

TITLE 150
LEGISLATIVE RULE

obsolete
valid Dec 30, 1983
until August 21, 1988

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

§150-9-1. General.

1.1. Scope -- These rules govern all common or contract 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. -- November 1, 1983

1.4. Effective Date. -- December 30, 1983

1.5. Intentions.

Pursuant to the powers vested and the authority given under Chapter 24A, Code of West Virginia, the Public Service Commission of West Virginia issues the following rules and regulations governing the transportation of persons and property for hire by motor vehicle upon or over the public highways of this State. These rules are intended to insure adequate service to the public; to protect the safety and welfare of the traveling and shipping public in their use of transportation agencies by motor vehicle; to preserve, foster and regulate transportation and permit the coordination of transportation facilities; and to provide the traveling and shipping public transportation agencies rendering stabilized service at just and reasonable rates.

1.6. Saving clause.

The adoption of these rules and regulations shall in no way preclude the Public Service Commission from altering or amending them in whole or in part, or from requiring any other or additional service, equipment, facility, or standard, either upon com-

plaint or upon its own motion, or upon the application of any motor carrier. Furthermore, these rules shall not relieve in any way a motor carrier from any of its duties under the laws of this State. These rules and regulations are intended to supplement the statute and do not replace or substitute any of its provisions.

1.7. Application of rules.

a. These rules shall apply to 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.

b. Modification of, or exemption from rules. - If hardship results from the application of any rule herein prescribed, or if unusual difficulty is involved in immediately complying with any rule, application may be made to the Commission for the modification of the particular rule or for temporary exemption from its provisions; provided that no application for such modification or exemption shall be considered by the Commission unless there is submitted therewith a full and complete justification for such action.

1.8. Definitions.

a. 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.

b. 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.

c. 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.

d. 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.

e. 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.

f. Contract carrier by motor vehicle. The term "contract carrier by motor vehicle" means any person not included in subdivision e 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.

g. Motor carrier. The term "motor carrier" includes both a common carrier by motor vehicle and a contract carrier by motor vehicle.

h. 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.

i. 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.

j. I.C.C. The letters "I.C.C." means the Interstate Commerce Commission.

k. D.O.T. The letters "D.O.T." mean the United

States Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety

l. 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.

m. NARUC. The letters "NARUC" mean the National Association of Regulatory Utility Commissioners.

n. 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, Section 1, 2, and 3, Code of West Virginia, means interstate or foreign operations to, from, within or traversing this State.

o. CFR. The letters "CFR" mean the Code of Federal Regulations.

§150-9-2. Rules and regulations applicable to all motor carriers.

2.1. Practice and procedure.

The Rules of Practice and Procedure adopted by the Commission where appropriate and applicable shall apply to all motor carriers.

2.2. Filing of tariffs and rate schedules.

a. Filing Required - All schedules, rules, regulations, special contracts and other charges, or modifications of the same, for the transportation of persons or property for hire by motor vehicles shall not become effective until filed with the Commission.

b. Manner of Filing - Tariffs containing all the rates, rules and regulations of each motor carrier shall be filed in the manner prescribed by the Commission in "Rules and Regulations for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicles", and such other amendments or modifications that may have been, or may hereinafter be, adopted.

c. Forms for Filing - The Commission will, upon application, furnish proper forms to be used for the

filing of tariffs and applications for changes in rates, fares and charges. (M.C. Form No. 48).

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 carriers.

2.4. Insurance.

The Rules and Regulations Governing the Filing and Approval of Surety Bonds, Policies of Insurance, Qualifications as a Self-Insurer, or other securities and agreements by common and contract carriers by motor vehicles adopted and prescribed by M.C. General Order No. 6-F, dated April 5, 1978, and such other amendments to such rules and regulations that may hereinafter be adopted, shall apply to all motor carriers. The Insurance Rules and Regulations are published in separate pamphlet form and will be furnished upon request.

2.5. Uniform system of accounts and record retention.

a. All Class I and II common and contract motor carriers of passengers and property are required to keep the "Uniform System of Accounts" promulgated by the Interstate Commerce Commission, as published in Title 49 CFR parts 1206 and 1207, and in effect as of July 1, 1983.

b. Definitions.

1. Class I--Carriers having average annual gross carrier operating revenues (including interstate and intrastate) of three million dollars (\$3,000,000) or more from motor carrier operations.

2. Class II. -- Carriers having average annual gross carrier operating revenues (including interstate and intrastate) of five hundred thousand dollars (\$500,000) but less than three million dollars (\$3,000,000) from motor carrier operations.

3. Class III. -- Carriers having average annual gross carrier operating revenues (including in-

terstate and intrastate) of less than five hundred thousand dollars (\$500,000) from motor carrier operations.

c. All Class I and II common and contract motor carriers of passengers and property are required to retain and preserve records in accordance with the rules of the Interstate Commerce Commission, as published in Title 49 CFR part 1220, and in effect as of July 1, 1983.

2.6. Financial and statistical reports.

All motor carriers having average annual gross carrier operating revenues of five hundred thousand dollars (\$500,000) 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 2.5 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

§150-9-3. General rules applicable to all motor carriers.

3.1. Applications.

Applications shall be filed with the Commission upon the forms prescribed by Section 10 of this regulation, except that the Commission may accept such other form of application as it may deem proper, providing that such application contains the same information required by the prescribed form. Each such application shall be accompanied by the filing fee required under Rule 3.2.

3.2. Filing fees.

a. Application for a certificate of convenience and necessity.....\$20.00

b. Application for reinstatement of, and/or to resume operations under a certificate.....\$20.00

c. Application for transfer of certificate..\$15.00

d. Application for amendment of certificate.\$15.00

e. Application to suspend all or a part of the operations under a certificate..... \$15.00

f. Petition for reopening a case involving a certificate when filed later than ten (10) days after entry of a final order..... \$15.00

g. Application for a contract carrier permit. \$10.00

h. Application for reinstatement of, and/or to resume operations under a permit..... \$10.00

i. Application for transfer of permit..\$10.00

j. Application for amendment of permit.\$10.00

k. Application to suspend all or a part of the operations under a permit.....\$10.00

l. Petition for reopening a case involving a permit when filed later than ten (10) days after entry of a final order.....\$10.00

m. Application for authority to adopt or change a trade-name under a certificate or permit....\$5.00

n. Combined applications for transfer of certificates and/or permits.....\$15.00

3.3. Publication of notice of hearings.

Notice of hearings must be published in accordance with the order setting the matter of hearing. A certificate from the publisher must be filed with the Commission on or before the day of hearing.

3.4. Violation of motor vehicle laws.

The violation of any law contained in Chapters 17, 17-A, 17-B, 17-C, or 17-D, of the West Virginia Code, pursuant to the provisions of §24A-2-5(d) and §24A-3-3(d), shall be sufficient for the suspension and/or revocation of the authority of any motor carrier operating under the jurisdiction of the Public Service Commission.

3.5. Uniform vehicle identification cards or stamps.

Uniform Vehicle Identification Cards or Stamps shall be issued only in the name under which a certificate or permit is held or under which authority or exempt status from the Interstate Commerce Commission is held.

3.6. Exempt carriers.

Carriers which are exempt by the provisions of Chapter 24A, Article 1, Section 3, Code of West Virginia will be issued a certificate of exemption upon presentation of proof that such carrier operates exclusively in the transportation of an exempt commodity in intrastate transportation.

3.7. Transfer of cards or stamps.

The transfer of Uniform Vehicle Identification Cards or ICC identification stamps issued by this Commission shall be authorized, subject to the following rules, restrictions, and limitations:

a. A fee of one dollar (\$1.00) will be charged and collected for the transfer of each Uniform Vehicle Identification Card, provided that the old card is returned to this Commission at the time of the transfer. If the old card is not returned, a new Uniform Vehicle Identification Card must be issued for the new vehicle at an issuance fee of three dollars (\$3.00).

b. Transfers will be permitted only from one motor vehicle to another motor vehicle owned by the same authorized carrier.

c. A Uniform Vehicle Identification Card issued for a motor vehicle which is replaced by a carrier may be used on the replacement equipment for a period of not more than ten (10) days before a proper transfer is made by the Commission upon application of the carrier.

d. The transfer of ICC identification stamps, issued by the Commission, from one vehicle to another shall be permitted one time only for a replacement vehicle provided the Commission is given prior notice of the transfer.

3.8. Trade name.

No carrier shall use any trade-name or any fictitious name unless such name is authorized for such carrier's use by order of the Commission.

3.9. Acquisition of cards by transferees.

Transferees of certificates of convenience and necessity or contract carrier permits, shall acquire the Uniform Vehicle Identification Cards and pay the annual assessment prescribed by law within twenty (20)

days after the date of the order authorizing such transfer or the authority transferred shall be suspended; provided, however, that the Commission may grant an extension of time upon good cause being shown therefor.

3.10. Surrender of Uniform Vehicle Identification Cards by transferor.

Uniform Vehicle Identification Cards issued to any carrier authorized to transfer such carrier's authority shall be surrendered to the Commission within twenty (20) days after the date of the order authorizing such transfer.

3.11. Resident interstate carriers.

Each motor carrier, resident or domiciled in West Virginia, operating exclusively under authority granted to it by the Interstate Commerce Commission, shall pay an assessment fee of three dollars, (\$3.00) for each Uniform Vehicle Identification Stamp issued for each power unit, and shall list each trailer, or semi-trailer, used under such authority on P.S.C. W. Va. M.C. Form 4, but will not be required to pay the special assessment fee provided in subsections (b), (c), and (d) of §24A-6-6 of the West Virginia Code for the particular capacity of vehicle; and each motor carrier, resident or domiciled in West Virginia, operating both interstate under authority granted to it by the Interstate Commerce Commission and intrastate under authority granted to it by this Commission, shall pay an amount equal to that proportion of the special assessment fee (provided in subsections (b) (c) and (d) of §24A-6-6 for that particular capacity of vehicle) that the gross operating revenue derived from each such carrier's intrastate operation in West Virginia bears to the gross operating revenue derived from all its operation, both intrastate and interstate, in West Virginia.

3.12. Interruption of service.

In all cases of interruption of the regular service of any carrier to which these Rules are applicable, where such interruptions are continued or likely to continue over a period of more than forty-eight (48) hours, written notice shall be given to the Commission of the character, cause, and probable duration of the same.

3.13. Suspension of certificates and permits.

All certificates and/or permits, which do not contain therein 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/or permits has failed to apply for and obtain Uniform Vehicle Identification Cards and has not paid the special annual 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.

3.14. Special terms, conditions and limitations to certificates authorizing the transportation of general commodities.

Certificates of convenience and necessity issued to common carriers of property by motor vehicles for the transportation of commodities generally shall be subject to the following rules, restrictions, and limitations, unless the order issuing such certificate clearly states that a different meaning is intended:

a. A certificate authorizes operations only under the name in which it is issued.

b. A certificate authorizing the transportation of "general commodities" includes the right to transport all types of property capable of, or suitable for, transportation by ordinary motor vehicle, but, unless specifically so provided in the certificate, does not authorize the use of special facilities or special motor vehicles in the transportation of any commodity, nor the transportation of:

1. Commodities which by reason of length, width, weight, height, size, or other physical characteristic, require the use of special facilities, facilities or equipment for their loading or unloading; or

2. Commodities which require special facilities or special motor vehicle for adequate, efficient or safe transportation, or for protection, except as against heat or cold.

c. The term "special facilities," as used in paragraph 2, means facilities in addition to or other than those required or used in ordinary packing, crating, or handling, and the term "special motor vehicle," as used in the same paragraph, means a motor vehicle so designed and constructed, or equipped with appliances so designed and constructed, as to provide

facilities other than those afforded by the floors, sides and tops of ordinary motor vehicles. The following, among others, are deemed to be special motor vehicles or motor vehicles embodying special facilities: tank trucks, dump trucks, armored trucks, household goods moving vans, pole trailers, and "haul-a-ways" or trucks designed especially for hauling automobiles or similar articles.

d. In the event of any conflict between the special terms, conditions, and limitations set forth in the various items above and the provisions in the main body of a certificate the latter shall govern in all instances.

§150-9-4. Rules applicable to motor vehicles transporting passengers over regular routes (buses).

4.1. Regular routes.

No motor vehicle operated under a certificate for the transportation of passengers over regular routes or between fixed termini shall be operated for hire over any route other than that authorized under such certificate; provided, however, that whenever any portion of such route is temporarily closed for construction, repair, or other reason, said vehicle may operate over the most direct and practicable detour, and such operation shall be under the same rules and regulations as applied to the original route.

4.2. Time schedules.

No motor vehicle to which the provisions of this section are applicable shall be operated on any time schedule other than that approved by the Commission; provided, however, that nothing herein shall be construed to prohibit the operation, in addition to the service described in the schedule in effect at the time, of special or extra trips over said route, or any part thereof, during rush hours or other extraordinary circumstances to care for additional business occasioned by an unusual condition.

4.3. Time schedule changes by the commission.

The Commission reserves the right to arrange or rearrange time schedules so as to prevent congestion and competition injurious to public welfare, or to make connections with other transportation agencies. Such time schedule changes shall be made by first giving ten (10) days notice to the carrier affected

thereby.

4.4. Time schedule revisions by urban or suburban bus carriers.

a. Carriers subject to the rules of this section, except where exempt by federal law, desiring to revise time schedules shall file with the executive secretary revised time schedules in accordance with M.C. Form No. 36, at least thirty (30) days prior to the effective date of such revision. In addition, whenever such revised time schedules provide for a lesser number of bus trips over the territory affected, there shall be attached to the revised time schedule a narrative summary of the changes involved in such language as would readily be understood by the riding public. The aforementioned narrative summary shall be published in a newspaper, or newspapers, of general circulation in the area affected at least thirty (30) days prior to the effective date of the time schedule change. The carrier shall post notices in all buses operating over the routes affected for a period of at least thirty (30) days prior to the effective date thereof. Such notices shall be in large print; shall be clearly visible to passengers boarding or leaving the bus; shall clearly set forth the buses affected and the date the change becomes effective; and shall be in the form as set forth in Section 10 of this regulation (M.C. Form 39).

b. The carriers shall file an affidavit with the Commission which states the dates and mode of posting, provided, however, that any protest to the proposed revision must be received by the Executive Secretary no later than seven (7) days prior to the effective date of said revised schedule.

c. The Commission may, in its discretion and for good cause shown, by order allow such revision upon less time than the notices herein specified.

d. The Commission may, in its discretion and for good cause shown, institute an investigation into the propriety of any such discontinuance or time schedule change either before or after such discontinuance or time schedule becomes effective.

e. The provisions of this rule shall apply to all time schedule changes except those involving the discontinuance of trips for which authority has been granted for a specified period of time.

4.5. Time schedule revisions by intercity bus carriers.

a. Intercity bus carriers subject to the rules of this section desiring to revise time schedules, except where exempt by federal law, shall file with the executive secretary revised time schedules in accordance with M.C. Form No. 36, at least thirty (30) days prior to the effective date of such revision. In addition, whenever such revised time schedules provide for a lesser number of bus trips over the territory affected, there shall be attached to the revised time schedule a narrative summary of the changes involved in such language as would readily be understood by the riding public. The aforementioned narrative summary shall be published in a newspaper, or newspapers, of general circulation along the route affected by the revised time schedule at least thirty (30) days prior to the effective date of the time schedule change. An affidavit of publication showing compliance with the aforesaid publication requirement shall be filed with the executive secretary within thirty (30) days after the date of publication.

b. The carrier shall post notices in all bus terminals or commission agencies located on routes affected by revised time schedules for a period of at least thirty (30) days prior to the effective date thereof. Such notices shall be in large print; shall be clearly visible to patrons at the terminals or commission agencies; shall clearly set forth the buses affected and the date the change becomes effective; and shall state that the public may protest the schedule changes by writing the executive secretary at least seven (7) days prior to the effective date.

c. Protest to the proposed revision must be received by the executive secretary no later than seven (7) days before the effective date of said revised schedule.

d. Such revised time schedules shall be effective on the proposed effective date unless the carrier shall have received notice that the proposed revision or a part thereof has been suspended. Such notice shall be by letter, telephone or telegram from the Executive Secretary at least three (3) days prior to the effective date of such revision.

e. The Commission may, in its discretion and for good cause shown, by order allow such revision upon less time than the notices herein specified.

f. The Commission may, in its discretion and for good cause shown, institute an investigation into the propriety of any such discontinuance or time

schedule change either before or after such discontinuance or time schedule becomes effective.

g. The provisions of this rule shall apply to all time schedule changes except those involving the discontinuance of trips for which authority has been granted for a specified period of time.

4.6. Reserve equipment.

Carriers subject to the provision of this section shall be authorized to register as reserve equipment such motor vehicles as are maintained for the sole purpose of replacing other motor vehicles temporarily withdrawn from service, and shall pay the special annual assessment of three dollars (\$3.00) for each Uniform Vehicle Identification Stamp issued for such reserve equipment; provided, however, that the number of motor vehicles registered as reserve equipment shall not exceed either ten percent (10%) of the number of motor vehicles registered as regular equipment, or two (2) motor vehicles, whichever is greater

4.7. Destination signs.

Each motor vehicle to which these rules are applicable which is operated over a regular route, or between fixed termini, shall have attached to the front thereof a sign with letters or figures not less than three inches in height designating the destination of such vehicle. In no case shall such sign be attached to the windshield of the vehicle so operated.

4.8. Sanitation.

All motor vehicles to which these rules are applicable shall be maintained in a safe, clean, and sanitary condition at all times.

4.9. Conversation by operator.

The operator of the motor vehicle to which these rules are applicable shall not converse with passengers or others while the vehicle is in motion, except as may be necessary in his employment as operator.

4.10. Transportation of property.

Common carriers of passengers by motor vehicle for hire operating over regular routes or between fixed termini are permitted to transport property if the total weight of any one parcel or package does not exceed one-hundred (100) pounds. The transportation

of property under the provisions of this rule shall not be permitted to interfere with the transportation of luggage for passengers. However, no carrier shall be required to transport luggage in excess of fifty (50) pounds for any one passenger without charge.

4.11. Special or charter party service by common carriers of passengers by motor vehicle over regular routes and serving the public generally.

a. Nothing in these rules or regulations shall be construed or administered so as to deprive any common carrier of the right to operate in special or charter party service over the routes or in territory over which, or in which, such common carrier is specifically authorized to operate in his or its certificate from this Commission; provided, however, that each and every said common carrier in its special or charter party operation shall be subject to and governed by these rules and regulations in all respects where they do not conflict with federal law or with authority heretofore granted in the certificate held by such common carrier.

b. The term "special or charter parties," as used herein, means a group of persons who, pursuant to a common purpose and under a single contract, have acquired the exclusive use of a passenger-carrying motor vehicle to travel together as a group to a specified destination.

c. **Tariff**--Each motor carrier desiring to render special or charter party service shall file with the Commission a tariff, or supplement to existing tariffs, providing rates for such special services.

d. **Origin Territory**--Any common carrier of passengers by motor vehicle subject to these rules may transport special or charter parties (a) which originate at any point or points on the regular route or routes authorized to be served by such carrier, or (b) which originate at any point or points within the territory served by its regular route or routes. These provisions shall not apply to the transportation of charter parties composed of the physically handicapped or of minor children who may not with convenience and safety be transported without the use of special facilities and/or the services of specially trained personnel required to be supplied by the motor carrier.

e. **Destination Territory**--Common carriers of passengers by motor vehicle subject to these rules

may transport special or charter parties to any point or place within the State of West Virginia; special or charter parties may not be transported from the destination territory to the origin territory described in Section 4 except on return movement of the same special or charter party as provided herein.

f. **Limitations of Service**--No common carrier of passengers by motor vehicle subject to these rules shall transport special or charter parties as herein defined between the same points or over the same route so frequently as to constitute a regular scheduled or non-scheduled service.

(1977 Rule 4.12, relating to Display of Rates by airport limousines, has been deleted.)

§150-9-5. Rules applicable to motor vehicles transporting passengers and property in taxicab or limousine service.

5.1. Definitions of "taxicab", "limousine", and "specialized limousine service"; transportation of persons and property by taxicabs and limousines.

a. A "taxicab" is a vehicle equipped with at least four (4) doors which is used to transport a passenger or passengers between variable points over irregular routes on an immediate or short-notice basis for compensation, which is determined on a mileage, time, or zone basis.

b. A "limousine" is a vehicle, equipped with at least four (4) doors and with seating for at least five (5) passengers, which is used either (a) to transport a passenger or passengers between fixed points, such as airports and hotels or motels, for compensation, which is usually a predetermined fixed charge or (b) in specialized limousine service.

c. "Specialized limousine service" is the transportation of a passenger or passengers between variable points over irregular routes in specially equipped or luxury vehicles, for compensation, which is usually determined on a mileage or hourly basis.

d. A vehicle operated or licensed as a taxicab shall not be operated as a limousine. A vehicle operated or licensed as a limousine shall not be operated as a taxicab.

e. A limousine may also be used for transportation of baggage and parcels when such transportation

is incidental to the transportation of passengers by that vehicle.

f. A taxicab may be used for the transportation of property to the extent permitted by Rule 5.12.

5.2. One-party operation.

When a person or persons engage a taxicab for transportation under the zone or mileage rates fixed by approved tariffs, no other person, or persons, may be transported in such taxicab unless, before the trip is started, the driver of such taxicab obtains the consent of the original passenger, or passengers, to pick up additional passengers on the trip. In the event such permission is not so obtained before the trip is started, the driver shall not seek such permission in the course of the trip, and no additional persons shall be picked up thereon. Service shall not be denied to any person because of the refusal of such person to grant such permission. In the event such permission is obtained, as aforesaid, the additional passengers so transported by such taxicab shall be charged the rates fixed by applicable tariffs for the distance they are transported; however, this condition shall not apply to taxicabs operating from railroad passenger stations or intercity bus stations when there are more persons desiring transportation by taxicabs than there are taxicabs to render such transportation.

5.3. Stopovers.

When two or more passengers, not members of the same party, are being transported in taxicab service, no stopover for the purpose of permitting any passenger, or passengers, to leave and return to the cab, shall be made until any other passenger, or passengers, have been delivered to his, or their destination.

5.4. Refusal of transportation.

No person, or persons, shall be denied taxicab service merely because such person desires transportation in a direction or to a destination other than that in which, or to which, the driver desires to operate.

5.5. Serving the entire area.

The certificate holder shall not direct any taxicab driver or limousine driver to serve any specific area other than the complete territory authorized under that certificate and for which a tariff has been filed

with and approved by the Commission.

5.6. Unauthorized persons within taxicabs.

No person other than the driver shall be allowed within any taxicab unless such person is a fare-paying passenger actually being transported, except when the training or supervision of a driver is authorized by the certificate holder.

5.7. Responsibility for servicing and maintenance

The holder of a certificate authorizing operation in taxi service shall be responsible for the servicing and maintenance of each vehicle operated under such certificate and that responsibility shall not be delegated to a driver, except as provided in Rule 5.8(a) and P.S.C. W.Va. M.C. Form No. 55. Nor shall any driver be required to pay for such servicing or maintenance, except as provided in Rule 5.8(a) and P.S.C. W.Va. M.C. Form No. 55.

5.8. Taxicab leasing; leased equipment.

a. No certificate holder shall lease or rent a motor vehicle to the driver thereof for use as a taxicab except as provided by P.S.C. M.C. Form No. 55.

b. The holder of a certificate authorizing operation in taxi service may lease any or all equipment necessary or convenient for operations under said certificate. The lessor of such equipment shall not be directly or indirectly involved in the operation of said equipment, which shall remain under the exclusive direction and control of the certificate holder (lessee) for the duration of the lease.

5.9. Solicitation of bus passengers.

No certificate holder and no employee of such certificate holder shall at any time solicit persons waiting at bus stops.

5.10. Display of rates.

There shall be displayed on every motor vehicle subject to regulations under Section 5 the zone, mileage, meter, back-mileage, and other rates approved by this Commission for the operation of such vehicle. Such rates shall be clearly visible from the outside of the right side of such vehicle. If such vehicle is operated under a zone tariff, there shall be posted within such vehicle a map clearly visible to occupants

in the rear, and showing the territory served with the zones outlined thereon and the applicable fares stated thereon. This rule may be waived for good cause shown in the case of specialized limousine service.

5.11. Marking equipment.

On every motor vehicle subject to regulation under Section 5 there shall be a sign on each side displaying the name or trade name of the carrier and the city or town from which such carrier is authorized to operate under its certificate. No trade name shall be used unless such is first approved by the Commission. This rule may be waived for good cause shown in the case of specialized limousine service.

5.12. Transportation of property.

Common carriers of passengers by taxicab are permitted to transport packages, food, and other items of personal property which may be conveniently and reasonably transported by taxicabs. The transportation of property under the provisions of this rule shall not be permitted to interfere with the transportation of passengers and their luggage.

5.13. Inspection facilities.

Every motor carrier subject to regulation under Section 5 shall provide sufficient facilities and assistance to Motor Carrier Division personnel for the purpose of conducting vehicle safety inspections. Such facilities shall include the use of a lift and floor jack.

5.14. Twenty-four (24) hour service.

Unless expressly waived by the Commission a motor carrier by taxicab shall provide service to the public twenty-four (24) hours per day, seven (7) days per week.

§150-9-6. Rules applicable to motor vehicles transporting wrecked and/or disabled motor vehicles (wreckers).

6.1. Printed statement required.

No charge shall be made to a customer unless it is upon a printed statement which must contain the following:

a. The name, or trade-name, of the carrier and the city, town or location of its base of operation.

b.

1. The time the call was received.

2. The time of departure of the wrecker.

3. The time and place of final destination of the wrecker and/or disabled motor vehicle.

c. Separation of charges for storage time or any other services.

d. The rates and charges in the carrier's tariff on file with the Public Service Commission.

e. The following words must appear on the front in BOLD CAPITAL letters:

THE RATES AND CHARGES FOR WRECKER SERVICE ARE REGULATED BY THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA. IF YOU FEEL YOU ARE CHARGED UNFAIRLY, YOU MAY APPEAL TO THAT AGENCY.

f. If subsection 3 above appears on the back side of the statement, that fact must be noted in bold letters on the front.

6.2. Charge for capacity required.

In no case shall the charge for a wrecker vehicle be greater than the charge for a wrecker vehicle of the capacity needed to perform the service.

6.3. Storage charge.

No charge shall be made to a customer for storage service ancillary to towing, unless the carrier has filed with the Commission the rates and charges for such service. Charges for "inside storage" shall be assessed pursuant to tariff only when a customer's vehicle has been stored inside a roofed building. All other storage shall be considered "outside storage".

6.4. Marking equipment.

There shall be a sign, with letters or figures not less than three inches in height, on each cab door of every wrecker vehicle, displaying the name of the carrier and the city, town or location of its base of operation.

6.5. Revolving light.

Every wrecker vehicle must be equipped with a revolving or strobe flashing lighted lamp visible under normal atmospheric conditions from a distance of five-hundred feet. The lamp must be situated on top of the cab or other position, where it can be seen by those approaching the wrecker vehicle from any direction. (NOTE: Before installing the lamp required by this rule, the carrier must obtain an Emergency Vehicle Permit as required by Chapter 17C, Code of West Virginia, and Administrative Regulations promulgated thereunder by the Department of Motor Vehicles. West Virginia law also designates the color of the lens for an emergency vehicle light.)

6.6. Highway cleanup.

Every wrecker vehicle must carry a broom and shovel and the driver and/or helper of the wrecker shall, when servicing a wreck leaving debris upon the highway, cleanup and remove that debris upon the highway that is susceptible to being removed by a broom and shovel.

6.7. Special equipment.

Every wrecker vehicle subject to regulation under Section 6 shall be equipped with the following:

- a. Fire axe, or single-bitted axe and crowbar;
- b. First aid kit complying with Title 49 CFR §393.96(c) as amended;
- c. Fire extinguisher (charged);
- d. Chock blocks; and
- e. Safety flares.

6.8. Twenty-four (24) hour service.

Unless expressly waived by the Commission a motor carrier of wrecked or disabled motor vehicles shall provide service twenty-four (24) hours per day, seven (7) days per week.

6.9. Type of wrecker equipment.

On or after July 1, 1983, each motor carrier newly engaging in the business of towing of wrecked or disabled motor vehicles and each previously authorized motor carrier registering new or replacement equipment shall meet the following specifications, unless

said specifications are expressly waived by the Commission:

a. One ton wrecker.

1. A truck chassis with a manufacturer's rated capacity of at least ten thousand (10,000) pounds, gross vehicle weight. Mounted on the chassis must be a complete commercially manufactured crane and winch having a manufacturer's capacity rating of at least four (4) tons.

2. At least 100 feet (with a tolerance of twenty-five percent (25%) of 3/8" diameter cable attached to the wrecker winch.

3. A tow sling which must be commercially manufactured and designed to prevent damage to vehicle.

Electric or hand crank winches do not satisfy the requirements of Rule 6.9.

b. Two (2) ton wrecker.

1. A truck chassis with a manufacturer's rated capacity of at least fifteen thousand (15,000) pounds, gross vehicle weight.

Mounted on the chassis must be a complete commercially manufactured crane and twin winch having a manufacturer's capacity rating of at least ten (10) tons.

2. At least 100 feet (with a tolerance of twenty-five percent (25%) of 7/16" diameter cable attached to each wrecker winch.

3. A tow sling which must be commercially manufactured and designed to prevent damage to vehicle.

c. Three ton wrecker.

1. A truck chassis with a manufacturer's rated capacity of at least twenty-four thousand (24,000) pounds, gross vehicle weight.

Mounted on the chassis must be a complete commercially manufactured crane and twin winch having a manufacturer's capacity rating of at least twenty (20) tons.

2. At least 200 feet (with a tolerance of twenty-five percent (25%) of cable, on each winch, at least 9/16" in diameter.

3. Airbrakes designed to lock the rear wheels automatically upon failure, and to supply air to disabled vehicles.

4. A tow sling which must be commercially manufactured and designed to prevent damage to vehicle.

d. Slide back carrier (light).

1. A truck chassis with a manufacturer's rated capacity of at least ten thousand (10,000) pounds, gross vehicle weight with 102" CA dimension. Mounted on the chassis must be a complete commercially manufactured hydraulic operated slide back carrier with a manufacturer's capacity rating of at least four (4) tons and minimum length of 17 feet.

2. One (1) hydraulic winch of not less than four (4) tons capacity.

3. A minimum of 30 feet of 3/8" diameter cable.

e. Slide back carrier (heavy).

1. A truck chassis with a manufacturer's rated capacity of at least fifteen thousand (15,000) pounds, gross vehicle weight with 120" CA dimension. Mounted on the chassis must be a complete commercially manufactured hydraulic operated slide back carrier with a manufacturer's rating of at least 6 tons and a minimum length of 18 feet.

2. Fifty feet of 3/8" diameter cable.

6.10. Storage places for towed vehicles.

a. 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 the 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 of 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.

b. 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, (c) a salvage yard which falls within any of the exemptions listed in §17-23-7 of the West Virginia Code, or (d) 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 feet in height.

c. 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 (c) 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.

d. 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 feet in height; (b) that vehicle, or part thereof, is either (i) stored at least twenty feet from the paved section of the nearest street, road, or highway, or (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.

e. 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.

§150-9-7. Rules applicable to motor carriers transporting solid waste.

7.1. Application of rules.

These rules shall apply to all motor carriers engaged in the transportation by motor vehicle for hire of trash, rubbish and garbage for customers over the public highways of this State, unless otherwise exempt from regulation by section three, article one, chapter twenty-four-a of the Code of West Virginia.

7.2. General.

a. A carrier shall not be required to pick up trash, rubbish or garbage which is not clearly visible to the carrier from the access route serving the customer's premises. However, a carrier shall make exceptions to the provisions of this Rule, upon request, to provide service to, but not limited to, the elderly, the physically disabled, persons who are ill or vacationing, or where circumstances make compliance impractical, when such customers (and all members of their household) are unable to transport such solid waste to such collection sites.

b. All carriers shall maintain all motor vehicles used in the motor carrier operation in a proper and sanitary operating condition.

c. All carriers shall provide and maintain a regularly scheduled pick-up service. Exceptions to the regularly scheduled pick-up service shall be made only for reasons beyond the carrier's control. The carrier shall give each residential customer the schedule of pick-up service to be provided.

d. A carrier shall negotiate with a residential customer a separate and/or additional charge for the occasional pick-up of junked, abandoned, or unwanted materials, other than the normal weekly accumula-

tions of trash, rubbish and garbage, or such matters or materials that cannot be reasonably or conveniently picked up during the regularly scheduled operation.

e. To allow its customers to communicate with it, each carrier shall be reachable by telephone during normal business hours.

f. A carrier or its employees may, but are not required to, accept payment of bills along the operating route.

g. Each carrier shall establish a payment option, both via United States Mail and at a designated place convenient to a majority of its customers.

h. A carrier may, but shall not be required to, pick up trash, rubbish or garbage which is not in a container. For the purpose of this rule, the term "container" shall include, but not be limited to, a plastic bag, a garbage can or other suitable waterproof receptacle.

i. A carrier or its employees shall not be required manually to handle an article or a loaded container weighing more than fifty (50) pounds.

j. A carrier may refuse to pick up more trash, rubbish or garbage, than may reasonably be expected to have been generated by one customer (household).

k. A carrier shall not be required to empty containers in which burning has taken place.

l. All carriers shall be responsible for cleaning up any litter spilled while making pickups.

7.3. Termination of service for nonpayment of bill

a. A carrier may terminate service to any customer who is thirty days delinquent in the paying of any one bill upon the giving of written notice as hereinafter provided by Section 2 of this regulation.

b. Notice of termination of service shall be in writing and shall be given by United States Mail at least seven days prior to the termination of service. Such notice shall specifically inform the customer that his service will terminate as of a specified date.

§150-9-8. Temporary authority.

8.1. Temporary authority. -- The Commission will grant temporary authority upon an application for a permit to operate as a common or contract carrier where it appears that the granting of such authority will not operate to the detriment of any authorized common or contract carrier serving the territory and where the Commission has reason to believe that no common or contract carrier would protest the application for such authority.

8.2. Publication of notice.

Except in cases of emergency, no temporary authority will be granted under the provisions of Section No. 8.1 until notice of the application for such authority has been published not less than three (3) days prior to the granting of such authority in a newspaper of general circulation in the county, or counties, of operation. Such notice shall be published in the form as prescribed in Section 10 Form No. 40, of these rules.

8.3. No presumption.

The granting of any authority under Section No. 8.1 shall not create a presumption that corresponding permanent authority will be granted.

8.4. Surrender of uniform vehicle identification cards.

In the event that an applicant receives authority under Section 8.1 but corresponding permanent authority is denied following a hearing on the application, the applicant shall surrender all P.S.C. Uniform Vehicle Identification Cards to the Commission and no refund of any fees or assessments, or portions thereof, shall be made.

8.5. Required conditions for temporary authority - contract carrier.

The Commission will not grant temporary authority to operate as a contract carrier under Section No. 8.1 unless it is established to the satisfaction of the Commission that the rates to be paid will not be less than those charged by common carriers for similar service; that the vehicles of the applicant will not replace those of any authorized common or contract carrier; and that there is no common carrier service available for such transportation. The Commission may accept an affidavit signed by such proper person or official of a company that desires the services of the

applicant. The affidavit shall be in the form and effect as prescribed under the provisions of Section 10, Form No. 33.

8.6. Application not binding.

Acceptance of any application under the Rules and Regulations provided herein shall not be considered as binding upon the Commission to grant the authority for which application is made. Acceptance of an affidavit as prescribed in Section 8.5 and as set forth by Section 10, Form No. 33, shall not be conclusive but the Commission may require such further evidence as it deems necessary.

8.7. Fees and assessments.

The fees and assessments for carriers authorized under Section 8.1 shall be the same as for carriers with permanent authority.

§150-9-9. Leased equipment.

9.1. Leasing of equipment by motor carriers.

A motor carrier of passengers or property may acquire by lease the entire amount of equipment operated under its authority.

9.2. Uniform vehicle identification cards.

Uniform Vehicle Identification Cards must be obtained in the name of the carrier under whose authority the equipment is to be operated.

9.3. Construction of lease.

No lease of vehicles shall be construed to confer upon the lessee any right to operate under the authority held by the lessor.

9.4. Certificate of lease.

No leased equipment may be operated by any common or contract carrier until a Certificate of Lease as prescribed in Section 10, Form No. 31, is filed with the Commission, and the lessee common or contract motor carrier obtains in its name a Uniform Vehicle Identification Card and/or pays the prescribed special annual assessment for the vehicle so leased.

9.5. Control of leased equipment.

Equipment leased by a common or contract carrier from a supplier shall be under the exclusive direction and control of such carrier for the duration of the lease.

§150-9-10. 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-B--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-B--Affidavit of a carrier in 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--For use by all carriers when paying the assessment fee required under the provisions of Chapter 24-A, Article 6, Section 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. 8--Applica-

tion 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 and 11-A--Application for approval of the transfer and assignment of a certificate of convenience and necessity.

(13) 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) P.S.C. W. VA. M.C. Form No. 17--Notice of cancellation of motor carrier policies of insurance.

(15) P.S.C. W. VA. M.C. Form No. 18--Notice of cancellation of motor carrier surety bonds.

(16) P.S.C. W. VA. M.C. Form No. 21--Application for authority to self-insure.

(17) P.S.C. W. VA. M.C. Form No. 22-A--Endorsement for motor carrier policies of insurance for bodily injury liability and property damage liability.

(18) P.S.C. W. VA. M.C. Form No. 23--Endorsement for motor common carrier policies of insurance for cargo liability.

(19) P.S.C. W. VA. M.C. Form No. 24-A--Certificate of insurance for motor carrier policies of insurance for bodily injury and property damage liability.

(20) P.S.C. W. VA. M.C. Form No. 25--Certificate of insurance for motor common carrier policies of insurance for cargo liability.

(21) 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) P.S.C. W. VA. M.C. Form No. 31--Certificate of 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) P.S.C. W. VA. M.C. Form No. 44--Out of Service Vehicle Sticker.

(34) P.S.C. W. VA. M.C. Form No. 45-A--Motor carrier bodily injury liability and property damage liability surety bond.

(35) P.S.C. W. VA. M.C. Form No. 46--Motor common carrier cargo liability surety bond.

(36) P.S.C. W. VA. M.C. Form No. 48 and 19-A (Small Carrier)--Application for change in rates.

(37) P.S.C. W. VA. M.C. Form No. 49--Violation warning notice.

(38) 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) P.S.C. W. VA. M.C. Form No. 52--Taximeter Inspection Report.

(41) P.S.C. W. VA. M.C. Form No. 58--Vehicle Inspection Report.

(42) P.S.C. W. VA. M.C. Form No. 54--Transit Authority Exemption.

(43) P.S.C. W. VA. M.C. Form No. 55--Taxicab Driver's Daily Manifest.

(44) P.S.C. W. VA. M.C. Form No. 56--Citation and Complaint.

NOTE: P.S.C. W. VA. M.C. Form Nos. 13, 14, 15, 16, 19, 20, 27, 28, 29, 30, 32, 37, 38, 39 and 47 are