

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

FILED

1988 JUN 23 PM 2:00

SECRETARY OF STATE

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY: Public Service Commission of West Virginia TITLE NUMBER: 150

CITE AUTHORITY: West Virginia Code, §24-1-7, 24-2-12, 24A-1-1, 24A-2-3, 24A-3-6,

and 24A-5-5.
RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

West Virginia Code, §29A-1-3

AMENDMENT TO AN EXISTING RULE: YES X, NO _____

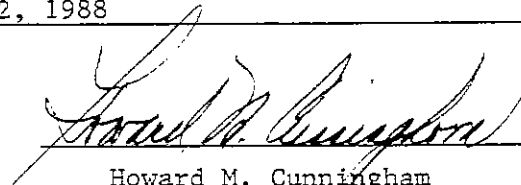
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 9

TITLE OF RULE BEING AMENDED: Rules and Regulations for the
Government of Motor Carriers of Passengers and Property

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: _____

TITLE OF RULE BEING ADOPTED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS August 22, 1988



Howard M. Cunningham
Executive Secretary
Public Service Commission
of West Virginia

150 CSR 9

TITLE 150
LEGISLATIVE RULEPUBLIC 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 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, pursuant 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 singly 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, 390, 391, 392, 393, 394, 395, 396, 397, 398, and 399 in effect as of June 1, 1988; and in Title 40 CFR part 262 in effect as of June 1, 1988. 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 3.2. 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 <u>or for a contract-carrier permit.</u>	\$20.00	<u>\$100.00</u>
(2) Application for the reinstatement of <u>and/or-to-resume-operations-under</u> a <u>suspended certificate or a suspended permit.</u>	\$20.00	<u>\$75.00</u>
(3) Application for the transfer of <u>a certificate or a permit.</u>	\$15.00	<u>\$50.00</u>
(4) Application for the amendment of <u>a certificate or a permit.</u>	\$15.00	<u>\$75.00</u>
(5) Application to <u>suspend-all-or-a-part-of-the-operations</u> <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 or permit.	\$5.00	<u>\$25.00</u>
<14> (7) Combined-applications Application for the transfer transfers of several certificates and/or 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 at least one 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. Provided, however, that this rule shall not apply to vehicles operated in specialized limousine service as defined in Rule 5.1(3).

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 a reasonable period of time 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 reasonable period of time 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 or 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 September 1, 1988, 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 3.8);

(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 - Fer-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)~~ (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 or 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

P.S.C. W.VA. M.C. FORM NO. 57

Incident Report PUBLIC SERVICE COMMISSION Form 57
Hazardous Material MOTOR CARRIER DIVISION

Office of Emergency Service 348-5380 Chemtrec 1-800-424-9300

(Investigator/Unit) (Location) (Date)

How notified _____

Time _____ Date _____ (of incident)

Type of incident _____ Spill _____ Accident _____ Other (specify _____
(Obtain copy of report)

On scene coordinator _____ Agency _____

Transporter (carrier) Name _____ Phone _____

Address _____

Consignee Name _____ Phone _____

Address _____

Consignor Name _____ Phone _____

Address _____

Product _____ Hazard class _____ ID No. _____

Type container _____ Quantity _____

Quantity released (est.) _____

Shipping paper no. _____ Manifest no. _____

Type placards (if required) _____

Container marking (ID no.) _____

Tractor: Make _____ Year _____ Serial No. _____ Lic. No. _____

Trailer: Make _____ Year _____ Serial No. _____ Lic. No. _____

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 or 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?
26.			
27.			
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

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

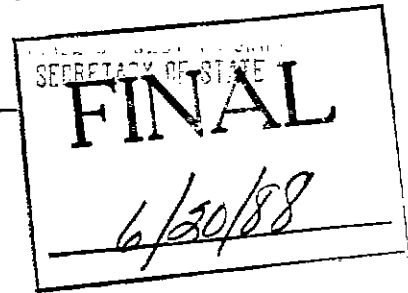
68. SEE CONTINUATION SHEET YES _____ NO _____

FILED

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

1988 JUN 23 PM 2:01

Entered: May 31, 1988



M.C. GENERAL ORDER NO. 64

IN THE MATTER OF COMMISSION PROPOSED
RULES FOR MOTOR CARRIERS
Amending the Rules and Regulations
For the Government of Motor Carriers
of Passengers and Property.

ADMINISTRATIVE LAW JUDGE'S DECISION

PROCEDURE

On August 6, 1987, the Commission issued an Order promulgating proposed rules relating to a revision of the Rules and Regulations For The Government of Motor Carriers of Passengers and Property, which rules were last adopted and promulgated in 1983 and became effective on January 1, 1984.

Those proposed rules, a copy of which is attached hereto as Appendix A, were made part of that Order. Pursuant to that Order, the Commission set a hearing for November 16, 1987, at 9:30 a.m., in the Commission's Hearing Room, 201 Brooks Street, in the City of Charleston.

In that same Order, the Executive Secretary of the Commission filed a copy of the notice of rulemaking, the text of the proposed rules, and a fiscal note which were made pursuant to West Virginia Code §§24-1-7, 24-2-12, 24A-1-1, 24A-2-3, 24A-3-6, and 24A-5-5, as those sections are read in pari materia with §§29A-3-1 through 29A-3-9 of the Code.

Notice of this hearing and its purpose was given to all motor carriers, subject to Commission jurisdiction, and other interested parties. Notice was also given by publication in each of the Cities of Beckley,

Bluefield, Charleston, Clarksburg, Elkins, Fairmont, Grafton, Huntington, Keyser, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Weirton, Welch, Wheeling and Williamson.

The hearing was held as scheduled. At this hearing, the Staff of the Public Service Commission was represented by Thornton Cooper, Esquire, Staff Attorney. Franklin G. Crabtree, the Director of the Commission's Transportation Division, appeared at the hearing as the Staff's principal witness and testified in favor of the proposed rules. In addition, Mr. Bob Brooks and Mr. James Cook appeared as witnesses on behalf of the Commission Staff. Mr. Brooks is the Manager of the Motor Carrier Section of the Commission's Transportation Division. Mr. Cook is an Administrative Assistant for the Motor Carrier Section.

Mr. James T. Kauffelt, Esquire, appeared at the hearing on behalf of the C&H Company. Mr. Alexander Ross, Esquire, appeared on behalf of Copley's Garage. Mr. Arden Curry, Esquire, appeared on behalf of the West Virginia Solid Waste Association, Lusk Disposal Service, Inc., General Refuse Service, Inc., B&E Cartage, Inc., Don's Disposal Service, Inc., and Sanitary Service Company. Witnesses appearing at the hearing were Lance Tabor on behalf of the West Virginia Solid Waste Association, and Richard Corey on behalf of C&H Company.

DISCUSSION OF THE EVIDENCE,
INCLUDING FINDINGS OF FACT

Rule 1.8

Mr. Crabtree stated that the basis for the rule change is to reflect the statute enacted in 1987 by the Legislature. (H.B. 2684, effective March 12, 1987). This particular legislation gave the Commission safety jurisdiction over private commercial carriers that operate certain types

of motor vehicles. The purpose of this definitional update is to provide a description of the types of vehicles that the Commission has safety jurisdiction over when operated by a private commercial carrier. It includes truck tractor, semi-trailer and full-trailer designations. (Tr., pp. 14 & 15).

Mr. Arden Curry filed a comment with respect to this proposed rule on behalf of the West Virginia Solid Waste Association. Mr. Curry suggested that the language of definition Sub-section 16 should be made to apply not only to transportation over interstate highways, but to transportation over all highways of West Virginia. (Tr., p. 16).

Mr. Crabtree responded to this comment by stating that the Legislature, in the enactment of this statute, did not see fit to extend the Commission's jurisdiction in this area to all highways of West Virginia. Mr. Crabtree stated that he did not think it proper to extend the Commission's jurisdiction by a rulemaking procedure. (Tr., p. 17).

Rule 2.3

Mr. Crabtree stated that the purpose of this rule is to adopt eleven (11) additional sections of 49 CFR in order to permit the Commission to enforce safety rules in a manner that is uniform with the Federal Government's enforcement procedures.

Mr. Bob Brooks, Manager of the Commission's Motor Carrier Section, also testified with respect to this rule. Mr. Brooks stated that the purpose of this proposed rule is to provide an update of eleven sections of the Federal Code pertaining to motor carrier safety. (Tr., p. 51). Mr. Brooks stated that the adoption of these various Federal motor carrier safety regulations has been recommended by the Federal Officials

Association with the administration of the Motor Carrier Safety Assistance Program (Program). The Program is essentially a Federal Grant Program designed to provide for National Uniform Motor Carrier Safety Rules and Regulations. (Tr., p. 56). Mr. Brooks explained the basis for the intended adoption of Federal rules relating to shipping containment specifications, noise emission, minimum levels of financial responsibility, and the definitions and objectives relating to the Motor Carrier Safety Assistance Program. (Tr., pp. 157, 158, 159, 160). Mr. Brooks furnished additional testimony relating to the provisions dealing with subjects such as the transportation of migrant workers, employment standards, and hazardous waste management. (Tr., pp. 161, 162, 163).

Mr. Tabor also provided testimony pertaining to this proposed rule. Mr. Tabor suggested that a wholesale adoption of Federal rules pertaining to motor carrier safety might not be in the best interests of the motor carrier industry in West Virginia. Mr. Tabor stated that regulations promulgated at the Federal level are primarily directed toward the large, over-the-road tractor-trailer and do not really apply to small vehicles, such as a passenger taxicab or a garbage hauling vehicle. Mr. Tabor emphasized that the record keeping requirements of the various Federal safety regulations pertain more to interstate operations rather than to a small intrastate motor carrier in West Virginia. (Tr., pp. 183-185).

Rule 2.06 - Deletion

At present, Rule 2.06 requires motor carriers with annual revenues exceeding \$500,000 annually to file a financial and statistical report using a Commission approved form. Mr. Crabtree stated that the purpose of deleting this rule was to reduce unnecessary administrative burdens

relating to the reporting requirements associated with this regulation. (Tr., pp. 26-28).

Rule 3.1

Minor grammatical changes were made in this rule concerning acceptance of various applications. The proposed rule makes it clear that if a specific fee is not set out in Rule 3.2, then the filing can be made without cost. (Tr., p. 28).

Rule 3.2

This proposed rule provides for an increase in various Commission fees associated with the filing of certificate applications. They are specifically set forth in the body of this rule. Mr. Crabtree stated that the general reason for the increase in application fees was to reduce the number of frivolous applications filed by applicants merely seeking to "test the waters" of a particular area of operations. (Tr., pp. 28-32).

Mr. Richard Corey, President of C&H Company, testified with regard to this rule. Mr. Corey suggested that the Commission Staff proposals in this area are inadequate and recommends that certificate application fees be increased to \$500. Mr. Corey explained that the basis for this recommended increase is that anyone entering the taxicab business in West Virginia should have serious intentions to conduct operations. In addition, Mr. Corey stated that people need to have the necessary financial resources available in order to provide the service properly. Mr. Corey contends that if the certificate application fees are increased to his suggested level, anyone making application to the Commission for

certificate authority would possess a serious financial intent to perform the service. (Tr., pp. 197-199).

Rule 3.8

Mr. Crabtree testified that this rule requires that a carrier display an authorized trade name and certificate(s) or permit(s) numbers on each motor vehicle. It is intended to serve at least two important functions. First, from the standpoint of a regulatory agency, the display of a trade name on the motor vehicle would aid the Commission in its efforts to enforce regulation. For example, Mr. Crabtree indicated that the display of trade names would enhance investigations, such as those relating to unauthorized operations. Mr. Crabtree stated that the second advantage of this regulation would be the benefits derived from informing the public regarding various aspects of the carrier's operations. There will also be a certain amount of incidental advertising exposure. (Tr., pp. 35-37).

Various comments were received by the Commission Staff pertaining to this rule. Mr. D. B. Hoffman, on behalf of Greenbrier Limousine Service, suggested that certain types of passenger-carrying vehicles should be exempted from having to display company names or certificate number on limousines. (Tr., pp. 37, 38). Mr. Hoffman's comments are in reference to specialized limousine service. Mr. Hoffman provides specialized limousine service for the Greenbrier area and it is his opinion that the general public utilizing this specialized form of motor carrier service would not benefit from or approve of the requirements of this particular rule. In response to Mr. Hoffman's comments, Mr. Crabtree stated that the Commission Staff would have no objection to a waiver of this rule for the area of specialized limousine service. (Tr., pp. 37-39).

Mr. Arden Curry, representing the Solid Waste Association, also filed comments regarding this proposed regulation. (Tr., p. 39). Mr. Curry suggested that the requirement of this proposed rule does not appear to serve any real purpose and will increase the operational expenses of each solid waste operator, inasmuch as it will be necessary to continue to replace or update the lettering on the carrier's vehicles. Mr. Curry based this conclusion on the fact that most solid waste carriers utilize steam cleaning to cleanse their vehicles and the utilization of this cleaning method fades, or in most instances, completely obliterates the lettering on the vehicles. In response to Mr. Curry's comments, Mr. Crabtree stated that the reasons for the rule, as it pertains to solid waste operators, are stronger than the reasons against such a rule. (Tr., pp. 39, 40). Mr. Crabtree suggested that in cases where there are problems such as alluded to by Mr. Curry, that perhaps a magnetic sign might be used instead of the traditional lettering method. Painted information is preferable but not mandated by this rule. (Tr., pp. 40, 41).

Another comment to this proposed rule was filed by Mr. James Kauffelt, on behalf of C&H Company. Mr. Kauffelt suggested that the proposed rule be modified to allow the carrier who holds more than one certificate, which certificates overlap in whole or in part, to list only one of the certificate numbers. (Tr., p. 41). Mr. Crabtree responded to this comment by stating that if a carrier has a particular problem in listing all of the applicable certificate numbers, the Commission Staff would certainly consider a petition for a rule waiver. Mr. Crabtree suggested that the situations be considered on a case-by-case basis. (Tr., pp. 41, 42).

An additional comment to this proposed rule was filed by Mr. Larry Brown, on behalf of the West Virginia Chapter of the National Solid Waste Management Association. Mr. Brown stated that it is the position of the West Virginia Chapter that the requirement for refuse haulers to display permit numbers on each side of the motor vehicle is unnecessary. Mr. Brown stated that these certificate numbers are only needed for interstate operations. Mr. Crabtree responded by reiterating the general idea that the requirement for the display of certificate numbers on the vehicles is reasonable and would enhance in the enforcement of authority violations for the industry. (Tr., pp. 43, 44).

Rule 3.13

Mr. Crabtree stated that this particular rule relates to suspension of certificates and permits due to the carrier's failure to apply for and obtain a Uniform Vehicle Identification Card and pay the special assessment. Mr. Crabtree explained that this proposed rule is merely a restatement of the existing statute, a restatement of the former regulation and incorporates existing Commission notification procedure. (Tr., pp. 44-46).

Rule 3.15

This rule pertains to prohibitions of unauthorized operations and unauthorized charges by common and contract carriers. Mr. Crabtree explained that the basis for this regulation is to merely restate the language of the applicable statute pertaining to unauthorized operations and charges. Mr. Crabtree stated that it is important to inform the

public regarding the particular laws enforced by the Commission and how these laws impact the motor carrier industry. (Tr., pp. 50, 51).

A comment was filed by Mr. Arden Curry, Esquire, on behalf of the West Virginia Solid Waste Association. Mr. Curry stated that sub-paragraph five of this proposed rule does not take into account the fact that carriers of commercial trash, rubbish, and garbage negotiate their charges for the service and are not required to file a tariff. Mr. Curry suggested that this rule should be expanded to exclude carriers holding certificates to transport commercial and industrial trash, rubbish and garbage. (Tr., p. 53).

In response to Mr. Curry's comment, Mr. Crabtree stated that the intent and interpretation this proposed rule would not prohibit the application of a negotiable rate for which permission was obtained through the tariff proceeding and granted by the Commission. (Tr., p. 54).

An additional comment to this proposed rule was filed by the National Solid Waste Management Association, by its representative, Mr. Larry Brown. Mr. Brown stated that the Chapter fully supports Section 3.15 covering the prohibition of unauthorized charges and operations by common and contract carriers. Mr. Brown suggested that the Commission should vigorously enforce this proposed rule because its application could improve the quality of existing carriers and service. (Tr., p. 55).

Rule 3.16

Mr. Crabtree explained that this proposed rule, which requires binding estimates by carriers of household goods, was patterned after a rule promulgated by the ICC and in effect on the Federal level concerning binding estimates for household goods moving services. Mr. Crabtree

stated that it is a consumer-based rule. He suggested that the intent of this rule is to add some degree of certainty to the price consumers have to pay for household goods moving services in this State. Mr. Crabtree also added that most of the household goods movers that are certificated by the Commission also have interstate authority and are presently subject to this rule on the interstate level. (Tr., pp. 56-58).

Rule 3.17

This particular rule provides that no person shall commit or attempt to commit, conspire to commit or knowingly aid or abet in the performance of any act that is prohibited by Chapter 24A of the West Virginia Code or by the Commission rules. Mr. Crabtree stated that the basis of this proposed rule is to merely restate the penalty provisions contained in the West Virginia Code pertaining to violations or a failure to obey Commission orders or rules.

Rule 3.18

This particular rule relates to the acquisition and issuance of stock by incorporated motor carriers. Mr. Crabtree stated that this rule is a restatement of Section 24-2-12a of the West Virginia Code which requires Commission approval pertaining to the issuance or acquisition of utility stock. (Tr., p. 61).

A comment to this proposed rule was filed by Mr. Gerald Brooks, Esquire, on behalf of Weston Transfer. Mr. Brooks stated that this rule appears to be a restraint upon trade and places the Commission as a regulatory agency upon the sale of corporate stock. (Tr., p. 62). A similar comment was made by Mr. Arden Curry, Esquire, on behalf of the

West Virginia Solid Waste Management Association. Mr. Curry suggested that this proposed rule gives the Commission authority which may be in conflict with the authority of the Secretary of State. This position was also taken by the National Solid Waste Management Association (National Association). The National Association stated that the Chapter strongly opposes the requirement found in Rule 3.18 which requires Commission approval to acquire any stock of an incorporated common or contract carrier organized and doing business in West Virginia. This Association contends that this requirement places a very unfair burden upon the business owner and could make it extremely difficult for new businesses to expand or older ones to be transferred to new owners. (Tr., p. 63).

In response to these comments, Mr. Crabtree stated that any party contending that the Commission should not have this type of jurisdiction should address that point by appealing to the Legislature. Mr. Crabtree stated that the Commission Staff is merely attempting to promulgate rules in order to enforce and administer the Commission's jurisdiction. (Tr., pp. 62-64).

Rule 3.19

This particular rule pertains to the transfer of certificates and permits and requires the transferee and transferor of a certificate or permit to notify the Commission, in writing, as to what date the transfer was actually consummated within the allotted sixty (60) day period. Mr. Crabtree stated that this rule has been proposed in order to address problems with respect to administering the Commission's jurisdiction pertaining to a carrier's commencement of operations. This rule merely restates what the Commission Staff believes to be a reasonable point of

demarcation or limit on the commencement of operations, and places the burden on the transferee to notify the Commission regarding the date that operations had commenced. (Tr., pp. 65, 66).

Rule 3.20

This proposed rule addresses the concept of descriptions of operating authority in applications and quarterlies. Mr. Crabtree stated that the purpose of this proposed rule is to provide a uniform system of terminology to describe operating authorities more accurately, to reduce the Commission resources expended in the investigation of authority complaints, and to provide some degree of certainty in a certificate application. Mr. Crabtree suggested that such a uniform identification system should resemble the route identification utilized by the Department of Highways in their designation of routes. (Tr., pp. 67, 68).

A comment to this proposed rule was filed by Mr. Gerald Brooks on behalf of Weston Transfer. Mr. Brooks suggested that the route identification utilized by the Department of Highways should be an optional mode of identification of the territory to be served by the certificate holder and description of the area to be served. (Tr., pp. 68, 69). A comment was also made by Mr. Arden Curry on behalf of the West Virginia Solid Waste Association. Mr. Curry stated that, in some instances, routes are not shown on the Department of Highways maps and thus an applicant would not be able to comply with this requirement. (Tr., p. 70).

Mr. Crabtree responded by stating that the concerns raised by these comments could be accurately described within the framework of this proposed rule. Mr. Crabtree suggested that carriers confronted with

problems relating to route description could use the name of the closest route together with an air-mile radius classification. (Tr., pp. 70, 71).

Rule 3.21

This proposed rule provides guidance relating to the proper rates, fares and charges of common carriers and contract carriers. Mr. Crabtree stated that this proposed rule is a restatement of the Commission Staff's interpretation of West Virginia Code §24A-3-6 and it is intended for clarification and information purposes.

Two comments were filed regarding this proposed rule. Mr. Brooks stated that this proposed rule could permit common carriers and contract carriers to compete for service at the same rates to the public. Mr. Crabtree responded to this comment by stating that this proposed rule may very well cause competition between common and contract carriers at the same rate, and if this would happen to occur, it would not be violative of the statute. Mr. Crabtree indicated that in the situation where the contract carrier is charging any rate less than that charged by the common carrier for essentially the same service, a violation of West Virginia Code §24A-3-6 would occur. The other comment pertaining to this proposed rule was filed by the West Virginia Chapter of the National Solid Waste Management Association, wherein that Association stated that they supported proposed Rule 3.21. (Tr., pp. 70-72).

Rule 3.22

This rule provides for a requirement pertaining to the mandatory transfer of a certificate or permit after the death of the holder. During the course of his employment, Mr. Crabtree stated that he has witnessed

several situations where the heirs of an estate had failed to transfer a certificate after the death of the certificate holder. Mr. Crabtree indicated that these transfer problems resulted in a substantial outlay of Commission resources in order to arrange for the transfer of the certificates into the proper entities in order to enable the Commission to exercise jurisdiction in particular cases. Mr. Crabtree stated that this proposed rule would serve to reduce administrative lag in transfer cases and would also provide a degree of certainty where a certificate passes by death of a certificate holder. (Tr., pp. 72-75).

A comment in the form of a question was filed by Gerald Brooks, Esquire. Mr. Brooks sought clarification as to the effect of this proposed rule upon the bequest of stock by will. Mr. Crabtree stated that a bequest of stock by will would certainly fall within the Commission jurisdiction pertaining to transfers. (Tr., p. 75).

Rule 3.23

This particular rule authorizes Commission employees to enter upon, to inspect, and examine any and all lands, buildings and equipment of motor carriers. Mr. Crabtree stated that this rule is consistent with the jurisdictional powers already possessed by the Commission, and the Commission currently has the authority to enter upon and inspect lands, books, and records in several areas. Mr. Crabtree indicated that West Virginia Code §24-2-1 and West Virginia Code §24-2-5 pertaining to utilities and railroads grants the Commission jurisdictional power to inspect books and property of utilities. Mr. Crabtree emphasized that this proposed rule is consistent with the Commission's current jurisdictional powers. (Tr., pp. 75-79).

Several comments were filed to the proposed rule. Mr. Brooks complained that the proposed rule was too broad. He suggested that the rule be limited to matters involving Commission control and also be limited to the proper Commission personnel directly involved with the regulation in question. In addition, Mr. Brooks opined that he believes the proposed rule violates the privacy act. (Tr., pp. 79, 80).

In response to these comments, Mr. Crabtree states that he would be opposed to limiting the rule to certain job descriptions or positions within the Commission. This position is based upon the idea that it is not clear whether a motor carrier inspector or a rate analyst would perform a particular inspection. Mr. Crabtree emphasized that if a Commission employee makes a request for pertinent information, it is to be regarded as a bona fide request for information within the meaning of this rule. (Tr., pp. 80, 81).

Mr. Curry also filed a comment with respect to this proposed rule. He stated that the proposed rule was too broad. In addition, this rule would give any employee of the Commission authority to enter upon, inspect and examine any and all lands and other items covered under the rule at any time, inasmuch as the proposed rule would be enforced by the Motor Carrier Section. Mr. Curry suggested that the authority under proposed Rule 3.23 should be restricted to employees of the Motor Carrier Section and such examinations and inspections should be conducted during the normal working hours. Mr. Curry also suggested that the employees should be required to submit evidence of Motor Carrier Section identification and Commission employment. Further, he suggested that any requests to inspect and examine utility lands or property be made in writing and should specify the particular items to be examined. (Tr., pp. 81, 82).

In response to Mr. Curry's comments, Mr. Crabtree stated that under routine circumstances, reasonable consideration should be given to the points raised by Mr. Curry. However, Mr. Crabtree indicated that there may be times when it would be necessary to inspect without notification justified by compelling safety reasons. (Tr., pp. 82, 83).

Another comment was made by the West Virginia Chapter of the National Solid Waste Management Association pertaining to this proposed rule. This comment was similar in nature to that made by Mr. Curry and previously addressed by Mr. Crabtree. (Tr., p. 83).

Rule 5.15

Mr. Crabtree stated that the basis of this proposed rule is that taxicab metering is a utility service that should be required by the Commission because the public should be informed and apprised as to the basis or method by which it is being charged. Mr. Crabtree stated that this requirement would reduce customer confusion thereby benefiting the motor carriers. In addition, Mr. Crabtree stated that this proposed rule could serve to reduce the number of complaints filed with the Commission pertaining to the issue of overcharging. He further stated that the meter is a basic piece of equipment used in taxicabs throughout the United States and should be required in West Virginia. Mr. Crabtree stated that the use of odometer computation is not sufficient and would not likely reduce customer confusion and dissatisfaction. (Tr., pp. 85-87).

A comment was filed with respect to the proposed rule by Mr. D. B. Hoffman on behalf of Greenbrier Valley Limousine Service. Mr. Hoffman believes the requirement of this rule would impose a financial hardship on many small "mom and pop" operators. Mr. Hoffman suggested that a method

should be devised to exempt small operators, such as those businesses whose daily gross revenues average less than \$50, in light of the fact that the cost of new taxicab meters can exceed \$700. However, Mr. Brooks testified that the current cost of taxicab meters is approximately \$400 and used meters are available. (Tr., pp. 87, 88, 164).

In response to Mr. Hoffman's comments, Mr. Crabtree stated that if the purchase of a taxi meter would create a hardship on a small operator, a carrier could always seek an exemption from the rule. However, as a general rule, Staff believes that meters should still be required in the taxicab industry, in order to promote customer information and effective regulatory control. (Tr., pp. 88, 89).

Rule 5.16

Staff takes the position that the purpose for this rule is to put into rule form a practice that has been utilized in the Motor Carrier Section for a number of years. That practice is to require anyone who is seeking authority to operate a taxicab to register the specific vehicles with the Commission. Present Commission practice requires that the vehicles be inspected prior to registration. Mr. Crabtree indicated that it is very important that the Commission not register a passenger carrying taxicab before it has received and passed an appropriate Commission inspection. Mr. Crabtree stated that these inspections are conducted in accord with applicable Federal regulations. (Tr., pp. 89, 90).

Rule 6.10

This rule pertains to requirements associated with storage places for towed vehicles. The proposed rule contains minor amendments to the

existing rule that governs storage places for towed vehicles. The proposed rule would remove from its coverage an exemption pertaining to the salvage yards heretofore exempted by the State Department of Highways. Mr. Crabtree stated that the removal of this exemption would require the application of this rule to all salvage yards to which wrecker operators tow and store vehicles. (Tr., pp. 90-92, Staff Exhibit No. 1).

A comment to this proposed rule was filed by Alexander Ross on behalf of Copley's Garage. Mr. Ross objects to this proposed rule because he contends that the Commission has seen fit to unilaterally repeal an act of the Legislature beyond the Commission's powers, and it appears that the Commission is attempting to revoke vested property rights without due process of law. Mr. Ross contends that this proposed rule is outside the Commission's authority. (Tr., p. 92).

Rule 9.6

This rule would allow a carrier to lease its equipment and driver from the same source. Mr. Crabtree stated that since the reason for the prohibition of this practice has, over the years, ceased to have practical meaning, the prohibition against this practice should also cease to exist. Mr. Crabtree suggested that if a carrier can lease all of its equipment from an equipment supplier, then the carrier should be allowed to lease equipment and obtain drivers from the same source, as has been allowed by the Interstate Commerce Commission. (Tr., pp. 93-95).

Mr. Crabtree stated that this rule may help keep certain carriers solvent where they might not otherwise be able to stay in business, if they were required to maintain a large fleet of vehicles. He explained that some segments of the motor carrier industry have seasonal

fluctuations and they may not want to, nor be able to, maintain a fleet all year round, just for the seasonal peak demand that they may be experiencing. This proposed rule may aid some carriers and reflect reality in some segments of the motor carrier industry. (Tr., pp. 94-96).

Several comments were filed in regard to this proposed rule. Mr. Hershel Scott, doing business as Wyoming Garbage Disposal, filed a protest to this proposed rule stating that the regulation would effectively allow carriers to operate without authority in West Virginia. (Tr., p. 97).

Mr. Crabtree responded to Mr. Scott's comment by stating that it is evident that the motor carrier who is leasing equipment and hiring a driver from a single source is definitely answerable to all the Commission's rules and regulations. The rule requires, in every instance, accountability for conformity with the Commission's rules and regulations, including the insurance requirements, and the levels of financial responsibility that have to be proven and on file with the Commission. Mr. Crabtree also stated that the rule provides some structure to the current industry leasing arrangements. Mr. Crabtree added that the Commission presently does not exercise control over these leasing arrangements. This rule also provides that the driver must possess a copy of the lease in the vehicle, thereby aiding the Commission's efforts to effectively enforce the applicable economic regulations. (Tr., pp. 98, 99).

Again, a comment was filed by Mr. Brooks regarding this proposed rule. He questioned the requirement that the term of a single transaction lease be at least thirty (30) days in length. Mr. Crabtree responded to Mr. Brooks inquiry by stating that the 30-day requirement is simply a demarcation for purposes of this particular rule. In this particular proposed rule, 30 days was suggested because that time period was part of

the ICC Rule upon which this regulation has been modeled. (Tr., pp. 99, 100).

Another comment was filed regarding this proposal by Mr. Arden Curry, Esquire. Mr. Curry stated that most carriers of trash, rubbish, and garbage do not experience peaks and valleys in their business and therefore should be exempt from the provisions of this proposed rule. Mr. Curry stated that this proposed rule could very well cause a decline in the quality of service by allowing one carrier to lease its equipment to another carrier, when it is not necessary. (Tr., p. 101). Mr. Cook indicated that he had prepared a report which clearly set forth the areas of this proposed rule which require further clarification. Mr. Cook's clarification report was admitted into evidence and marked and identified as Staff's Exhibit No. 2. There were no substantial comments or objections to either Mr. Cook's report or the proposed rule.

CONCLUSIONS OF LAW

A. REASONABLENESS OF RULES SET FORTH IN APPENDIX B.

Evidence adduced at the hearing held on November 16, 1987, and Post Hearing Exhibits received thereafter support the adoption and promulgation of certain rules set forth in Appendix B of the Decision. These rules are reasonable and should be adopted as Final Rules of the Commission for inclusion into the Commission Rules and Regulations for the Government of Motor Carriers of Passengers and Property.

B. ADOPTION OF NEW RULES ON BASIS OF STAFF EVIDENCE.

Evidence submitted by the Staff at the hearing supported the adoption of the following rules and form, which are set forth in Appendix A. All

probative evidence relating to these proposed rules was offered by Staff.

The rules and form are:

- 1.8 Definitions
- 3.1 Application, Documents, and Other Papers.
- 3.13 Suspension of Certificates and Permits Because of Carriers Failure to Apply For and Obtain Uniform Vehicle Identification Card and To Pay Special Assessment.
- 3.15 Prohibition of Unauthorized Operations and Unauthorized Charges by Common and Contract Carriers; Penalties and Sanctions.
- 3.16 Binding Estimates by Carriers of Household Goods.
- 3.17 Parties to Committing a Violation of Motor Carrier Law.
- 5.16 Taxicab Inspection.

B-1. ADOPTION OF RULE PROPOSED BY STAFF
AND MODIFIED BY THE ADMINISTRATIVE LAW JUDGE

Rule 3.19 - CONSUMMATION OF TRANSFER OF CERTIFICATES AND PERMITS

The Administrative Law Judge has modified this rule only to the extent of substituting "a reasonable period of time" for the fixed sixty (60) day period proposed by Staff. The ALJ believes this move is in keeping with emerging Commission policy towards less reliance on a strict timetable and allowance of equity based upon the circumstances of each case.

C. ADOPTION OF NEW RULES
SUPPORTED BY PARTICIPANT'S EVIDENCE.

Evidence submitted by Staff provided a strong contribution to the initial formulation of the following rules. In addition, evidence offered

by the various participants was persuasive and convincing and also contributed to the following modifications pertaining to these rules.

Rule 3.8 - MODIFICATIONS

Evidence offered by the various participants has convincing support for partial modification of Staff's proposed rule. Mr. D. B. Hoffman, on behalf of Greenbrier Limousine Service, raised the legitimate concern that the general public utilizing specialized limousine service would not benefit from or approve of the requirements of this proposed rule. Mr. Crabtree stated that the Commission Staff would have no objection to a waiver of this rule for the area of specialized limousine service. Therefore, the Administrative Law Judge finds that it is reasonable to exclude specialized limousine service carriers from the requirements of this rule.

Mr. Curry also raised legitimate objections to this proposed regulation. Mr. Curry discussed the problems that solid waste carriers would encounter in complying with the requirements of the proposed rule as it relates to the maintenance of lettering on the sides of the vehicles. Mr. Crabtree suggested that in situations where there are problems encountered by the solid waste operators, such as alluded to by Mr. Curry, that perhaps a magnetic sign might be used instead. Therefore, the Administrative Law Judge finds that the Staff proposed rule should be modified to allow for the optional utilization of magnetic signs in order to display trade names or certificate numeration.

Mr. James Kauffelt, on behalf of C&H Company, raised a further legitimate objection to this proposed rule. Mr. Kauffelt suggested that the proposed rule be modified to allow the carrier who holds more than one

certificate, which certificates overlap, in whole or in part, to list only one of the certificate numbers. Mr. Crabtree stated that the Staff would certainly consider a request for such a rule waiver. Therefore, the Administrative Law Judge finds that this proposed rule should be so modified to allow the carrier who holds more than one certificate, to list only one certificate number.

Rule 9.6 - MODIFICATIONS

Legitimate objections to this proposed rule were made by Mr. Arden Curry, Mr. Larry Brown, and Mr. Lance Tabor. The participants stated that most carriers of solid waste do not experience peaks and valleys in their business and therefore should be excluded from the requirements of this rule. The participants also contended that the application of this proposed rule in the solid waste management industry could very well cause the quality of service to decline. Mr. Crabtree did not take exception to these concerns raised by representatives of the solid waste industry. Therefore, the Administrative Law Judge finds that based upon the legitimate concerns raised by members of the solid waste industry, this proposed rule should be so modified to exclude application to trash, rubbish, and garbage motor carriers.

D. ADOPTION OF NEW RULES SUPPORTED BY STAFF EVIDENCE AND OPPOSED BY OTHER EVIDENCE.

Evidence submitted by the Staff supported the adoption of the following rules, which are set forth in full in Appendix B. This evidence was more persuasive than that offered by participants opposed to portions of these rules.

Rule 2.3 Safety Rules and Regulations.

- Rule 3.2 Filing Fees.
- Rule 3.18 Acquisition of Stock in Incorporated Motor Carriers;
Issuance of Stock by Incorporated Motor Carriers.
- Rule 3.20 Descriptions of Operating Authority in Applications
and Orders.
- Rule 3.21 Rates, Fares, and Charges by Common Carriers and
Contract Carriers.
- Rule 3.22 Mandatory Transfer of Certificate or Permit After
Death of Holder.
- Rule 3.23 Inspection and Examination of Land, Buildings,
Equipment, Records and Papers of Motor Carriers.
- Rule 5.15 Taxicab Metering.
- Rule 6.10 Storage Places for Towed Vehicles.

ORDER

IT IS, THEREFORE, ORDERED that the Rules, attached as Appendix B to this Decision, are adopted as the Final Rules of the Commission to be included in the Rules and Regulations for the Government of Motor Carriers of Passengers and Property, to be effective sixty (60) days after filing with the Secretary of State.

IT IS FURTHER ORDERED that the Rules and Regulations for the Government of Motor Carriers of Passengers and Property be amended by adding thereto the rules listed in Appendix B and by making such deletions as are indicated by the text of this Decision.

IT IS FURTHER ORDERED that, at such time as this Decision becomes the Final Order of the Commission, that the Executive Secretary of this

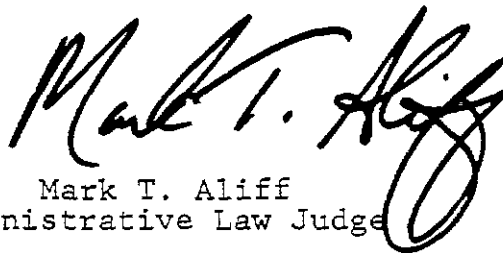
Commission file a copy of this Order together with a copy of the Final Rules with the Secretary of State for inclusion into the State Register.

IT IS FURTHER ORDERED that the Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.



Mark T. Aliff
Administrative Law Judge

MTA:jas

150 CSR 9

TITLE 150
LEGISLATIVE RULEPUBLIC 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, pursuant 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, 225, 250, 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 <u>or for a contract-carrier permit.</u>	<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

<u>permit.</u>	\$20.00	<u>\$75.00</u>
(3) Application for the transfer of a certificate or a permit.	\$15.00	\$50.00
(4) Application for the amendment of a certificate or a permit.	\$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-keeping-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-keeping-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) Combined-applications Application for the <u>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 - Fer-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-or-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. 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

P.S.C. W.VA. M.C. FORM NO. 57

Incident Report PUBLIC SERVICE COMMISSION Form 57
Hazardous Material MOTOR CARRIER DIVISION

Office of Emergency Service 348-5380 Chemtrec 1-800-424-9300

(Investigator/Unit) (Location) (Date)

How notified _____

Time _____ Date _____ (of incident)

Type of incident _____ Spill _____ Accident _____ Other (specify _____
(Obtain copy of report)

On scene coordinator _____ Agency _____

Transporter (carrier) Name _____ Phone _____

Address _____

Consignee Name _____ Phone _____

Address _____

Consignor Name _____ Phone _____

Address _____

Product _____ Hazard class _____ ID No. _____

Type container _____ Quantity _____

Quantity released (est.) _____

Shipping paper no. _____ Manifest no. _____

Type placards (if required) _____

Container marking (ID no.) _____

Tractor: Make _____ Year _____ Serial No. _____ Lic. No. _____

Trailer: Make _____ Year _____ Serial No. _____ Lic. No. _____

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. 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 or 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?
26.
27.
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.
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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: _____

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 ____

150 CSR 9

TITLE 150
LEGISLATIVE RULEPUBLIC 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 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, pursuant 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 singly 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, 390, 391, 392, 393, 394, 395, 396, 397, 398, and 399 in effect as of June 1, 1988; and in Title 40 CFR part 262 in effect as of June 1, 1988. 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 3.2. 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 <u>or for a contract-carrier permit.</u>	<u>\$20.00</u>	<u>\$100.00</u>
(2) Application for the reinstatement of <u>and/or to resume operations under a suspended certificate or a suspended permit.</u>	<u>\$20.00</u>	<u>\$75.00</u>
(3) Application for the transfer of <u>a certificate or a permit.</u>	<u>\$15.00</u>	<u>\$50.00</u>
(4) Application for the amendment of <u>a certificate or a permit.</u>	<u>\$15.00</u>	<u>\$75.00</u>
(5) Application to <u>suspend all or a part of the operations</u> <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.		<u>\$15.00</u>
(7) --Application for a contract carrier permit.		<u>\$10.00</u>
(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 or permit.	\$5.00	<u>\$25.00</u>
(14) (7) Combined applications Application for the transfer transfers of several certificates and/or 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 at least one 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. Provided, however, that this rule shall not apply to vehicles operated in specialized limousine service as defined in Rule 5.1(3).

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 a reasonable period of time 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 reasonable period of time 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 or 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 September 1, 1988, 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 ~~or~~ 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 3.8);

(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 - Fer-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)~~ (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).

~~(14)~~ (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.

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

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

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

~~(18)~~ (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.

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

~~(20)~~ (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.

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

~~(22)~~ (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.

~~(23)~~ (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 or 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.~~

(32) (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. 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

P.S.C. W.VA. M.C. FORM NO. 57

Incident Report PUBLIC SERVICE COMMISSION Form 57
Hazardous Material MOTOR CARRIER DIVISION

Office of Emergency Service 348-5380 Chemtrec 1-800-424-9300

(Investigator/Unit) (Location) (Date)

How notified _____

Time _____ Date _____ (of incident)

Type of incident _____ Spill _____ Accident _____ Other (specify _____
(Obtain copy of report)

On scene coordinator _____ Agency _____

Transporter (carrier) Name _____ Phone _____

Address _____

Consignee Name _____ Phone _____

Address _____

Consignor Name _____ Phone _____

Address _____

Product _____ Hazard class _____ ID No. _____

Type container _____ Quantity _____

Quantity released (est.) _____

Shipping paper no. _____ Manifest no. _____

Type placards (if required) _____

Container marking (ID no.) _____

Tractor: Make _____ Year _____ Serial No. _____ Lic. No. _____

Trailer: Make _____ Year _____ Serial No. _____ Lic. No. _____

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 or 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.
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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: _____

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 _____