imposed on both the tire and rim.

4.8.9. All tires mounted on the rims of a modified vehicle shall be tires designed specifically for highway use (FMVSS No. 109 and No. 119) including those designed for highway use and retreaded in accordance with FMVSS No. 117. The use of tires designed, retreaded or designated for any other purpose is not permitted.

4.8.10. Every tire mounted on the rims of a modified vehicle shall have an average tread depth of no less than 2/32 of an inch.

4.8.11. The outermost edge of tires mounted on a modified vehicle shall not extend laterally beyond the outboard edge of the fender, the fender well, or other wheel enclosure including flared fender openings when viewed from above.

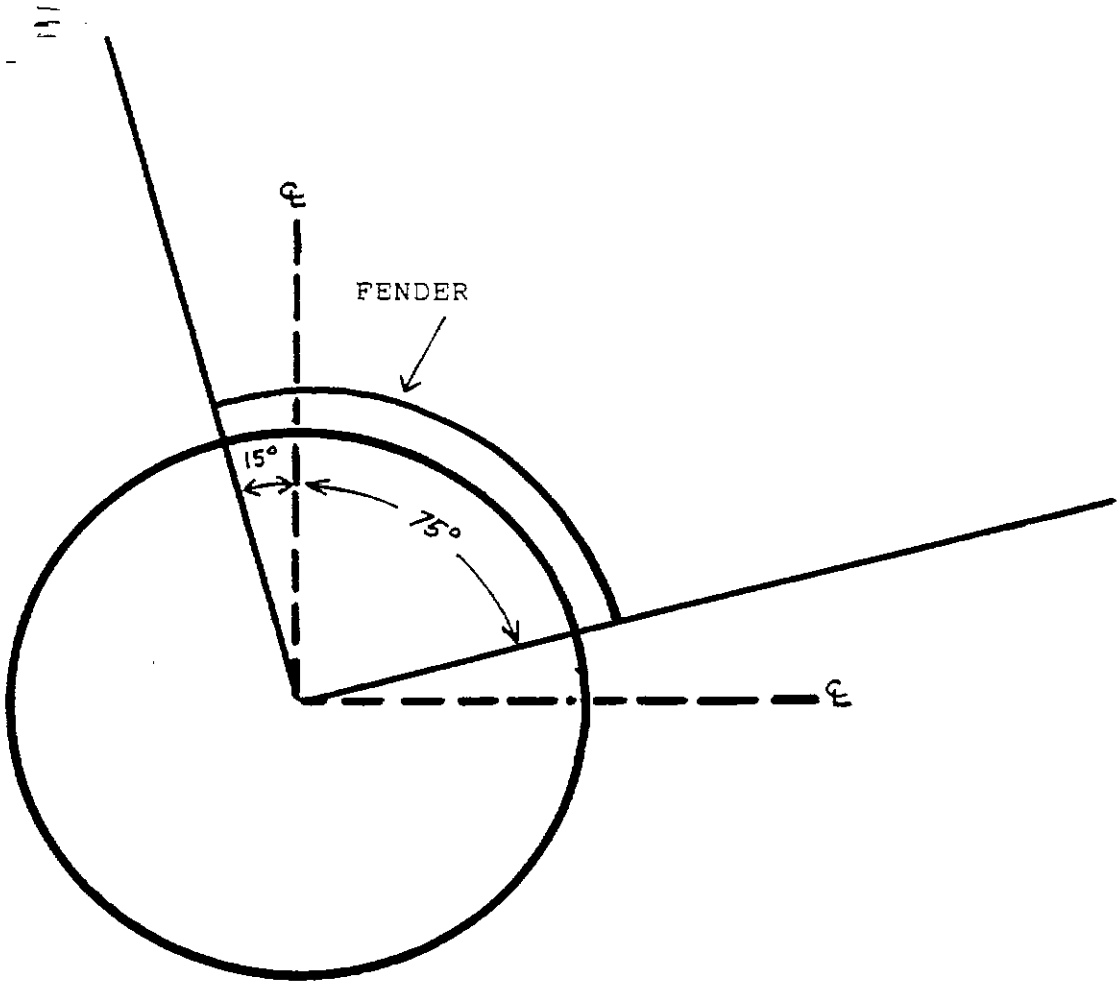
a. Maximum width of fender flares is three (3) inches as measured from the outside edge of the original fender to the outermost edge of the flare.

4.8.12. Wheel studs must be of sufficient length to allow a minimum of two threads to project beyond the lug nut. Where capped lug nuts are used, all wheel studs must project into the hex portion of the lug nut by a distance equal to at least one diameter of the stud

4.8.13. Minimum width of any tire on any axle of a modified vehicle will be five (5) inches.

4.9 Miscellaneous

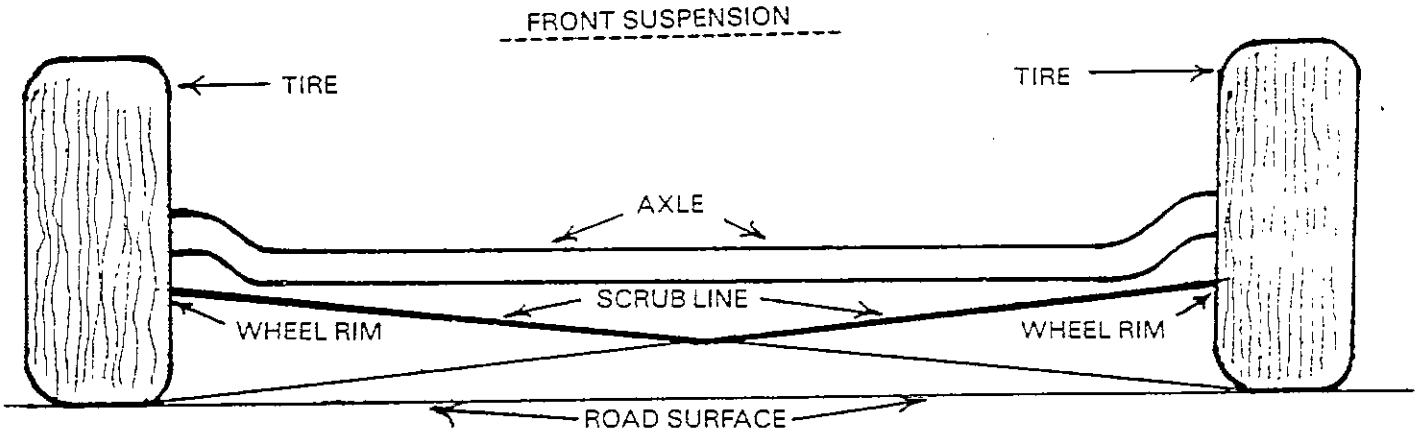
4.9.1. If equipped with an automatic transmission, it must be equipped with an interlock that causes the engine starter to be inoperative when the transmission shift lever is in a forward or reverse drive position.



MINIMUM FENDER REQUIREMENT

SCRUB LINE
MODIFIED VEHICLES

A scrub line is an imaginary surface created if lines were drawn from bottom of wheel rim on one side to bottom of tire on other side. When lines are drawn from both sides an "X" under the vehicle suspension is created. No suspension or chassis component shall be below top portion of this imaginary "X".



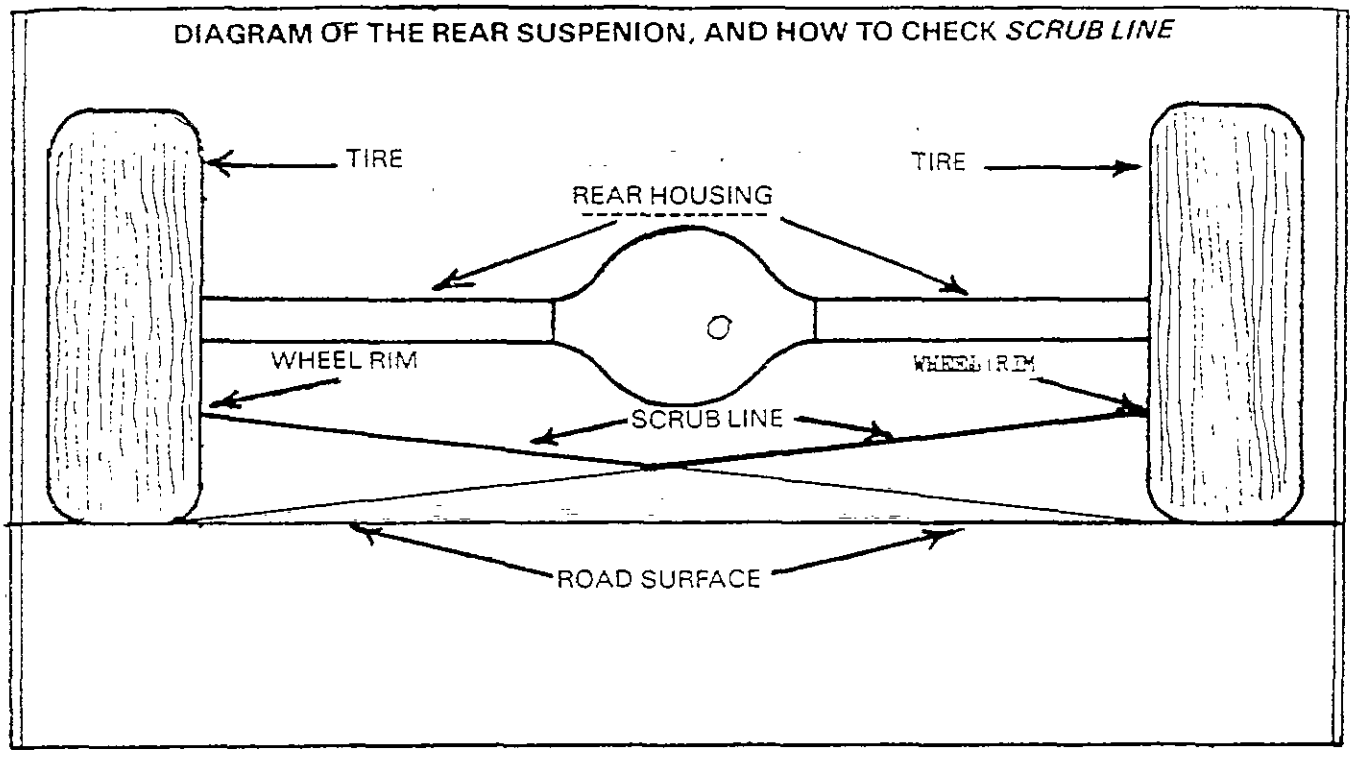


DIAGRAM OF THE REAR SUSPENION, AND HOW TO CHECK *SCRUB LINE*
TIRE
TIRE
REAR HOUSING
WHEEL RIM
SCRUB LINE
ROAD SURFACE

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(Plus all the volunteer help we can get)

October 23, 1990

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Division of Public Safety

RULE: New Rule, Series 4; Modified Vehicle Inspection

DATE FILED AS AN EMERGENCY RULE: September 11, 1990

DECISION NO. 44-90

Following review under WV Code §29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

Ken Hechler

KEN HECHLER
Secretary of State

FILED

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Secretary of State

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DECISION EMERGENCY RULE DECISION (ERD 44-90)

AGENCY: Division of Public Safety
RULE: New Rule, Series 4, Modified Vehicle Inspections
FILED AS AN EMERGENCY RULE: September 11, 1990

par. 1 The Division of Public Safety (Public Safety) has filed the above new rule as an emergency.

par. 2 West Virginia Code §29A-3-15a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.

par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].

par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).

par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

par. 6 Public Safety filed this emergency rule with supporting documents with the Secretary of State on September 11, 1990 and with the LRMRC on September 11, 1990.

par. 7 It is the determination of the Secretary of State that Public Safety has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §17C-15-48(f) reads:

(f) Modified vehicles must have a special inspection sticker which must be inspected by the thirty-first day of July, one thousand nine hundred ninety. The fee for the modified vehicle stickers will be twenty-five dollars with the department of public safety establishing rules concerning such inspection. Each municipal, county and state law-enforcement agency must record on accident report forms whether a modified vehicle was involved in the accident.

par. 9 This office has received several objections to the contents of this rule in the form of letters from Paul L. Shaffer II of Cross Lanes and L. Alvin Hunt of the Law Firm of Hunt and Wilson in Charleston. These letters are attached as Exhibits A and B. I will address the arguments concerning the contents of this emergency rule on a section by section basis.

par. 10 Section 2.1 provides that any vehicle operated on the public highways with a gross vehicle weight of less than ten thousand pounds whose altitude has been modified from the original manufacture's specifications must be inspected. Mr. Hunt's letter contends that the ten thousand pound weight rating applies only to trucks. I have reviewed the provisions of §17C-15-48(b) and it is clear that the first sentence of this subsection provides that all motor vehicles that have been modified in their altitude must fall within the specified limits for their gross vehicle weight rating category. The subsection then goes on to provide the limits for trucks under ten thousand pounds. But the language of the first sentence of subsection (b) would apply these limits to all vehicles under ten thousand pounds. The response of the West Virginia State Police as represented by Master Sergeant R. D. Blankenship's letter, which is attached as Exhibit C, presents me with a common sense approach on how the state police inspectors will approach this situation. The provisions of section 2.1 are reflected in section 3.3 which reiterates the position that a modified vehicle is one that has been raised or lowered in altitude from the manufacturer's original specifications.

par. 11 Section 2.2 provides for the inspection of modified vehicles by new car dealers whose vehicles have been modified or other dealers who are trained and updated on the original manufacturer's specifications for the vehicle lines involved. Mr. Shaffer's letter objects to this provision because it is not called for or specifically authorized in the bill. This argument is raised several times in the letters that object to the provisions of this rule. I would like to address this issue by pointing out that the provisions of §17C-15-48(f) provide that the Department of Public Safety is charged with "establishing rules concerning such inspection."

It seems logical that these rules cover those items that are normally covered by a standard vehicle inspection. It also follows that the Department of Public Safety will also have to provide for the inspection of items that logically flow from the modification of a vehicle in order to protect the safety of the general public. To adopt a narrow reading of this statute or any other statute involving this type of public safety would be a dangerous precedent. It seems to me that the West Virginia Code cannot be expected to provide for all contingencies in administering and executing a particular program. If this standard were followed, it would be several times its current size and there would be little need for the Code of State Rules. Therefore, I will accept the provisions of this or any other rule which reasonably interpret the statutory language involved with provisions that will continue to preserve public safety or welfare. I draw this interpretation from the definition of emergency legislative rules as provided for in West Virginia Code §29A-3-15. It seems to me that the Department of Public Safety's provision limiting inspections to dealerships that have actual training in the original manufacturer's specifications of these vehicles is very helpful in preserving the overall safety of these vehicles because these inspectors will be able to immediately identify changes to items such as the fuel system, brakes, transmissions and other items which contribute directly to the operational safety of any vehicle. Mr. Hunt's letter raises the observation that this rule will in effect bar any non-new vehicle dealers from inspecting these vehicles. I frankly feel that there may well be some operations in the State that are interested in inspecting these modified vehicles and that those operations should be required to familiarize themselves with the original manufacturer's specifications of these vehicles. If they are not willing to do this, then they should not be doing these inspections.

par. 12 Mr. Hunt's letter objects to including regulations on the inspection of fuel systems because many of the provisions go beyond the explicit prohibition in §17C-15-48 which says that modifications are not to expose the fuel tank itself to damage from collision. The State Police point out that many of these modified vehicles reroute the fuel lines due to the parts that have to be added to lift or lower the vehicle. Once again, it seems clear to me that this is a reasonable extension of the overall power of the Department of Public Safety to protect the overall safety or welfare of the motoring public by insuring that changes in the routing of these fuel lines are done in a safe way. Mr. Hunt's letter also raises the objections that sections 4.2 on doors and door latches, section 4.2.3 on hood and trunk latches are beyond the scope of the statute involved. The State Police point out that these two provisions have been added because there are several vehicles that will now be allowed on the road under this new section that will probably have changes in the doors and latch mechanisms as well as the

hood and trunk latches. These lowered vehicles present problems that must be dealt with in order to protect the drivers involved and once again this compelling need for preserving public safety will be enough to insure the emergency rule status of these provisions.

par. 13 The provisions of section 4.2.4 which have to do with adding fenders to cover larger tires is perhaps the most contentious issue in this proposed rule. I would like to point out that the rule also provides at section 4.8.11 that fender extensions cannot extend further than three inches from the original fender involved. So as Mr. Shaffer points out in his letter, this restriction does seem to be a way of limiting the overall tire size that can be placed on a vehicle. The State Police say that this requirement has been added to reduce the number of rocks and debris that are thrown from these vehicles. Mr. Hunt's letter points out that there is nothing in the official manual which coincides or corresponds with this requirement. Obviously the official manual has no such requirement since the wheel well requirements for cars and trucks more than cover this problem. This requirement seeks to reestablish the protection which is found in having wheel wells that surround tires that meet the manufacture's specifications for these vehicles. Anyone who has driven on the roads in West Virginia and has been subjected to the damage that can occur to one's vehicle as a result of flying debris and rocks will readily agree that this debris is a nuisance and that it can endanger public safety. Therefore, in order to maintain the public safety and welfare I find that the provisions of section 4.2.4 are acceptable for emergency rule status.

par. 14 The scrub line requirements of section 4.5.8 are objected to by Mr. Hunt because there is no mention made of a scrub line in the law or any other rule or regulation. Once again, this is because the vehicles on the road already meet safety standards that are built into the manufacturing of motor vehicles. Modified vehicles are often changed in their steering, braking and fuel systems so that a blow-out could render a part of one of these systems open to damage because they are below the rim of the wheel involved. This is obviously not only hazardous to the person driving the modified vehicle but to any other vehicle or object surrounding them at the time of the blow-out. Once again, this rule should be upheld because of its common sense approach to protecting the public safety and welfare.

par. 15. The provisions of section 4.8 have been brought into question in Mr. Hunt's letter because they limit the overall size of the tires that can be used to be no more than three inches beyond the original fender of the vehicle involved. I have already upheld the three inch rule because of its part in reducing the overall debris thrown from tires. I would also like to observe that Mr. Hunt's contention that the only restriction from the West Virginia Code on the width of a vehicle is set at

ninety-six inches in West Virginia Code §17C-17-2. This is an overall width of eight feet and it applies to all vehicles that are on the highway system. It seems to me to be totally illogical to say that a Chevy S-10 or Ford F150 pickup truck should be allowed to have tires that allow it to be eight feet wide without any coverage of those tires by fenders. This goes back to my earlier observation that the West Virginia Code clearly cannot provide for every contingency that is needed to protect the public safety and that is one of the primary reasons for having a Code of State Rules.

par. 16 Finally, Mr. Shaffer's letter objects to the requirement in Section 4.9 which says that any automatic transmissions which are added to these vehicles must have a interlock that causes the engines starter to be inoperative when the transmission lever is shifted to a forward or reverse drive position. This safety feature is standard in the automatic transmissions of most cars on the road today. I see no reason why these modified vehicles should be allowed to operate with a lower safety threshold.

par. 17 It is the determination of the Secretary of State that Public Safety has not exceeded its statutory authority in promulgating this emergency rule

par. 18 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 19 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 20 The facts and circumstances as presented by Public Safety are as follows:

On March 9, 1990 the West Virginia Legislature passed S.B. 386 relating to the alteration of motor vehicle suspension systems. This legislation became effective on June 9, 1990 and mandated that the Division of Public Safety establish rules governing the inspection of the aforementioned vehicles.

This legislation also mandated that these vehicles be inspected by July 1, 1990.

The attached emergency rule will allow the Division of Public Safety to immediately implement the mandated inspection procedures and will ensure that all modified vehicle inspections are carried out in a consistent manner that will ensure the safety of the motoring public. (See Exhibit C)

par. 21 Overall the objections to these proposed rules have failed because of the clear need to preserve public safety when vehicles are changed in such a way as to alter the manufacturer's configuration for that vehicle. In the case of many of the street roads in this rule, there are no manufacturer's configuration since these vehicles are pieced together. The Administrative Procedures Act clearly envisions the promulgation of emergency rules when it is necessary to fill in the gaps of a new law that deals with potentially dangerous vehicles on the public highway. Therefore, I find that the Department Safety has not violated the provisions of the Administrative Provisions Act by exceeding the scope of its statutory authority as defined in §17-15-48 and that the situation is an emergency due to the preservation of public safety and welfare. The rule is approved.

par. 22 This decision shall be cited as Emergency Rule Decision 44-90 or ERD 44-90 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Division of Public Safety, the Attorney General and the Legislative Rule Making Review Commission.

Ken Hechler

KEN HECHLER
SECRETARY OF STATE

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE Oct. 23, 1990
ADMINISTRATIVE LAW DIVISION

Entered