

SUMMARY OF PROPOSED RULE

The Commission recently re-examined the Rules and Regulations for the Government of Motor Carrier of Passengers and Property and determined that these rules require certain revisions. The rules were last revised to be effective January 1, 1984, and the Commission believes that further revision will benefit motor carriers and the general public.

The purposes of this proposed legislative rule are (1) to amend and reenact existing Commission rules and regulations pertaining to motor carriers in order that said rules and regulations may more closely conform with the Commission's statutory jurisdiction; (2) to update said rules and regulations; and (3) to promulgate additional new rules and regulations which are designed to reflect the Commission's recently expanded jurisdiction with respect to the transportation of hazardous materials by motor carriers.

FISCAL NOTE

This is a fiscal note issued pursuant to §§24-1-7, 24-2-12, 24A-1-1, 24-2-3, 24A-3-6, and 24A-5-5 of the West Virginia Code, as these sections are read in pari materia, with §§29A-3-1 through 29A-3-9 of the West Virginia Code, relating to Motor Carrier General Order No. 64, In the Matter of Commission Proposed Rules for Motor Carriers of Passengers and Property, amending the Rules and Regulations for the Government of Motor Carriers of Passengers and Property, which were last amended in 1983, effective January 1, 1984.

I. OBJECTIVES OF THE RULE

The purposes of this proposed legislative rule are (1) to amend and reenact existing Commission rules and regulations pertaining to motor carriers in order that said rules and regulations may more closely conform with the Commission's statutory jurisdiction; (2) to update said rules and regulations; and (3) to promulgate additional new rules and regulations which are designed to reflect the Commission's recently expanded jurisdiction with respect to the transportation of hazardous materials by motor carriers.

II. COST OF IMPLEMENTING THE PROPOSED RULES:

A. Cost of Implementation for the State:

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:

The Commission is of the opinion that any additional costs incurred by motor carriers as a result of the implementation of this rule will be de minimis in nature. This proposed legislative rule includes a provision for the increase of certain fees for the purpose of defraying the Commission's expenses in processing applications relating to authority. At this time it is impossible to determine what motor carriers will be affected by those rules and which cost will be incurred as a result of implementation of these rules.

III. THE EFFECT THIS MEASURE WILL HAVE ON THE COSTS OR REVENUES OF STATE GOVERNMENT (Information required by fiscal notes for either House of the Legislature.)


If the proposed legislative rule is adopted in its entirety, the effect will be to augment gross revenues flowing to the Commission.

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

The Commission foresees that there will be no economic impact by this rule on the State or on its residents since the changes proposed by this rulemaking are not designed to affect materially the cost to the travelling or shipping public.

DATE: August 6, 1987 AGENCY: Public Service Commission of W.Va.

SIGNATURE OF AUTHORIZED REPRESENTATIVE


Chairman

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 6th day of August, 1987.

M.C. GENERAL ORDER NO. 64

IN THE MATTER OF Commission-Proposed
Rules for Motor Carriers of Passengers and
Property, Amending the Rules and Regulations
for the Government of Motor Carriers of
Passengers and Property.

COMMISSION ORDER PROMULGATING PROPOSED RULES
AND COMMENCING RULEMAKING PROCEEDING

The Commission recently re-examined the Rules and Regulations for the Government of Motor Carriers of Passengers and Property and determined that these rules require certain revisions. The rules were last revised to be effective January 1, 1984, and the Commission believes that further revision will benefit motor carriers and the general public.

Upon consideration whereof, the Commission has determined that it is necessary to initiate a general rulemaking proceeding for the purpose of promulgating proposed amendments to the Commission's Rules and Regulations for the Government of Motor Carriers of Passengers and Property in the State of West Virginia, pursuant to §§24-1-7, 24-2-12, 24A-1-1, 24A-2-3, 24A-3-6, and 24A-5-5 of the West Virginia Code, as those sections are read in pari materia with §§29A-3-1 through 29A-3-9 of the Code.

IT IS, THEREFORE, ORDERED that the proposed rules be adopted as Commission-proposed legislative rules amending the Rules and Regulations for the Government of Motor Carriers of Passengers and Property.

IT IS FURTHER ORDERED that all motor carriers subject to the Commission's jurisdiction and other interested parties be notified of the establishment of this rulemaking proceeding.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission file a copy the Notice of a Comment Period on a Proposed Rule; a copy of the text of the proposed rules; and a copy of the Fiscal Note, all attached hereto, with the Office of the Secretary of State.

IT IS FURTHER ORDERED that a 30-day comment period shall be held on this matter and comments shall be filed with the Public Service Commission by September 8, 1987, by 12:00 noon. All interested parties who file shall set forth specific comments concerning the proposed amendments to the Rules and Regulations for the Government of Motor Carriers of Passengers and Property. Any party seeking a hearing on the proposed amendments shall make a specific written request before the close of the comment period and shall explicitly state the grounds upon which the request is made.

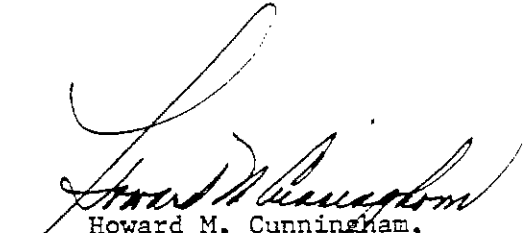
IT IS FURTHER ORDERED that the Executive Secretary shall cause a copy of this order to be published once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in each of the following cities: Beckley, Bluefield, Charleston, Clarksburg, Elkins, Fairmont, Grafton, Huntington, Keyser, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Weirton, Welch, Wheeling, and Williamson.

IT IS FURTHER ORDERED that the Executive Secretary shall provide copies of these proposed rules to interested parties who address inquiries

to: Howard M. Cunningham, Executive Secretary, Public Service Commission
of West Virginia, Post Office Box 812, Charleston, West Virginia 25323.

A TRUE COPY

TESTE:



Howard M. Cunningham,
Executive Secretary

SMW/is

TITLE 150
LEGISLATIVE RULE

PUBLIC SERVICE COMMISSION
SERIES 9
RULES AND REGULATIONS FOR
THE GOVERNMENT OF MOTOR CARRIERS
OF PASSENGERS AND PROPERTY

§150-9-1 GENERAL

1.1 SCOPE -- These rules govern all common or contract or contract carrier motor carriers for hire of passengers or property over the public highways of this State, unless otherwise exempt from regulation by Chapter 24A-1-3 of the Code of West Virginia, purusant to West Virginia Code §24-2-1.

1.2 AUTHORITY -- W.Va. Code §§24A-2-3, 24A-3-4, 24A-3-6, 24A-5-5.

1.3 FILING DATE -- August 6, 1987

1.4 EFFECTIVE DATE --

1.8 DEFINITIONS

(1) COMMISSION: Whenever in these rules and regulations the words "commission" or "Public Service Commission" occur, such word or words shall, unless a different intent clearly appears from the context, be taken to mean the Public Service Commission of West Virginia.

(2) MOTOR VEHICLE: The term "motor vehicle" means, and includes, any automobile, truck, tractor, truck-tractor, trailer, semitrailer, motorbus, taxicab, and any self-propelling motor-driven motor vehicle, or any combination thereof, used upon any public highway in this State for the purpose of transporting persons or property.

(3) PUBLIC HIGHWAY: The term "public highway" means any public street, alley, road, or highway, or thoroughfare of any kind in this State used by the public.

(4) PERSON: The term "person" means and includes any individual, firm, copartnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee or personal representative thereof.

(5) COMMON CARRIER BY MOTOR VEHICLE: The term "common carrier by motor vehicle" means any person who undertakes, whether directly or by lease or any other arrangement, to transport passengers or property, or any class or classes of property, for the general public over the highways of this State by motor vehicles for hire, whether over regular or irregular routes, including such motor vehicle operations of carriers by rail, water or air and of express or forwarding agencies, and leased or rented motor vehicles, with or without drivers.

(6) CONTRACT CARRIER BY MOTOR VEHICLE: The term "contract carrier by motor vehicle" means any person not included in subdivision (5) of this section, who under special and individual contracts or agreements, and whether directly or by lease or any other arrangement, transports passengers or property over the highways of this State by motor vehicles for hire.

(7) MOTOR CARRIER: The term "motor carrier" includes both a common carrier by motor vehicle and a contract carrier by motor vehicle.

(8) EXEMPT CARRIER: The term "exempt carrier" means any person operating a motor vehicle exempt from the provisions of Chapter 24A, Code of West Virginia, by Article 1, Section 3, thereof.

(9) POWER UNIT: The term "power unit" means any vehicle which contains within itself the engine, motor, or other source of power by which said vehicle is propelled.

(10) I.C.C.: The letters "I.C.C." mean the Interstate Commerce Commission.

(11) D.O.T.: The letters "D.O.T." mean the United States Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety.

(12) DRIVEAWAY OPERATION: The words "driveaway operation" mean an operation in which any vehicle or vehicles, operated single or in lawful combination, new or used, not owned by the transporting motor carrier, constitute the commodity being transported.

(13) NARUC: The letters "NARUC" mean the National Association of Regulatory Utility Commissioners.

(14) OPERATIONS WITHIN THE BORDERS OF THIS STATE: The term "operations within the borders of this State" as it is used in Chapter 24A, Article 6A, Sections 1, 2, and 3,

Code of West Virginia, means interstate or foreign operations to, from, within or traversing this State.

(15) CFR: The letters "CFR" mean the Code of Federal Regulations.

(16) PRIVATE COMMERCIAL CARRIER: The term "private commercial carrier" means and includes any person who undertakes, whether directly or by lease or other arrangement, to transport property, including hazardous materials as defined in these rules, for himself over the interstate highways of this state, in interstate or intrastate commerce, for any commercial purpose, by truck tractor, semitrailer or full trailer, as hereinbelow defined: Provided, That this term shall not include carriers of heavy equipment, used in excavation or construction, by low-bed trailers, to or from construction sites.

(17) TRUCK TRACTOR: The term "truck tractor" means a self-propelled motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(18) SEMITRAILER: The term "semitrailer" means any motor vehicle other than a "pole trailer," with or without motive power, designed to be drawn by another motor vehicle and so constructed that some part of its weight rests upon the towing vehicle.

(19) FULL TRAILER: The term "full trailer" means any motor vehicle, with or without motive power, other than a "pole trailer," designed to be drawn by another motor vehicle and so constructed that no part of its weight except the towing device rests upon the towing vehicle. A semitrailer equipped with an auxiliary front axle (dolly) shall be deemed to be a "full trailer."

2.3 SAFETY RULES AND REGULATIONS

The Safety Rules and Regulations promulgated by the U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, in effect as of July 1, 1983, published in Title 49 CFR parts 171, 172, 173, 177, 391, 392, 393, 394, 395, 396, and 397, insofar as they are not in conflict with the laws of the State of West Virginia, shall apply to all motor carrier.

Every motor carrier subject to the Commission's jurisdiction and every private commercial carrier subject to the Commission's jurisdiction shall establish, maintain, and operate their motor vehicles, equipment, and cargo in conformity with the safety rules and regulations promulgated by the U.S. Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety, published in Title 49 CFR parts 171, 172, 173, 177, 178, 325, 350, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, and 399 in effect as of October 1, 1986; and in Title 40 CFR part 262 in effect as of July 1, 1986. Copies of said rules and regulations may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

2.06--FINANCIAL-AND-STATISTICAL-REPORTS

~~-----All-motor-carriers-having-average-annual-gross-carrier operating-revenues-of-Five-Hundred-Thousand-Dollars-or-more shall-file-annually-a-financial-and-statistical-report-upon forms-to-be-furnished-and/or-approved-by-the-Commission. Said-report-shall-be-based-upon-the-accounts-set-up-in conformity-with-the-rule-set-out-in-Section-2.05-of-these rules-and-regulations.--This-report-shall-be-filed-within ninety-(90)-days-after-the-close-of-the-fiscal-year-for which-the-carrier-normally-maintains-its-books-and-records.~~

3.1 APPLICATIONS, DOCUMENTS, AND OTHER PAPERS

Applications, documents, and other papers shall be filed with the Commission upon forms prescribed by Section No. 10.00, except that the Commission may accept such other form of application, document or paper, as it the Commission may deem proper, providing that if such application, document, or other paper contains the same information required by the prescribed form. Each such application, document, or paper shall be accompanied by the applicable filing fee required under Rule 3.02. If no filing fee is indicated in said Rule for the filing of a specific category of application, document, or paper, said filing may be made free of charge.

3.2 FILING FEES

(1) Application for a certificate of convenience and necessity or for a contract-carrier permit.	<u>\$20.00</u>	<u>\$100.00</u>
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(2) Application for the reinstatement of and/or-to-resume-operations-under a suspended certificate or a suspended		
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<u>permit.</u>	\$20.00	<u>\$75.00</u>
(3) Application for the transfer of a <u>certificate or a permit.</u>	\$15.00	<u>\$50.00</u>
(4) Application for the amendment of a <u>certificate or a permit.</u>	\$15.00	<u>\$75.00</u>
(5) Application to suspend all or a part of the operations <u>abandon service</u> under a certificate.		\$15.00
(6) Petition for reopening a case involving a certificate when filed later than 10 days after entry of a final order.		\$15.00
(7) Application for a contract carrier permit.		\$10.00
(8) Application for reinstatement of, and/or to resume operations under a permit.		\$10.00
(9) Application for transfer of permit.		\$10.00
(10) Application for amendment of permit.		\$10.00
(11) Application to suspend all or a part of the operations under a permit.		\$10.00
(12) Petition for reopening a case involving a permit when filed later than 10 days after entry of a final order.		\$10.00
(13) (6) Application for authority to adopt or change a trade name under a certificate of permit.	\$5.00	<u>\$25.00</u>
(14) (7) <u>Combined applications Application for the transfer</u> transfers of <u>several certificates and/or</u> permits.	\$15.00	<u>\$50.00</u>

3.8 TRADE-NAME REQUIREMENT THAT CARRIER USE AND DISPLAY AUTHORIZED TRADE NAME

No carrier shall use any ~~trade-name~~ trade name or any fictitious name unless such name is authorized for such

carrier's use by order of the Commission. Except where otherwise provided herein, a carrier shall display its authorized trade name (or where no such trade name is authorized, the name in which authority is held) and each of its certificate or permit numbers on each side of each motor vehicle it operates. The letters of the carrier's name shall be not less than three inches in height. Temporary placards may be used for leased equipment subject to this section.

3.13 SUSPENSION OF CERTIFICATES AND PERMITS BECAUSE OF CARRIER'S FAILURE TO APPLY FOR AND OBTAIN UNIFORM VEHICLE IDENTIFICATION CARD AND TO PAY SPECIAL ASSESSMENT

All-certificates-and/or-permits,-which-do-not-contain herein-expiration-dates,-shall-be-suspended-without-further action-of-this-Commission-effective-October-1-of-each-year, until-further-order-of-the-Commission,-and-any-and-all operations-thereunder-are-suspended,-if-the-holder-of-said certificates-and-permits-has-failed-to-apply-for-and-obtain Uniform-Vehicle-Identification-Cards-and-has-not-paid-the special-assessments-required-of-motor-carriers,-for-the fiscal-year-beginning-July-1-of-each-year,-as-required-by Sections-4-and-6,-Article-6,-Chapter-24A,-Code-of-West Virginia.

(1) Pursuant to the requirements imposed upon motor carriers by §§24A-6-4 and 24A-6-6 of the West Virginia Code, every motor carrier shall, by July 1st of each year, have applied for and have obtained at least one (1) Uniform Vehicle Identification Card and have paid the special annual assessment imposed upon said motor carrier, for the fiscal year commencing on said July 1st.

(2) If, by August 1st of said fiscal year, a motor carrier has still failed to apply for and to obtain at least one (1) Uniform Vehicle Identification Card or has failed to pay the special annual assessment imposed upon said carrier, the Commission, through its Staff, shall notify said carrier, in writing, that all of its certificates and permits will be automatically suspended on October 1st of said fiscal year if said carrier, by said date, either has failed to apply for and to obtain at least one (1) Uniform Vehicle Identification Card or has failed to pay said special annual assessment.

(3) Every certificate, and every permit, which lacks an explicit expiration date shall be automatically suspended, effective October 1st of each year, until further order of the Commission, and all operations under said

certificate or permit shall be automatically suspended, if the holder of said certificate or permit, by that date, either has failed to apply for and to obtain at least one (1) Uniform Vehicle Identification Card for, or has failed to pay the special annual assessment for, the fiscal year in which said date falls.

(4) By October 8th of said fiscal year, the Commission shall send a letter by certified mail to every motor carrier holding a certificate or permit which, according to Commission records, was automatically suspended on October 1st pursuant to this Rule. Said letter shall inform said carrier that its operations have, in fact, been suspended and that it may have its suspension lifted, expeditiously, if it tenders proper payment for the special annual assessment(s) and applies for and obtains Uniform Vehicle Identification Cards prior to November 1st of said fiscal year. The Commission may expeditiously lift the suspension of each carrier which complies with the requirements set forth in said letter.

(5) If said motor carrier fails, by November 1st of said fiscal year, to tender proper payment for the applicable annual assessment(s) or fails by that date to obtain Uniform Vehicle Identification Cards, the Commission may, on its own motion, commence proceedings to revoke all operating authority held by said carrier.

(6) All letters and documents relevant to motor carriers who were suspended on October 1 of a fiscal year in accordance with Rule 3.13(3) shall be maintained in the office of the Executive Secretary of the Commission. Such records shall include copies of all warning letters, notice of the actual suspension, all subsequent correspondence with the motor carrier or its representatives, and any other relevant documents, properly stamped and dated upon receipt.

3.15 PROHIBITION OF UNAUTHORIZED OPERATIONS AND UNAUTHORIZED CHARGES BY COMMON AND CONTRACT CARRIERS; PENALTIES AND SANCTIONS

(1) No common carrier by motor vehicle shall operate within this State without first having obtained a certificate of convenience and necessity from the Commission.

(2) No common carrier by motor vehicle shall operate outside the territory or routes set forth in its certificate(s).

(3) No contract carrier by motor vehicle shall operate within this State without first having obtained a permit from the Commission.

(4) No contract carrier by motor vehicle shall operate outside of the territory or routes set forth in its permit(s).

(5) No motor carrier shall charge, demand, collect, or receive a greater or less or different remuneration for the transportation of passengers or property, or for any service in connection therewith, than the rates, fares, and charges which have been legally established and filed with the Commission; nor shall any such carrier refund, remit, discount or rebate in any manner or by any device any portion of the rates, fares, and charges required to be collected by the tariffs on file with or ordered by the Commission.

(6) Any common carrier or contract carrier which operates motor vehicles for hire over the public highways of this State without first having obtained either a certificate of convenience and necessity or a contract-carrier permit, as the case may be, from the Commission, shall be subject to criminal penalties, as well as to administrative sanctions imposed by the Commission, pursuant to Chapters 24 and 24A of the West Virginia Code.

3.16 BINDING ESTIMATES BY CARRIERS OF HOUSEHOLD GOODS

(1) Upon a request filed by a shipper, every common carrier of household goods shall provide a binding estimate for transportation and related services furnished by said carrier in accordance with the following criteria:

(a) Every binding estimate must be in writing and must be signed by representatives of both the shipper and the carrier;

(b) Every binding estimate, or any revision thereof, which is made under the provisions of this Rule, shall remain effective and binding for a period of up to sixty (60) days after said estimate is presented to the shipper;

(c) Every binding estimate is limited to the origin, destination, and additional stops, if any, specified on it. The binding estimate is further limited to the quantities and/or services specified therein;

(d) Any binding estimate may be revised, through the written, mutual agreement of the shipper and the carrier, at

any time during its effective period, up to and including the date upon which the shipment is tendered to the carrier for transportation; and

(e) Prior to loading the tendered shipment, the carrier may revise the binding estimate if the origin, destination, additional stops, quantities and/or services, or any part thereof, have been added, changed, or deleted by the shipper.

(2) PROVIDED, HOWEVER, that upon a request by the shipper, the carrier shall agree to provide price certainty by basing charges on the binding estimate, as set forth above, plus any additional services requested or required after loading, OR on the actual weight and tariff charges in effect on the last day on which services were performed, WHICHEVER OPTION PRODUCES THE LESSER TOTAL CHARGE. This option must be stated in writing and initialed by representatives of both the shipper and the carrier, and shall be effective for the same period as the binding estimate.

3.17 PARTIES TO COMMITTING A VIOLATION OF MOTOR CARRIER LAW.

No person shall commit, attempt to commit, conspire to commit, or knowingly aid or abet in the commission of, any act which is prohibited by Chapter 24A of the West Virginia Code or by these Rules.

3.18 ACQUISITION OF STOCK IN INCORPORATED MOTOR CARRIERS; ISSUANCE OF STOCK BY INCORPORATED MOTOR CARRIERS.

(1) No person shall, before obtaining the Commission's consent and approval to do so, acquire, either directly or indirectly, a majority of the common stock of any incorporated common carrier or incorporated contract carrier organized and doing business in this State.

(2) No incorporated common carrier, and no incorporated contract carrier, shall issue stocks and stock certificates, or other evidence of interest or ownership unless, in addition to other requirements of law, said carrier shall first have secured from the Commission an order authorizing the issue, stating the amount thereof and the purposes to which the issue or the proceeds thereof are to be applied, and stating that, in the opinion of the Commission, the issue is reasonably required for the purposes specified in the order: Provided, that the issuance of stocks and stock certificates or other evidence of interest or ownership by a corporation which devotes one

or more to its divisions to the provision of a public service set forth in §24-2-1 of the West Virginia Code shall be exempted from the requirements hereof when the gross revenues generated by all such divisions represent less than twenty-five percent (25%) of the gross revenues generated by the corporation.

3.19 CONSUMMATION OF TRANSFER OF CERTIFICATES AND PERMITS

(1) Within sixty (60) days after the date of a Commission order approving the transfer of a certificate or permit, the proposed transferor and the proposed transferee shall inform the Commission in writing as to whether said transfer has, in fact, been consummated, and, if so, upon what date it was consummated.

(2) If, within a period of sixty (60) days after the date of said order, the proposed transferor and the proposed transferee notify the Commission that they have not consummated said transfer, or if, by the end of said period, at least one of said parties fails to notify the Commission, in writing, as to whether said transfer has been consummated, the Commission shall enter such further orders in the case as the Commission may deem appropriate.

3.20 DESCRIPTIONS OF OPERATING AUTHORITY IN APPLICATIONS AND ORDERS

(1) Every application for a certificate or permit which is filed with the Commission shall contain an unambiguous description of the total territory within which, or the total routes along which, the holder of said certificate or permit proposes to operate.

(2) Every certificate or permit shall have the operating authority set forth therein described either in terms of territory or in terms of routes, but not both.

(3) With the exception of present or past municipal boundaries, every component of the description of a route or territory in a certificate or permit which is being issued, transferred, or amended must be readily ascertainable by reference to the applicable county road maps most recently issued by the West Virginia Department of Highways. Every highway route listed in a certificate or permit shall conform, in an unambiguous fashion, to the latest designation by the West Virginia Department of Highways.

(4) No reference to unincorporated communities shall be made in certificates or permits issued by the Commission.

(5) Every application involving the issuance, transfer, or amendment of a certificate or permit, which application describes operating authority in terms of routes (rather than in terms of territory), shall be accompanied by copies of the most recent county road maps (or portions thereof) issued by the West Virginia Department of Highways applicable to said routes, with said routes visibly marked on said maps.

(6) If an application for a certificate or permit or an application for the Commission's approval of the transfer of a certificate or permit or an application for the amendment of a certificate or permit does not conform to the requirements set forth in this Rule, said application shall not be processed unless and until it is amended to comply with this Rule.

3.21 RATES, FARES, AND CHARGES BY COMMON CARRIERS AND CONTRACT CARRIERS

(1) Every common carrier and every contract carrier shall file tariffs reflecting the rates, fares, and charges approved by the Commission for said carriers.

(2) No contract carrier shall collect, from a customer, rates, fares, or charges, which are less than the lowest rates, fares, or charges approved or permitted by the Commission for common carriers providing substantially the same service along any route on which, or within any part of the territory in which (as the case may be), said contract carrier is authorized to operate.

3.22 MANDATORY TRANSFER OF CERTIFICATE OR PERMIT AFTER DEATH OF HOLDER(S)

Within three (3) years after the death of one or more holders of a certificate of permit, the personal representative of each such holder shall either apply to the Commission for the approval of the transfer of said certificate or permit or apply to the Commission for the approval of the discontinuance of operations under said certificate or permit. Provided, however, that this Rule shall not apply to a certificate or permit held by joint tenants until all joint tenants have died.

3.23 INSPECTION AND EXAMINATION OF LAND, BUILDINGS, EQUIPMENT, RECORDS AND PAPERS OF MOTOR CARRIERS

Employees of the Commission are authorized to enter upon, to inspect, and to examine any and all lands,

buildings, and equipment of motor carriers and to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of such carriers. Every motor carrier shall submit its accounts, books, records, memoranda, correspondence, and other documents for inspection and copying, and shall submit its lands, buildings, and equipment for examination and inspection, to any employee of the Commission upon the oral or written request of such employee.

5.15 TAXICAB METERING

Every motor carrier of passengers by taxicab shall be required to equip each vehicle operated by it for the transportation of passengers in taxicab service with a taximeter which shall be used for computation of taxicab fares according to the carrier's authorized tariff, unless this requirement is expressly waived by the Commission.

5.16 TAXICAB INSPECTION

On and after July 1, 1987, each vehicle registered by a motor carrier of passengers by taxicab shall, prior to said vehicle's registration with the Commission, be inspected for compliance with the Commission's safety rules and regulations. Said vehicle shall not be so registered until it is in compliance with said rules and regulations.

6.10 STORAGE PLACES FOR TOWED VEHICLES

(1) No operating authority issued by the Commission to a carrier by motor vehicle engaged in the business of towing, hauling, or carrying wrecked or disabled vehicles, hereinafter referred to in this Rule as "wrecker operator, shall in any way diminish the wrecker operator's responsibility to store its towed vehicles in accordance with Chapter 17, Article 23, of the West Virginia Code, and all lawful rules and regulations promulgated pursuant thereto. The fact that the Commission has jurisdiction over the towing of wrecked vehicles shall not in any way diminish the authority of the West Virginia Department of Highways, or its Commissioner, to regulate any and all storage, be it temporary or permanent, of junked, dismantled, or wrecked motor vehicles, or parts thereof, which have been towed by wrecker operators.

(2) No wrecker operator shall store, or deliver to a place of storage, any towed motor vehicle or part thereof unless the place of storage is either (a) a structure fully enclosed by walls and a roof, (b) a salvage yard duly licensed by the Commissioner of Highways, pursuant to

~~§17-23-3 of the West Virginia Code, (e) a salvage yard which falls within any of the exemptions listed in §17-23-7 of the West Virginia Code,~~ or (d) (c) a facility which is completely enclosed by a fence, or other suitable barrier, which is both (i) reasonably capable of preventing the theft of the stored vehicles or parts thereof, and (ii) at least eight (8) feet in height.

(3) A wrecker operator shall not store, or deliver to a place of storage, a motor vehicle, or part thereof, which is junked or dismantled or so wrecked that it is not reasonably capable of being returned to an operable condition, unless the place of storage is either (a) a structure fully enclosed by walls and a roof, (b) a salvage yard which has been both (i) issued a license by the Commissioner of Highways, pursuant to §17-23-3 of the West Virginia Code and (ii) issued a salvage-yard permit by the county planning commission or other appropriate county agency having jurisdiction over the place of storage, ~~or (e) a salvage yard which falls within any of the exemptions listed in §17-23-7 of the West Virginia Code, or unless the wrecker operator complies with subsection (4) of this section;~~ or (c) a facility which is operated as a place for the occasional, but temporary, storage of junked, dismantled, or totally wrecked motor vehicles, or parts thereof, in compliance with paragraph (4) of this Rule.

(4) A wrecker operator may temporarily store a junked, dismantled, or totally wrecked motor vehicle, or part thereof, in a facility owned by that operator if (a) the facility is completely enclosed by a fence, or other suitable barrier, which is both (i) reasonably capable of preventing the theft of the stored vehicle or part thereof and (ii) at least eight (8) feet in height; (b) that vehicle, or part thereof, is either both (i) stored at least twenty (20) feet from the paved section of the nearest street, road, or highway, ~~or~~ and (ii) completely secluded from view from any and all nearby points off the premises, or ~~(iii)~~ completely covered by some form of opaque material; and (c) no more than three (3) such vehicles are stored at the same time at the same facility.

(5) For the first thirty (30) days during which a wrecked vehicle is stored, the burden of demonstrating that the vehicle is not reasonably capable of being returned to an operable condition shall be upon the Commission or its employees. When that initial thirty-day storage period has passed, the burden of proof shall shift to the wrecker operator, which must then either (a) demonstrate that the vehicle is reasonably capable of being returned to an operable condition or (b) ensure that the vehicle is stored

at one of the places of storage described in subsection (3) of this section.

9.6 SINGLE-SOURCE LEASING

A motor carrier of property may acquire, from a particular person or entity that is not regulated by the Commission, both equipment and a driver or drivers in a single transaction, through the use of a written lease, if and only if all of the following requirements are met:

(1) The lease agreement must recite, and the surrounding facts must reflect, that the leased equipment and driver are exclusively committed to the lessee's use for the term of the lease for any purpose consistent with the provisions of the lease;

(2) The lease agreement must provide, and the surrounding facts must reflect, that the lessee has exclusive dominion and control over the transportation service conducted by the leased equipment and driver during the term of the lease;

(3) The lessee must obtain public liability insurance or otherwise accept responsibility to the public for any injury caused in the course of performing the transportation service conducted by it with the leased equipment and driver during the term of the lease, in accordance with the Commission's rules and regulations governing insurance for motor carriers;

(4) The leased equipment must display appropriate identification showing operation by the lessee during the performance of such transportation (See Rule 3.08);

(5) The lessee must accept responsibility for, and bear the cost of, the compliance of both said driver and said equipment with the Commission's safety rules and regulations during the term of the lease;

(6) The lessee must bear the risk of damage to cargo, subject to any right of action said lessee may have against the lessor for the latter's negligence;

(7) The term of the lease must be for a minimum period of thirty (30) days; and

(8) A copy of the lease must be carried in the leased equipment during the term of said lease, and must be presented upon demand, to the Commission's Utility Inspector for inspection thereof.

10.00 FORMS

The following forms are hereby adopted for use in the administration of the Motor Carrier Law. The Commission may accept papers in forms other than those prescribed if such papers contain the necessary information and are prepared with good workmanship. The forms prescribed hereby shall be altered from time to time to permit the use of a different year or date designation as may be necessary.

(1) P.S.C. W. VA. M.C. FORM NO. 1 - Application for and issuance of Uniform Vehicle Identification Cards for property carriers operating partially or wholly in intrastate commerce.

(2) P.S.C. W. VA. M.C. FORM NO. 2 - Application for and issuance of Uniform Vehicle Identification Stamps for property or passenger carriers operating in interstate and intrastate commerce.

(3) P.S.C. W. VA. M.C. FORM NO 2-A - Affidavit of a carrier applying for Uniform Vehicle Identification Stamps when such carrier claims to be operating exclusively in interstate commerce in the transportation of commodities exempt from the jurisdiction of the Interstate Commerce Commission.

(4) P.S.C. W. VA. M.C. FORM NO. 3 - Application for and issuance of Uniform Vehicle Identification Cards for all exclusively intrastate passenger carriers.

(5) P.S.C. W. VA. M.C. FORM NO. 4 - Fee-use Form used by each carrier when paying the assessment fee required under the provisions of Chapter 24-A, Article 6, Section 6, by §24A-6-6.

(6) P.S.C. W. VA. M.C. FORM NO. 5 - Application for a permit to operate as a contract carrier of property by motor vehicle.

(7) P.S.C. W. VA. M.C. FORM NO. 6 - Application for a certificate of convenience and necessity to operate as a common carrier of property by motor vehicle.

(8) P.S.C. W. VA. M.C. FORM NO. 7 - Application for a certificate of convenience and necessity to operate as a common carrier of passengers in taxicab service.

(9) P.S.C. W. VA. M.C. FORM NO. 8 - Application for a certificate of convenience and necessity to operate as a

common carrier of passengers by motor vehicle over regular routes, or between fixed termini.

(10) P.S.C. W. VA. M.C. FORM NO. 9 - Application for authority to suspend operation as a common or contract carrier of passengers or property.

(11) P.S.C. W. VA. M.C. FORM NO. 10 - Application for authority to discontinue operation as a common or contract carrier of property or passengers, and for the cancellation of the certificate or permit.

(12) P.S.C. W. VA. M.C. FORM NO. 11 - Application for approval of the transfer and assignment of a certificate of convenience and necessity (to be completed by present certificate holder).

(13) P.S.C. W. VA. M.C. FORM NO. 11-A. - Application for approval of the transfer and assignment of a certificate of convenience and necessity (to be completed by proposed certificate holder).

~~(13)~~ (14) P.S.C. W. VA. M.C. FORM NO. 12 - Application for approval of the transfer and assignment of a permit to operate as a contract carrier.

~~(14)~~ (15) P.S.C. W. VA. M.C. FORM NO. 17 - Notice of cancellation of motor carrier policies of insurance.

~~(15)~~ (16) P.S.C. W. VA. M.C. FORM NO. 18 - Notice of cancellation of motor carrier surety bonds.

~~(16)~~ (17) P.S.C. W. VA. M.C. FORM NO. 21 - Application for authority to self-insure.

~~(17)~~ (18) P.S.C. W. VA. M.C. FORM NO. 22 - Endorsement for motor carrier policies of insurance for bodily injury liability and property damage liability.

~~(18)~~ (19) P.S.C. W. VA. M.C. FORM NO. 23 - Endorsement for motor common carrier policies of insurance for cargo liability.

~~(19)~~ (20) P.S.C. W. VA. M.C. FORM NO. 24 - Certificate of insurance for motor carrier policies of insurance for bodily injury and property damage liability.

~~(20)~~ (21) P.S.C. W. VA. M.C. FORM NO. 25 - Certificate of insurance for motor common carrier policies of insurance for cargo liability.

~~(21)~~ (22) P.S.C. W. VA. M.C. FORM NO. 26 - Claim for exemption of motor vehicles used in the transportation of U.S. mail or newspapers.

~~(22)~~ (23) P.S.C. W. VA. M.C. FORM NO. 31 - Certificate of Lease lease.

~~(23)~~-P.S.C.-W.-VA.-M.C.-FORM-NO.-32---Report-of special-ex-charter-party-trips.

(24) P.S.C. W. VA. M.C. FORM NO. 33 - Affidavit of contractor for temporary authority.

(25) P.S.C. W. VA. M.C. FORM NO. 34 - Tariffs of rates, rules, and regulations by common carriers of passengers.

(26) P.S.C. W. VA. M.C. FORM NO. 35 - Tariffs of rates, rules, and regulations by common carrier of property.

(27) P.S.C. W. VA. M.C. FORM NO. 36 - Time schedules of common carriers of passengers operating over regular routes.

(28) P.S.C. W. VA. M.C. FORM NO. 39 - Notice of time schedule changes for posting in buses.

(29) P.S.C. W. VA. M.C. FORM NO. 40 - Notice of application for temporary authority.

(30) P.S.C. W. VA. M.C. FORM NO. 41 - Claim for exemption of motor vehicles used in transportation of coal from mining operations to loading facilities.

(31) P.S.C. W. VA. M.C. FORM NO. 42 - Claim for exemption of motor vehicles used in transportation of agricultural or horticultural products, livestock, poultry, and dairy products.

~~(32)~~-P.S.C.-W.-VA.-M.C.-FORM-NO.-43---Out-of-Service Notice.

~~(33)~~ (32) P.S.C. W. VA. M.C. FORM NO. 44 - Out of Service Vehicle Sticker.

~~(34)~~ (33) P.S.C. W. VA. M.C. FORM NO. 45 - Motor carrier bodily injury liability and property damage liability surety bond.

~~(35)~~ (34) P.S.C. W. VA. M.C. FORM NO. 46 - Motor common carrier cargo liability surety bond.

{36} (35) P.S.C. W. VA. M.C. FORM NO. 48 - Application for change in rates.

{37} (36) P.S.C. W. VA. M.C. FORM NO. 49 - Violation notice.

{38} (37) P.S.C. W. VA. M.C. FORM NO. 50 - Uniform trash, rubbish and garbage tariff.

~~{39} P.S.C. W. VA. M.C. FORM NO. 51 - Vehicle Defect Report.~~

{40} (38) P.S.C. W. VA. M.C. FORM NO. 52 - Taximeter Inspection Report.

~~{41} P.S.C. W. VA. M.C. FORM NO. 53 - Vehicle Inspection Report.~~

{42} (39) P.S.C. W. VA. M.C. FORM NO. 54 - Transit Authority Exemption.

{43} (40) P.S.C. W. VA. M.C. FORM NO. 55 - Taxicab Driver's Daily Manifest.

{44} (41) P.S.C. W. VA. M.C. FORM NO. 56 - Citation and Complaint.

(42) P.S.C. W. VA. M.C. FORM NO. 57 - Incident Report -- Hazardous Material.

(43) P.S.C. W. VA. M.C. FORM NO. 58 - Driver/Vehicle Report.

NOTE: P.S.C. W. VA. M.C. FORMS NOS. 13, 14, 15, 16, 19, 20, 27, 28, 29, 30, 32, 37, 38, 43, 47, 51, and 53 are obsolete and no longer in use.

M.C. CASE NO. _____

APPLICATION FOR TRANSFER AND ASSIGNMENT OF
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

(TO BE COMPLETED BY PROPOSED CERTIFICATE HOLDER)

- 1. NAME _____
- 2. IS PROPOSED CERTIFICATE HOLDER SOLE PROPRIETORSHIP _____
PARTNERSHIP _____ CORPORATION _____?
(IF HOLDER IS CORPORATION, ATTACH LIST OF PRINCIPAL STOCKHOLDERS AND OFFICERS.)
- 3. BUSINESS ADDRESS _____

PHONE NO. _____
- 4. ARE YOU FAMILIAR WITH THE PRESENT CERTIFICATE HOLDER'S RATES AND CHARGES WHICH ARE ON FILE WITH THE COMMISSION? _____
- 5. PROPOSED FINANCING ARRANGEMENT: *
 - A. TOTAL PRICE BEING PAID FOR CERTIFICATE AND ANY ASSETS _____
 - B. TOTAL AMOUNT OF DEBT _____
 - C. INTEREST RATE FOR DEBT _____
 - D. MONTHLY PAYMENT REQUIRED _____
 - E. TERM OF REPAYMENT (MONTHS) _____

VERIFICATION

STATE OF _____

COUNTY OF _____

I, _____, THE _____ OF _____
(POSITION) (COMPANY NAME)

THE PROPOSED CERTIFICATE HOLDER NAMED IN THE FOREGOING APPLICATION, BEING DULY SWORN,
STATE THAT THE FACTS AND ALLEGATIONS CONTAINED HEREIN ARE TRUE, EXCEPT IN SO FAR AS
THEY ARE THEREIN STATED TO BE ON INFORMATION, AND THAT SO FAR AS THEY ARE THEREIN STATED
TO BE ON INFORMATION, I BELIEVE THEM TO BE TRUE.

AFFIANT

TAKEN, SWORN TO, AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____, 19 _____

NOTARY PUBLIC IN AND FOR SAID COUNTY

MY COMMISSION EXPIRES ON THE _____ DAY OF _____, 19 _____

*ATTACH COPIES OF ANY WRITTEN CONTRACT OF SALE BETWEEN PRESENT AND PROPOSED CERTIFICATE
HOLDERS. ALSO ATTACH ANY DEBT OR MORTGAGE AGREEMENT WHICH WILL BE THE OBLIGATION OF
THE PROPOSED CERTIFICATE HOLDER.

P.S.C.
Leg. Rule, 24A-2
Series 9, Sec. 10

Driver: Name _____ Operators No. _____

Address _____

Date of Birth _____ Social Security No. _____

Type(s) violation _____
(If none, specify) _____

Action Taken _____

Remarks: _____

(Use other side if necessary)

P.S.C.
Leg. Rule, 24A-2
Series 9, Sec. 10

P.S.C. W.VA. FORM NO. 58
DRIVER/VEHICLE REPORT

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
MOTOR CARRIER DIVISION

1. CARRIER _____
2. ADDRESS _____
3. ICC MC NO. _____
4. CITY _____
5. STATE _____
6. ZIP CODE _____
7. _____
8. INSPECTION LOCATION
A. _____
(Nearest City of Town)
B. _____
(State)
C. _____
(Code)
9. TYPE OF FACILITY
A. CARRIER'S TERMINAL
B. ROADSIDE
C. OTHER
10. INSPECTION TYPE
A. FULL
B. EEE
C. SPECIAL STUDY
11. INSPECTION DATE
_____/_____/_____
(MO.) (DAY) (YEAR)
12. SPECIAL STUDY NO.
(152)

13. MAGISTRATE COURT VIOLATION
A. AUTHORITY
B. HAZ. MAT.
C. FUEL TAX
D. SAFETY
E. OTHER
14. ROUTES
A. I-64
B. I-70
C. I-77
D. I-79
E. I-81
F. WV TPK
G. U.S.

P.S.C.
Leg. Rule, 24A-2
Series 9, Sec.10

H. STATE

15. TIME STARTED
(164)

_____ : _____ A.M.
P.M.

16. DRIVER IDENTIFICATION

A. _____ B. _____ C. _____
(Last name) (First name) (MI)
D. BIRTH DATE _____ / _____ / _____
(MO.) (DAY) (YEAR)
E. LICENSE NUMBER _____ STATE _____

17. DRIVER IS:
A. EMPLOYED
B. TERM LSED
C. TRIP LSED

18. COMMODITY TRANSPORTED

19. ORIGIN

A. _____ B. _____
(CITY) (STATE)

20. DESTINATION

A. _____ B. _____
(CITY) (STATE)

21. FOR HIRE?

A. YES B. NO

A. INTRASTATE
B. INTERSTATE

22. SHIPPING PAPER NO.

23. WHOSE DOCUMENT?
(SHIPPER)

24. IF CARGO TANK, ENTER MC. SPEC. OR "NON"

25. IF H. M. BEING TRANSPORTED UNDER EXEMPTION, ENTER "E"
NUMBER

HAZARDOUS MATERIALS TRANSPORTED

Y = YES N = NO

A. EXPLOSIVES A
B. EXPLOSIVES B

P.S.C.
Leg. Rule, 24A-2
Series 9, Sec. 10

- C. EXPLOSIVES C
- D. FLAMMABLE LIQUID
- E. FLAMMABLE SOLID
- F. FLAMMABLE GAS
- G. NONFLAMMABLE GAS
- H. CORROSIVES
- I. OXIDIZERS
- J. POISON A
- K. POISON B
- L. COMBUSTIBLE LIQ.
- M. RADIOACTIVE MAT.
- N. ORGANIC PEROXIDE
- O. IRRITATING MAT.
- P. ORM A, B OR C
- Q. ORM E
- R. ETIOLOGIC AGT.
- S. BLASTING AGT.
- T. CRYOGENICS
- Z. OTHER

	CODE	RQ?	HW?
I. OXIDIZERS	26.		
J. POISON A	27.		
K. POISON B	28.		

29. PLACARD REQUIRED? _____

VEHICLE IDENTIFICATION

	UNIT NUMBER	UNIT TYPE	OWN. LSED.	MAKE	CO NUMBER	LICENSE NO. & STATE
30.	1					
31.	2					
32.	3					
33.	4					

UNIT TYPE:

- A = STRAIGHT TRUCK
- B = TRUCK TRACTOR
- C = SEMI TRAILER
- D = POLE TRAILER
- E = FULL TRAILER
- F = DOLLY CONVERTER
- G = BUS
- H = SOLID WASTE
- I = STRAIGHT DUMP
- J = TAXI
- K = LIMO

OWN/LSED: A = OWNED B = TERM LEASED C = TRIP LEASED

34. VIOLATIONS DISCOVERED

35. NO.	VIOLATION IDENTIFICATION	UNIT NO.	OUT OF SERV.
---------	-----------------------------	-------------	-----------------

36. _____

37. _____

P.S.C.
Leg. Rule, 24A-2
Series 9, Sec. 10

- 38. _____
- 39. _____
- 40. _____
- 41. _____
- 42. _____
- 43. _____
- 44. _____

45. BRAKE ADJUSTMENT
46. RIGHT

FRONT AXLE 1 AXLE 2 AXLE 3 AXLE 4 AXLE 5 AXLE 6 AXLE 7
47. REAR

48. VEHICLE/DRIVER OUT OF SERVICE NOTICE

49. Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9, I hereby declare vehicles with defects followed by an "X" in the "Out of Service" column in the violations discovered section of this report OUT OF SERVICE. No person shall remove the out of service stickers applied to these vehicles, or operate such vehicles until the out of service defects have been repaired and the vehicles have been restored to safe operating condition, in accordance with Chapter 24A, Code of West Virginia. Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 395.13, in accordance with Chapter 24A, Code of West Virginia, I hereby notify and declare the driver named on this report OUT OF SERVICE. No motor carrier shall permit or require this driver to drive or operate any motor vehicle until: _____

50. REPORT PREPARED BY: _____

51. UNIT NUMBER
PSC _____

52. TIME COMPLETED
_____ : _____ AM
PM

53. COPY RECEIVED BY: _____

2005

P.S.C.
Leg. Rule, 24A-2
Series 9, Sec. 10

54. NOTE TO DRIVER This report must be furnished to the motor carrier whose name appears at the top of this report.
NOTE TO MOTOR CARRIER: Please sign the below certification and return this report to the address which appears on the other side of this report within fifteen days.

55. The undersigned certifies that all violations noted on this report have been corrected and action has been taken to assure compliance with the Federal Motor Carrier Safety and Hazardous Material Regulations insofar as they are applicable to motor carriers and drivers.

56. SIGNATURE OF CARRIER OFFICIAL

57. TITLE

58. DATE SIGNED

59. SIGNATURE OF REPAIRMAN
(If driver, write driver)

60. NAME OF GARAGE OR SERVICE CENTER

66. DATE

_____/_____/_____
Day Mo. Year

67. TIME

 AM
 PM

68. SEE CONTINUATION SHEET YES _____ NO _____