



FILED IN THE OFFICE OF  
A. JAMES MANCHIN  
SECRETARY OF STATE  
THIS DATE May 27, 1983  
Administrative Law Division

STATE OF WEST VIRGINIA  
OFFICE OF THE SECRETARY OF STATE  
CHARLESTON 25305

A. JAMES MANCHIN  
SECRETARY OF STATE

STATE REGISTER FILING

I, E. DANDRIDGE McDONALD, CHAIRMAN,  
Title or Position

PUBLIC SERVICE COMMISSION, hereby submit to record in  
Department or Division

the State Register on 8 1/2 x 11" paper two (2) copies of

- proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- proposed rules and regulations superseding rules and regulations already on file;
- notice of hearing;
- findings and determinations;
- rules and regulations; or
- other - specify ( ) .

This filing pertains to

Chapter 24  
Article 1  
Series VIII  
Section 1.23(e)  
Page No. B-12

- proposed rules and regulations are required to go to Legislative Rule Making Committee;
- proposed rules and regulations are excluded from Legislative Rule Making Committee;

May 26, 1983  
Date Submitted

[Signature]  
Signature of Person Authorizing  
this Filing

PSC  
Adm. Reg. 24-1  
Series VIII

Sec. 1.23(e)

IN THE MATTER OF REVISIONS OF  
THE RULES AND REGULATIONS FOR THE  
GOVERNMENT OF RAILROAD SAFETY AND  
SANITATION.

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NOTICE OF PROPOSED RULE  
AND OPPORTUNITY TO SUBMIT COMMENTS

The Public Service Commission of West Virginia has proposed an amendment to its rules and regulations governing installation of backup lights on local and mine run cabooses in West Virginia. The proposed rule amends Rule 1.23(e) of the Commission's Rules and Regulations for the Government of Railroad Safety and Sanitation to incorporate the provisions of article 2B of Chapter 31 of the West Virginia Code, enacted by the 1983 legislature. Generally, the legislation requires that all local or mine run cabooses be equipped with handheld or permanently installed backup lights capable of illuminating the track a distance of 250 feet under clear atmospheric conditions.

The Commission will receive public comment on the merits of the rule, in the form of written material, on or before June 27, 1983, at 5:00 p.m., in the Office of the Executive Secretary of the Public Service Commission, Room E-217, Capitol Building, Charleston, West Virginia 25305.

Interested persons may obtain a copy of the proposed rule by contacting:

Howard M. Cunningham  
Executive Secretary  
Public Service Commission  
Room E-217  
State Capitol Building  
Charleston, WV 25305

IN THE MATTER OF REVISION OF  
THE RULES AND REGULATIONS FOR THE  
GOVERNMENT OF RAILROAD SAFETY AND  
SANITATION.

PROPOSED RULE

STATEMENT OF AUTHORITY:

This rule is a legislative rule as defined in West Virginia Code §§29A-1-2(d) and (i). This rule relates to the authority of the Public Service Commission under West Virginia Code §§24-1-1, 24-2-1, 24-2-1a, 24-2-2, 24-2-7(a), 24-2-9, 24-2-13, 24-3-1, 31-28-1, 31-2B-2, 31-2B-3, 31-2B-4, and 31-2B-5. The Public Service Commission is authorized to issue rules and regulations as may be necessary to carry out the provisions of Chapter 24 and Article 2B of Chapter 31 of the West Virginia Code, including all of the aforementioned Code sections, by West Virginia Code §24-1-7.

ABSTRACT OF PROMULGATION HISTORY

In the recently concluded legislative session, the West Virginia Legislature passed, on March 9, 1983, Senate Bill No. 228, effective 90 days from passage. Said Bill amends Chapter 31 of the West Virginia Code by adding thereto a new Article 2B. Article 2B requires certain illumination to be maintained at the rear of all cabooses. The article also provides for enforcement of such illumination requirements by the Public Service Commission.

Rule 1.23(e) of the Commission's Rules and Regulations for the Government of Railroad Safety and Sanitation addresses illumination requirements for cabooses. As of the effective date of Senate Bill 228, June 7, 1983, the Commission's Rule will no longer be in compliance with the law of the State. Standard rulemaking procedures would not result in promulgation of a finally adopted rule on or before the effective date of this Bill. Chapter 29A of the West Virginia Code. Therefore, it will be necessary for the Commission to adopt an emergency rule in order to comply with the requirements of Senate Bill 228. Such emergency rule will be finally adopted on June 6, 1983. This proposed rule to amend Rule 1.23(e) of the Commission's Rules and Regulations for the Government of Railroad Safety and Sanitation is hereby promulgated to replace such emergency rule.

PROPOSED RULE

1.23(e) CABOOSES ON RIDER CARS - OTHER THAN YARD CABOOSES:

\* \* \*

(e) Illumination equipment for railroad cabooses.

- (1) There shall be maintained on the rear end of all cabooses, while cabooses are being pushed during the hours of darkness, either a handheld or installed backup light which shall have sufficient candlepower to illuminate the track for a distance of at least two hundred fifty feet under clear atmospheric conditions. Securing and maintaining said lights shall be the responsibility of the railroad.
- (2) The provisions of Rule 1.23(e)(1) shall only apply to all local or mine run cabooses. Runs originating from without the State of West Virginia shall be exempt from the requirements of the rule.
- (3) Rule 1.23(e)(1) shall be effective from June 7, 1983, provided; that railroads shall have until June 7, 1984 to achieve full compliance with the rule.
- (4) Enforcement - Railroad safety inspectors of the Commission shall have authority to examine cabooses

for compliance with these rules. If a railroad violates the provisions of Rule 1.23(e)(1), it will be, according to West Virginia Code §21-2B-5, guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars for each violation; provided that the railroad shall not be in violation of Rule 1.23(e)(1) if the defect is corrected at the first point maintenance supplies are available, or if repairs are needed, the first point at which materials and repair facilities are available and repairs can reasonably be made.

- (5) Rule 1.23(e) shall not be interpreted as imposing individual responsibility upon any railroad employee for damage to caboose backup lights while the employee is engaged in handling the lights as required by Rule 1.23(e)(1).

IN THE MATTER OF REVISIONS OF  
THE RULES AND REGULATIONS FOR THE  
GOVERNMENT OF RAILROAD SAFETY AND  
SANITATION.

FISCAL NOTE

This is a fiscal note issued pursuant to West Virginia Code §§29A-3-4, 29A-3-5 and 29A-3-9 and West Virginia Code §24-1-7, relating to General Order No. 189.3, in the matter of revision of Rules and Regulations for the Government of Railroad Safety and Sanitation.

I. OBJECTIVES OF THE RULE

The purpose of this rule is to implement article 2B of Chapter 31 of the West Virginia Code, which, generally, requires installation of handheld or permanently installed backup lights on cabooses operating on local or mine runs within the State of West Virginia in order to protect the lives of railroad workmen and other persons, and protect railroad equipment.

II. COST OF IMPLEMENTING THE ATTACHED RULE

A. There will be no implementation cost relating to this rulemaking for the State of West Virginia.

B. COST OF IMPLEMENTATION FOR PERSONS AFFECTED BY THE PROPOSED RULE

Each railroad operating within West Virginia will be required to either permanently install lights on each

end of each caboose or equip each caboose with a handheld light capable of illuminating the track for 250 feet under clear atmospheric conditions. The Chessie System has estimated that permanent installation of backup lights on its approximately 1350 cabooses would cost approximately \$680,000. The Norfolk and Western Railway Company estimates that installation of permanent backup lights on its approximately 440 cabooses would cost approximately \$415,000. These figures do not include maintenance costs. The Commission has not received or requested estimates from any other railroads.

The Commission is of the opinion that the cost of equipping each caboose with portable, handheld lights would be significantly less than the figures mentioned above. Presently, the N&W equips its cabooses with handheld backup lights at a cost of approximately \$29 per light. (Thus, the N&W is already in compliance with this proposed rule.) Use of these handheld lights by the railroads would enable them to comply with the rule at costs significantly below those of installing permanent lights.

III. THE EFFECT THIS MEASURE WILL HAVE ON THE COST AND REVENUES OF STATE GOVERNMENT

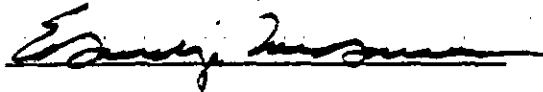
This rulemaking will have no effect on the cost and revenues of state government.

IV. ECONOMIC IMPACT OF THIS RULE ON THE STATE OR ITS RESIDENTS

There should be no significant economic impact on the state or its residents as a result of this rulemaking proceeding.

DATE May 26, 1983 AGENCY Public Service Commission of West Virginia

SIGNATURE OF AUTHORIZED REPRESENTATIVE





STATE OF WEST VIRGINIA  
PUBLIC SERVICE COMMISSION  
CHARLESTON, 25305

CERTIFICATION

I, E. Dandridge McDonald, Chairman of the West Virginia Public Service Commission, do hereby certify that the rules and regulations contained herein are lawfully proposed legislative rules of the West Virginia Public Service Commission.

E. Dandridge McDonald

May 26, 1983  
Date