

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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2002 MAR 15 P 4:43

OFFICE WEST VIRGINIA
NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE OF STATE

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

RULE TYPE: Legislative; CITE AUTHORITY West Virginia Code §24-1-1
et. seq.

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 9 and 14

TITLE OF RULE BEING AMENDED: Rules and Regulations for the Government
Carriers; Rules and Regulations Governing the Filing and Approval of
Surety Bonds, Policies or Certificates of Insurance, Qualifications
as a Self-Insurer, and Other Evidence of Financial Responsibility by

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Motor Carriers

TITLE OF RULE BEING PROPOSED: Rules Governing Motor Carriers, Private
Commercial Carriers, and the Filing of Evidence of Insurance and
Financial Responsibility by Motor Carriers

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH
ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS
COMMENT PERIOD WILL END ON May 14, 2002 AT 4:00 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING
ADDRESS.

Sandra Squire, Executive Secretary

Public Service Commission of West Virginia

201 Brooks Street

POB 812

Charleston, WV 25323

THE ISSUES TO BE HEARD SHALL BE
LIMITED TO THIS PROPOSED RULE.

[Handwritten Signature]

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

SCANNED

Public Service Commission

Richard E. Hitt, General Counsel

201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323

Phone: (304) 340-0317
FAX: (304) 340-0372

March 15, 2002

Judy Cooper, Director
Administrative Law Division
Secretary of State's Office
Building 1, Suite 157K
1900 Kanawha Blvd. E.
Charleston, WV 25305-0771

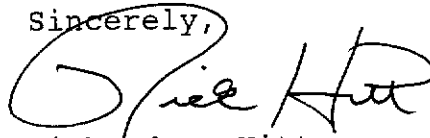
RE: Series 9 & 14

Dear Judy:

Enclosed for filing are proposed amendments to Series 9 and 14 of the Public Service Commission's rules and regulations. I have submitted a completed Form 5; a Fiscal Note; a Brief Summary of the Rule; and a Statement of Circumstances Requiring the Rule.

If there are any problems or questions, please bring them to my attention. Thank you in advance for your attention to this matter.

Sincerely,



Richard E. Hitt
General Counsel

RED/cbd
Enclosures

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

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

RULE TYPE: Legislative; CITE AUTHORITY West Virginia Code §24-1-1
et. seq.

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 9 and 14

Rules and Regulations for the Government
TITLE OF RULE BEING AMENDED: of Motor Carriers and Private Commercial
Carriers; Rules and Regulations Governing the Filing and Approval of
Surety Bonds, Policies or Certificates of Insurance, Qualifications
as a Self-Insurer, and Other Evidence of Financial Responsibility by
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Motor Carriers

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ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING
ADDRESS.

Sandra Squire, Executive Secretary


Public Service Commission of West Virginia

201 Brooks Street

POB 812

Charleston, WV 25323

THE ISSUES TO BE HEARD SHALL BE
LIMITED TO THIS PROPOSED RULE.



ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Brief Summary of Proposal

The Commission is proposing to amend and combine its Rules and Regulations for the Government of Motor Carriers and Private Commercial Carriers, 150 CSR 9, and its Rules and Regulations Governing the Filing and Approval of Surety Bonds, Policies or Certificates of Insurance, Qualifications as a Self-Insurer, and Other Evidence of Financial Responsibility by Motor Carriers, 150 CSR 14. The combined series would be denominated Rules Governing Motor Carriers, Private Commercial Carriers, and the Filing of Evidence of Insurance and Financial Responsibility by Motor Carriers, 150 CSR 9.

In this substantial rewrite and reorganization the Commission defines additional terms which have become common in the administration of its jurisdiction; it imposes new financial responsibility requirements for motor carriers; it implements legislatively conferred authority over the pickup and transportation of waste tires and recyclables; and it amends and updates certain equipment requirements and safety rules for motor carriers.

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 18th day of April, 2002.

MC GENERAL ORDER NO. 64.2

In the matter of a rulemaking to amend the Commission's Rules and Regulations for the Government of Motor Carriers and Private Commercial Carriers.

MC GENERAL ORDER NO. 6-I

In the matter of a rulemaking to amend the Rules and Regulations Governing the Filing and Approval of Surety Bonds, Policies or Certificates of Insurance, Qualifications as a Self-Insurer, and Other Evidence of Financial Responsibility by Motor Carriers.

COMMISSION ORDER

By Order issued March 15, 2002, the Commission promulgated proposed amendments to its: (1) *Rules and Regulations for the Government of Motor Carriers and Private Commercial Carriers, 150 CSR 9*; and its (2) *Rules and Regulations Governing the Filing and Approval of Surety Bonds, Policies or Certificates of Insurance, Qualifications as a Self-Insurer, and Other Evidence of Financial Responsibility by Motor Carriers, 150 CSR 14*. As proposed, these two series of rules would be combined, and the title of the combined series would be changed to *Rules Governing Motor Carriers, Private Commercial Carriers, and the Filing of Evidence of Insurance and Financial Responsibility by Motor Carriers*. The combined rules would be denominated as *150 CSR 9*.

Notice of this proceeding was served directly upon certain parties, and was published statewide in late March. A sixty (60)-day comment period ending May 15, 2002, was established.

On April 5, 2002, the West Virginia Association of Waste Haulers & Recyclers (Association) filed a request that the Commission extend the comment period by sixty (60) days to July 15, 2002. As grounds for its request, the Association stated that it had six regional

meetings scheduled throughout the State, the purpose of which is to review the proposed rules. The Association is also conducting a survey of recyclers regarding the new recycling requirements contained in the proposed rules.

Also on April 5, 2002, the Association requested that the Commission schedule four public hearings in this matter in different locations in the State.

DISCUSSION

Upon review of the Association's request for an extension of the comment period, the Commission finds it reasonable and appropriate to extend the written comment period for all parties until July 15, 2002.

The Commission will defer the scheduling of a hearing or hearings in this matter until a later date.

FINDINGS OF FACT

1. The current comment period in this proceeding ends on May 15, 2002.
2. The Association seeks a sixty (60)-day extension of the written comment period in this rulemaking proceeding, until July 15, 2002.

CONCLUSIONS OF LAW

It is reasonable for the Commission to extend the comment period in this proceeding from the current deadline of May 15, 2002, until July 15, 2002, to allow a greater opportunity for comment from interested parties.

ORDER

IT IS THEREFORE ORDERED that the comment period in this proceeding is hereby extended sixty (60) days, and will now end on July 15, 2002.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this Order upon the Office of the Secretary of State; upon all parties upon whom the last Commission Order was served; and upon any party who files comments in this proceeding.

JML/ljm
go642ca.wpd

A True Copy, Teste:



Sandra Squire
Executive Secretary

Public Service Commission
Of West Virginia

201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323



Phone: (304) 344-0100
FAC: (304) 344-0325

April 18, 2002

TO ALL MOTOR CARRIERS

Greg Sayre
West Virginia Association of
Waste Haulers & Recyclers
PO Box 3706
Charleston, WV 25337

West Virginia Waste Management Board
Charlie Jordan, Acting Director
1615 Washington St E
Charleston, WV 25311-2126

West Virginia Taxi Association
Thomas N. Hanna, Esq.
PO Box 3967
Charleston, WV 25339

West Virginia Division of
Environmental Protection
Dick Cooke
1356 Hansford St.
Charleston, WV 25301

West Virginia Division of
Natural Resources
Col. James Fields
Bldg 3 Rm 837
1900 Kanawha Boulevard
Charleston, WV 25305-0060

Charles M. Biggs, LUTCF
Biggs Insurance Agency
520 Main St
Mt Hope, WV 25880

Melba Lou White, Mayor
City of Montgomery
706 3rd Ave
Montgomery, WV 25136

Secretary of State
1900 Kanawha Blvd
Main Capital
Charleston, WV 25305

RE: M.C. General Order No. 64.2
In the matter of a rulemaking to amend the
Commission's Rules and Regulations for the
Government of Motor Carriers and Private
Commercial Carriers.

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

2002 APR 22 P 1:27

FILED

**M.C. General Order No. 6-I
In the matter of rulemaking to amend the
Rules and Regulations Governing the Filing
and Approval of Surety Bonds, Policies or
Certificates of Insurance, Qualifications
as a Self-Insurer, and Other Evidence of
Financial Responsibility by Motor Carriers.**

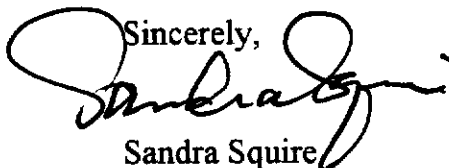
Ladies/Gentlemen:

Enclosed is a copy of a Commission order issued today in the above-styled proceeding.

When you submit any additional documents - In addition to filing an original and 6 copies of all documents with the Commission, you are required to mail a copy to all other parties of record.

Consolidated Cases - an original is needed for placement in each of the Secretary's case files and one set of 9 copies.

We invite you to visit our Internet web site address at www.psc.state.wv.us.

Sincerely,

Sandra Squire
Executive Secretary

SS/jan
Encl. order

FISCAL NOTE

P.S.C.

Series 9 and 14

MC GENERAL ORDER NO. 64.2

IN THE MATTER OF a rulemaking to amend the Commission's
Rules and Regulations for the Government of Motor Carriers
and Private Commercial Carriers.

MC GENERAL ORDER NO. 6-I

IN THE MATTER OF a rulemaking to amend the Rules and Regulations
Governing the Filing and Approval of Surety Bonds, Policies or
Certificates of Insurance, Qualifications as a Self-Insurer, and Other
Evidence of Financial Responsibility by Motor Carriers.

I. OBJECTIVES OF THE RULE

This rulemaking is to amend the Commission's *Rules and Regulations for the Government of Motor Carriers and Private Commercial Carriers, 150 CSR 9*. And its *Rules and Regulations Governing the Filing and Approval of Surety Bonds, Policies or Certificates of Insurance, Qualifications as a Self-Insurer, and Other Evidence of Financial Responsibility by Motor Carriers, 150 CSR 14*.

II. COST OF IMPLEMENTING THE PROPOSED RULES

There will be no significant implementation cost relating to this rulemaking for the State of West Virginia. The Commission does not anticipate to incur significant additional costs as a result of this rulemaking.

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

This rulemaking will have no significant effect on the costs or revenues of state government.

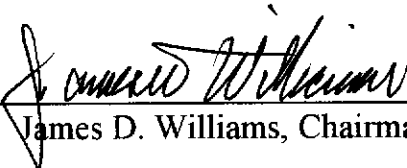
IV. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS

This rulemaking proposes changes which could economically impact motor carriers subject to the Commission's statutory jurisdiction as well as members of the public who are served by those motor carriers. Some of the more significant potential economic impacts proposed by the

rules include requiring drivers and helpers of motor carriers to be *bona fide* employees; new minimum amounts of insurance required to be carried by motor carriers; establishing a registration program for waste tire haulers; requiring curbside pickup of recyclables; and requiring solid waste carriers to include waste tires in their bulky goods program, and establishing a presumptively reasonable fee for those programs.

DATE: March 15 2002 AGENCY: Public Service Commission

SIGNATURE OF AUTHORIZED REPRESENTATIVE:


James D. Williams, Chairman

Summary of Proposed Rule

The Commission is proposing to amend and combine its *Rules and Regulations for the Government of Motor Carriers and Private Commercial Carriers, 150 CSR 9*, and its *Rules and Regulations Governing the Filing and Approval of Surety Bonds, Policies or Certificates of Insurance, Qualifications as a Self-Insurer, and Other Evidence of Financial Responsibility by Motor Carriers, 150 CSR 14*. The combined series would be denominated *Rules Governing Motor Carriers, Private Commercial Carriers, and the Filing of Evidence of Insurance and Financial Responsibility by Motor Carriers, 150 CSR 9*.

In this substantial rewrite and reorganization the Commission defines additional terms which have become common in the administration of its jurisdiction; it imposes new financial responsibility requirements for motor carriers; it implements legislatively conferred authority over the pickup and transportation of waste tires and recyclables; and it amends and updates certain equipment requirements and safety rules for motor carriers.

Statement of Circumstances Which Require the Proposed Rule

In order to properly implement its safety and financial responsibility duties in respect to motor carriers, the Commission periodically updates its requirements to accommodate changes in federal and state safety rules and statutes. *West Virginia Code §§ 24A -5-5 (g) and (h)*. This rulemaking also addresses issues and incorporates changes arising from decisions of the Commission and the West Virginia Supreme Court of Appeals, as well as related statutory enactments by the West Virginia Legislature. (*E.g., The Waste Tire Act of 2000*).

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 15th day of March, 2002.

MC GENERAL ORDER NO. 64.2

In the matter of a rulemaking to amend the Commission's Rules and Regulations for the Government of Motor Carriers and Private Commercial Carriers.

MC GENERAL ORDER NO. 6-I

In the matter of a rulemaking to amend the Rules and Regulations Governing the Filing and Approval of Surety Bonds, Policies or Certificates of Insurance, Qualifications as a Self-Insurer, and Other Evidence of Financial Responsibility by Motor Carriers.

COMMISSION ORDER

By this Order the Commission promulgates proposed amendments to its: (1) *Rules and Regulations for the Government of Motor Carriers and Private Commercial Carriers, 150 CSR 9*; and its (2) *Rules and Regulations Governing the Filing and Approval of Surety Bonds, Policies or Certificates of Insurance, Qualifications as a Self-Insurer, and Other Evidence of Financial Responsibility by Motor Carriers, 150 CSR 14*. As proposed, these two series of rules would be combined, and the title of the combined series would be changed to *Rules Governing Motor Carriers, Private Commercial Carriers, and the Filing of Evidence of Insurance and Financial Responsibility by Motor Carriers*. The combined rules would be denominated as *150 CSR 9*.

The proposed rules and forms promulgated in this Order encompass amendments to both series of rules, and a substantial rewriting and reorganization. Only the forms affected by this rulemaking are attached to this Order. The proposed rules respond to legislation and policy formulated in decisions by the Commission as well as by the West Virginia Supreme Court of Appeals. The more significant changes proposed herein include the following:

- 1.1. The rewritten rules incorporate the formerly free-standing motor carrier insurance rules. Accordingly, the insurance rules appearing at *150 CSR 14* would be rendered null and void once these rules become final.

- 1.8.b. The definition of “bulky goods” would be amended to include waste tires, which were the subject of legislation in 2000.
- 1.8.w. This proposed rule defines “specialized multi-passenger van service” in response to developing case and statutory law.
- 3.17.h - 3.17.k. These proposed rules clarify the conditions under which taxi and limousine drivers can accept tips and gratuities.
- 3.25. This rule would require drivers and helpers of motor carriers to be *bona fide* employees (as opposed to independent contractors). This issue was addressed in a workers’ compensation case decided by the West Virginia Supreme Court of Appeals. The rule would also make clear a long-standing Commission policy that a holder of Commission authority cannot lease out that authority to another entity, thereby diluting Commission control over the actual service provider.
- 2.2 - 2.3. In section two of these rules, specifically at 2.2 and 2.3, the Commission proposes new minimum amounts of insurance (for bodily injury/property damage/cargo) required to be carried by motor carriers. It raises those proposed minimums to the levels required by the US Department of Transportation (for hazardous materials carriers) and by the Legislature at *West Virginia Code §24A-5-5(g)* (for non-hazardous materials carriers).
- 3.26. This rule, if adopted, bans the use of radar detectors in commercial motor vehicles. The use and possession of these devices are already prohibited by Federal Motor Carrier Safety Rules enforced the Commission’s Motor Carrier Enforcement Officers. This rule proposes that radar detectors may be seized as evidence and, under prescribed circumstances, destroyed.
- 4.5.c. This rule has been rewritten to clarify that a taxicab operator may request advance payment from a passenger under specific circumstances.
- 4.13. This rule would require that taxicabs and limousines be equipped with a sufficient number of seatbelts to adequately secure all passengers and the driver.
- 5.1. The rule at 5.1 implements the Commission’s jurisdiction prescribed in the *Waste Tire Act of 2000. West Virginia Code §24-2-1b(a)*. The rule would establish a registration program for tire haulers (unless such haulers are already registered under another registration scheme with the Commission); the rule also would require motor carriers of solid waste to accept waste tires generated by their customers as part of the carriers’ bulky goods programs.

- 7.4.b. Presently a solid waste carrier must participate in a recycling program applicable to at least thirty percent of that carrier's waste stream. This amended rule would add the requirement of monthly curbside pick-up of specific recyclables. The Commission is especially interested in comment on this proposal.
- 7.6.c. As noted *infra*, proposed Rule 5.1 would require solid waste carriers to include waste tires in their bulky goods programs. This rule would allow bulky goods surcharges of up to \$1.00, without requiring the carrier to file a rate case. Presently the presumptively reasonable rate ceiling for bulky goods surcharges is 50 cents.
- 7.6.d. This rule would require solid waste customers (who generate bulky goods) to place their bulky goods at curbside, in advance of pick-up, in order to allow the carrier to efficiently allocate its transportation resources.
- 7.7.a. This rule would require solid waste carriers to renegotiate contracts with their commercial customers on an annual basis.

ORDER

IT IS THEREFORE ORDERED that the changes indicated in the attached *Rules Governing Motor Carriers, Private Commercial Carriers, and the Filing of Evidence of Insurance and Financial Responsibility by Motor Carriers* are hereby promulgated as Commission proposed legislative rules.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall give notice of these proposed rules to the following persons or entities by service of a copy of this order and the proposed rules and forms upon them:

- all regulated motor carriers of solid waste, household goods, wrecked or disabled motor vehicles, and passengers operating in the State;
- the West Virginia Solid Waste Association;
- the West Virginia Taxicab Association;
- the West Virginia Solid Waste Management Board;
- the West Virginia Division of Environmental Protection;
- the West Virginia Division of Natural Resources; and
- the Commission's Staff

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

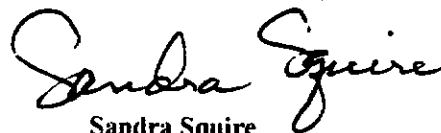
IT IS FURTHER ORDERED that the Executive Secretary shall file a copy of these rules and forms, together with requisite filing forms, with the Office of the Secretary of State.

IT IS FURTHER ORDERED that a comment period shall be provided with respect to the proposed rules identified in this Order and comments shall be filed with the Commission's Executive Secretary by May 15, 2002, by 4:00 p.m. Any interested party who files comments shall set forth specific comments concerning the proposed rules. Any party seeking a hearing on the proposed rules shall make a specific written request before the close of the comment period and shall explicitly state the grounds upon which the request is made.

IT IS FURTHER ORDERED that the Executive Secretary shall provide copies of these proposed rules to interested parties who address inquiries to Sandra Squire, Executive Secretary, Public Service Commission of West Virginia, P.O. Box 812, Charleston, West Virginia 25323.

FGC/JML/ljm
go642c.wpd

A True Copy, Teste:


Sandra Squire
Executive Secretary

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

GENERAL ORDER NO. 64.2

In the matter of a rulemaking to amend the
Commission's Rules and Regulations for the
Government of Motor Carriers and
Private Commercial Carriers.

GENERAL ORDER NO. 6 - I

In the matter of a rulemaking to amend the
Rules and Regulations Governing the Filing
and Approval of Surety Bonds, Policies or
Certificates of Insurance, Qualifications
as a Self-Insurer, and Other Evidence
of Financial Responsibility by Motor Carriers.

NOTICE OF RULEMAKING

By Order issued March 15, 2002, the Public Service Commission of West Virginia commenced a rulemaking to amend its *Rules and Regulations for the Government of Motor Carriers and Private Commercial Carriers*; and to amend its *Rules and Regulations Governing the Filing and Approval of Surety Bonds, Policies or Certificates of Insurance, Qualifications as a Self-Insurer, and Other Evidence of Financial Responsibility by Motor Carriers*. Any interested person or corporation may obtain a copy of the proposed rules by addressing a request to Sandra Squire, Executive Secretary, Public Service Commission of West Virginia, P.O. Box 812, Charleston, West Virginia 25323. Any interested person or corporation may file specific comments on the proposed rules by **May 15, 2002, by 4:00 p.m.**, with the Executive Secretary. Any party seeking a hearing on the proposed rules shall make a specific written request by the same date, and shall explicitly state the grounds upon which the request for a hearing is made.

TITLE 150
LEGISLATIVE RULES
PUBLIC SERVICE COMMISSION

SERIES 9

**RULES AND REGULATIONS FOR THE GOVERNMENT OF GOVERNING
MOTOR CARRIERS, AND PRIVATE COMMERCIAL CARRIERS, AND
THE FILING OF EVIDENCE OF INSURANCE AND
FINANCIAL RESPONSIBILITY BY MOTOR CARRIERS**

§150-9-1. General.

1.1. Scope -- These rules in this series govern all ~~common or contract~~ motor carriers for hire of passengers or property over the public highways of this State West Virginia, unless otherwise those motor carriers are completely exempt from regulation by §24A-1-3 or other sections of the W. Va. West Virginia Code, pursuant to §§24-2-1 and 24A-1-1. by sections of the United States Code, by the West Virginia Constitution, or by the United States Constitution. If a motor carrier is statutorily only partially exempt from regulation, these rules shall apply to that carrier except to the extent that the carrier is statutorily exempt. Furthermore, the rules in this series also govern the filing and approval of surety bonds, policies of insurance, qualifications as self-insurers, and other securities and agreements of motor carriers. Accordingly, upon the effective date of these rules, the insurance rules previously adopted at 150 C.S.R. Series 14 are null and void. Moreover, Rule 2.3 and other safety rules in this series apply applies to motor carriers and private commercial carriers that are statutorily subject to the Commission's safety jurisdiction. The term ~~motor carrier~~ includes an ~~exempt carrier~~.

1.2. Authority -- W.Va. Code §§24-2-1b, 24-2-2, 24A-2-3, 24A-3-4, 24A-3-6, 24A-4-1, and 24A-5-5.

1.3. Filing Date -- ~~November 23, 1998~~ _____

1.4. Effective Date -- ~~July 1, 1999~~

1.5. Intent.

Pursuant to the powers vested and the authority given under Chapter 24A, of the ~~W. Va. West Virginia~~ Code, 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 West Virginia 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 to permit the coordination of

transportation facilities; and to provide the traveling and shipping public transportation agencies rendering stabilized service at just and reasonable rates. These rules are also intended to govern the filing of evidence of insurance and financial responsibility by motor carriers to protect the traveling, shipping, and general public against injury, loss, damage, or default for which motor carriers may be liable. Moreover, Rule 2.3 and other safety rules in this series are also intended to apply to all motor carriers and private commercial carriers that are statutorily subject to the Commission's safety jurisdiction while they are operating on the public highways of West Virginia.

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 complaint or upon its own motion, or upon the application of any motor carrier. Furthermore, compliance with these rules shall not relieve in any way relieve a motor carrier or private commercial carrier from any of its duties under the laws of this State West Virginia. These rules and regulations are intended to supplement applicable statutes in Chapters 24 and 24A of the West Virginia Code and do not replace or substitute any of the provisions of such statutes.

1.7. Application of rules.

1.7.1a. These rules shall apply to all common or contract motor carriers for hire of passengers or property over the public highways of ~~this State, West Virginia,~~ West Virginia, unless those motor carriers are, under statute, completely otherwise exempt from regulation, by §24A-1-3. If a motor carrier is statutorily only partially exempt from regulation, these rules shall apply to that carrier except to the extent that the carrier is statutorily exempt. Rule 2.3 and other safety rules in this series shall apply to all motor carriers and private commercial carriers that are statutorily subject to the Commission's safety jurisdiction. These rules shall apply to persons and motor vehicles engaged in intrastate and interstate commerce to the extent permitted by the constitutions and laws of West Virginia and of the United States.

1.7.2b. ~~Modification of, or exemption from rules. Waiver of rule.~~ -- If hardship results from the application of any rule herein prescribed, or if unusual difficulty is involved in immediately complying with any rule, an application may be filed with made to the Commission for the modification of the temporary or indefinite waiver of that particular rule; or for temporary exemption from its provisions: ~~Provided, That no~~

application for such ~~modification or exemption waiver~~ shall be considered by the Commission unless there is submitted therewith a full and complete justification for such action.

1.8. Definitions.

1.8.a. ~~Authorized wrecker company~~ means any person who, after properly filing a completed application for a certificate of convenience and necessity to transport motor vehicles by wrecker vehicle for hire, with the appropriate application fee, has received a letter from the Commission's Transportation Division informing the person that he or she has been authorized to transport motor vehicles in wrecker service for hire, over the public highways of West Virginia, between all points and places in West Virginia in intrastate commerce.

1.8.b. ~~Bulky goods~~ means any of the following discarded items: Refrigerators, washing machines, clothes dryers, dishwashers, ovens, stoves, microwave ovens, and other appliances; televisions; air conditioners; furniture; used tires from automobiles, from pickup trucks, from motorcycles, from all-terrain vehicles, and from farm tractors; and other items, not included above, that are at least three (3) feet in length, width, or height or at least fifty (50) pounds in weight, subject to the following exclusions: (a) automotive components, parts, or frames that weigh at least two hundred (200) pounds each; (b) hazardous waste; (c) items that can be easily divided and placed into bags, boxes, or other containers, less than three (3) feet high, long, or wide, that, with contents, weigh less than fifty (50) pounds each; (d) construction and demolition debris generally; and (e) items or materials which cannot be reasonably and conveniently collected during regularly scheduled weekly pickups.

1.8.c. ~~CFR~~ means the Code of Federal Regulations.

1.8.d. ~~Carrier~~ means any person who transports passengers or property, for any commercial purpose, over the public highways of West Virginia by motor vehicle.

1.8.e. ~~Commercial customer of a common carrier by motor vehicle of solid waste~~ generally means any customer, other than a residential customer, with whom a common carrier by motor vehicle of solid waste enters into an agreement to collect and transport solid waste, for compensation that is to be paid by that customer, from property that is owned or controlled by that customer. The term specifically includes a person, such as the landlord of an apartment building, who enters into an agreement or contract with a carrier to collect and transport, for compensation, solid waste that is generated by one or more of the occupants of the real estate that is owned or controlled by

that person. The term generally includes any commercial, industrial, governmental, or institutional entity that enters into an agreement with a carrier for the collection and transportation, for compensation, of solid waste.

1.8.f. ~~§~~Commercial vehicle~~§~~ means any motor vehicle operated over the public highways of West Virginia, for any commercial purpose, in interstate or intrastate commerce, if that motor vehicle is: (a) a motor vehicle with a gross vehicle weight rating of ten thousand one (10,001) pounds or more; (b) a motor vehicle designed to transport more than fifteen (15) passengers, including the driver; or (c) a motor vehicle, of any gross vehicle weight rating, used to transport hazardous materials in a quantity requiring placarding under federal hazardous materials regulations that have been adopted by the Commission.

~~1.8.1. 1.8.g. ~~§~~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.~~

~~1.8.2. 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.~~

~~1.8.3. 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.~~

~~1.8.4. Person — The term "person" means and includes any individual, firm, co partnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee or personal representative thereof.~~

~~1.8.5. 1.8.h. ~~§~~Common carrier by motor vehicle~~§~~ — The term "common carrier by motor vehicle" means any wrecker company or any other 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 West Virginia 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.~~

~~1.8.6. 1.8.i. ~~§~~Contract carrier by motor vehicle~~§~~ —~~

~~The term "contract carrier by motor vehicle" means any person not included in subdivision 1.8.5. 1.8.h. 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 West Virginia by motor vehicles for hire.~~

~~1.8.7. Motor carrier — The term "motor carrier" includes both a common carrier by motor vehicle and a contract carrier by motor vehicle.~~

~~1.8.8. 1.8.j. **Exempt carrier** — The term "exempt carrier" means any person operating motor carrier who transports a motor vehicle exempt from the provisions of Chapter 24A, Code of West Virginia, by Article 1, Section 3, thereof. passengers or property for hire if, and to the extent that, the for-hire transportation of such passengers or property, in at least one (1) of the motor vehicles operated by that motor carrier, has been at least partially exempted, by the provisions of §24A-1-3 of the West Virginia Code, from the provisions of Chapter 24A that would otherwise authorize the Commission to regulate the rates that the carrier could charge to transport those passengers or that property, the territory in which that carrier could provide transportation services to those customers, or the quality of service that the carrier would have to provide to those customers.~~

~~1.8.k. **Gross vehicle weight rating (GVWR)** means the value specified by the manufacturer of a motor vehicle as the loaded weight of that single vehicle or, in the absence of a value specified by that manufacturer, means the total weight of the motor vehicle and any load thereon.~~

~~1.8.l. **Household goods** means property that is used, or that will be used, in a house, apartment, or other dwelling, subject to the following exclusions: (a) property while it is being transported from a factory to a store; (b) property while it is being transported in motor vehicles owned by, and by drivers employed by, the same legal entity that sold that property to a purchaser; (c) property while it is being transported from a factory or store to a dwelling at the request of a member of the household occupying that dwelling if the individual who makes payment to the property carrier for that transportation is not a member or agent of that same household; (d) property while it is being transported to a building or part thereof (such as a warehouse, retail establishment, hospital, or government office building), other than a storage facility for further shipment to a dwelling, that is not a dwelling; (e) property after it has been discarded; and (f) property that does not fall within the definition of **household goods** as set forth in 49 U.S.C. §13102(10).~~

1.8.m. ~~Motor~~ Limousine means a motor vehicle, equipped with at least three (3) doors and with seating capacity, and separate sets of working seatbelts, for at least five (5) passengers, including the driver, in which a passenger or set of passengers is transported at a rate not less than ten dollars (\$10.00) per vehicle trip or vehicle round trip, if that vehicle either (a) is used to transport passengers on a frequent basis between fixed points, such as airports and hotels or motels; or (b) is used as a specialized limousine.

~~1.8.9. 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.~~

~~1.8.10. I.C.C. The letters "I.C.C." mean the Interstate Commerce Commission.~~

~~1.8.11. D.O.T. The letters "D.O.T." mean the United States Department of Transportation, Federal Highway Administration, Bureau of Motor Carrier Safety.~~

~~1.8.12. 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.~~

~~1.8.13. NARUC The letters "NARUC" mean the National Association of Regulatory Utility Commissioners.~~

~~1.8.14. Operations within the borders of this state The term "operations within the borders of this State" means interstate or foreign operations to, from, within or traversing this State.~~

1.8.n. ~~Motor~~ Motor carrier includes both a common carrier by motor vehicle and a contract carrier by motor vehicle. The term ~~motor~~ motor carrier includes both an exempt carrier and a motor carrier who is not an exempt carrier.

1.8.o. ~~Motor~~ 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 West Virginia for the purpose of transporting persons or property.

~~1.8.15. CFR The letters "CFR" mean the Code of Federal Regulations.~~

1.8.p. ~~Person~~ Person means any individual, firm,

partnership, corporation, limited liability company, company, association, or joint-stock association, and includes any trustee, receiver, assignee or personal representative thereof.

~~1.8.16.~~ 1.8.g. ~~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 rules and regulations promulgated by the Commission, for himself or herself, over the public highways of this state, West Virginia, in interstate or intrastate commerce, for any commercial purpose, by any motor vehicle with a gross vehicle weight rating of ten thousand one (10,001) pounds or more; by any motor vehicle designed to transport more than fifteen (15) passengers, including the driver; or by any motor vehicle used to transport hazardous materials in a quantity requiring placarding under federal hazardous materials regulations as that have been adopted by the commission. Commission.

1.8.r. ~~Public highway~~ means any public street, alley, road, highway, or thoroughfare of any kind in West Virginia that is used by the public.

1.8.s. ~~Residential customer of a common carrier by motor vehicle of solid waste~~ means an individual residing within a dwelling with whom a common carrier by motor vehicle of solid waste enters into an agreement to collect and transport, for compensation that is to be paid by that individual, the solid waste generated by that individual and by any other individuals who reside in that dwelling. The term does not include individuals residing in a rented dwelling if the landlord who owns or controls the real estate on which the dwelling is located is a commercial customer of a common carrier by motor vehicle with respect to the rented dwelling.

1.8.t. ~~Solid waste~~ is synonymous with ~~trash, rubbish, and garbage~~ and means and includes any garbage, paper, litter, refuse, cans, and bottles; used tires, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; other discarded material; carcasses of any dead animal or any other offensive or unsightly matter; and solid, liquid, semisolid, or contained liquid or gaseous material resulting from industrial, commercial, mining, or community activities; subject to the following exclusions: (a) leachate, (b) brine and other liquids extracted from wells, (c) solid or dissolved material in sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources and have permits under article five, chapter twenty, of the West Virginia Code, and (d) source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

1.8.u. ~~Special annual assessment~~ means any fee imposed upon a motor carrier and paid to the Commission pursuant to the provisions of §24A-6-6 of the West Virginia Code.

1.8.v. ~~Specialized limousine~~ means a limousine that is either: (a) a luxury vehicle; (b) a vehicle that has seating capacity, and separate sets of working seatbelts, for at least eight (8) passengers; or (c) a vehicle that was operated, and properly registered with the Commission, under a ~~limousine~~ or ~~specialized limousine~~ certificate on or before January 1, 2002.

1.8.w. ~~Specialized multipassenger van service~~ means the transportation, in vans, to and from physicians' offices, clinics, hospitals, and other health-care facilities, of passengers who neither (a) need assistance in entering or exiting the vans nor (b) are expected to require the presence of a trained emergency medical technician during transport.

1.8.x. ~~Taxicab~~ means a motor vehicle, equipped with at least three (3) doors and having a seating capacity and separate sets of working seat belts for at least four (4) passengers, including the driver, that is used to transport a passenger or passengers.

1.8.y. ~~Third-party tow~~ means the tow of a motor vehicle by a wrecker vehicle if that tow is performed without the prior consent or prior authorization of the owner or operator of the towed motor vehicle.

1.8.z. ~~Transport passengers or property for hire~~ means to transport them with the intent, expectation, or likelihood that the person transporting the passengers or property will be compensated for that service or for a service connected with that transportation. A carrier that transports property for hire is compensated for the service of transportation and related services but does not sell that property to the person making payment to that carrier.

1.8.aa. ~~Uniform vehicle identification card~~ means any identification card issued by the Commission to a motor carrier pursuant to the provisions of §24A-6-4 of the West Virginia Code.

1.8.bb. ~~Wrecker company~~ means any person who transports motor vehicles in wrecker service for hire over the public highways of West Virginia.

§150-9-2. Rules and Regulations Governing the Filing and Approval of Surety Bonds, Policies or Certificates of Insurance, Qualifications as a Self-Insurer, and Other Evidence of Financial

Responsibility by Motor Carriers.

2.1. Prohibition of for-hire operations until a motor carrier has filed proper evidence of insurance or other financial responsibility and the filing has been approved by the Commission.

2.1.a. No motor carrier shall operate any motor vehicle upon the highways of West Virginia and no certificate or permit issued by the Commission shall remain in force unless and until the motor carrier has filed with the Commission, and the Commission has approved a surety bond, policy of insurance (or certificate of insurance in lieu thereof), qualifications as a self-insurer, or other securities or agreement in not less than the amounts hereinafter prescribed, conditioned to pay, within the amount of such surety bond, policy or insurance (or certificate of insurance in lieu thereof), qualifications as a self-insurer, or other securities or agreements, any final judgment recovered against such motor carrier for loss or damage to the property of others or for bodily injuries to, or the death of, any person resulting from the negligent operation, maintenance, ownership, or use of motor vehicles that have been operated by that motor carrier, or its employees or agents, in the for-hire transportation of passengers or property.

2.1.b. Private carriers of hazardous materials and hazardous wastes must also comply with the rules with respect to evidence of insurance, self-insurance, or other financial responsibility that are set forth in the federal regulations that have been incorporated by reference in Rule 3.3.a.

2.2. Minimum amounts required for liability for bodily injury or property loss or damage (excluding liability for loss of, or damage to, cargo).

The minimum amounts referred to in Rule 2.1 for liability for bodily injury and for loss of, or damage to, property (excluding liability for loss of, or damage to, cargo) are hereby prescribed as follows:

Kind of equipment	Minimum liability limit for bodily injuries to or death of one (1) person	Minimum liability limit for bodily injuries to, or death of, all persons injured or killed, and for all loss of, or damage to, property of others (excluding cargo), in any one accident
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Passenger equipment (seating capacity):		
15 passengers or less (including driver)	\$ 200,000	\$1,500,000
16 passengers, or more (including driver)	200,000	5,000,000
Freight equipment: All motor vehicles used in the transportation of nonhazardous property	200,000	750,000
Freight equipment: Motor vehicles used in the transportation of hazardous property	Those minimum levels specified in 49 CFR §387.9	Those minimum levels specified in 49 CFR §387.9

2.3 Minimum amounts required for liability for loss of, or damage to, cargo.

2.3.a. The minimum amounts referred to in Rule 2.1 for liability for loss of, or damage to, property (cargo) belonging to consigners (shippers) or consignees (intended recipients of transported property) are hereby prescribed as follows:

Kind of equipment	Minimum liability limit for loss of, or damage to, property (cargo) carried on any one (1) motor vehicle	Minimum liability limit to aggregate loss of, or damage to, property (cargo) carried on one (1) or more motor vehicles for losses and damages occurring at any one (1) time or place
Passenger equipment (seating capacity):		
1 to 15 passengers (including driver)	\$ 15,000	\$ 15,000
16 passengers or more (including driver)	20,000	20,000

Freight equipment: Motor vehicles used in the transportation of nonhazardous property:		
Motor vehicles with a gross vehicle weight rating of less than 10,000 pounds	20,000	20,000
Motor vehicles with a gross vehicle weight rating of 10,000 pounds or more	50,000	100,000

2.4. 2.3.b. The minimum amounts referred to in Rules 2.1 and 2.3 for cargo insurance do not apply to motor vehicles transporting only solid waste or other discarded property that is being transported to a place of disposal.

2.5. 2.4. Motor vehicle combinations.

The following motor vehicle combinations will each be regarded as one motor vehicle for purposes of Rule 2.1: (1) a tractor and trailer or semitrailer when the tractor is engaged solely in drawing the trailer or semitrailer; and (2) a truck and trailer when both together bear a single load.

2.5. Requirement that motor carriers file annual insurance registration forms; exceptions.

2.5.a. On and after July 1, 2002, no motor carrier shall, in any fiscal year, operate any motor vehicle on any public highway in West Virginia in the for-hire transportation of passengers or property unless and until that motor carrier has: (1) filed with the Commission a completed annual insurance registration form; (2) paid the appropriate annual insurance registration fee of \$25.00; (3) filed evidence of proper insurance or financial responsibility that is consistent with Rule 2.1; and (4) received approval from the Commission to operate that motor carrier's motor vehicles during that fiscal year in the for-hire transportation of passengers or property.

2.5.b. The requirements of Rule 2.5 do not apply to motor carriers that have, during the appropriate fiscal year, already applied for, and obtained, at least one (1) uniform vehicle identification card and have paid the special annual assessment imposed pursuant to §§24A-6-4 and 24A-6-6 of the West Virginia Code.

2.5.c. Compliance with the requirements of Rule

2.5.a. does not relieve any motor carrier of any responsibility to comply with the provisions of Chapter 24A of the West Virginia Code that apply to motor carriers that are not exempt carriers.

2.6. Qualifications as a self-insurer; policies and certificates of insurance; other securities and agreements; bonds and insurance policies.

2.6.a. The Commission will give consideration and may approve the application of a motor carrier to qualify as a self-insurer if such carrier furnishes a true and accurate statement of its financial condition and other evidence with will establish, to the satisfaction of the Commission, the ability of such motor carrier to satisfy its obligations for bodily injury liability, property damage liability, or cargo liability without affecting the stability or permanency of the business of such motor carrier. The Commission will also consider applications for approval of other securities or agreements and may approve any such applications if it is satisfied that the securities or agreement offered will adequately protect the public.

2.6.b. Each certificate or policy of insurance or surety bond with corporate or individual sureties filed with the Commission for approval must be for not less than the full limits of liability required under these rules. In each case in which the surety on any such bond is a surety company, such company must be one approved and authorized to do business in this State.

2.6.c. Endorsements for policies of insurance, surety bonds, certificates of insurance and applications to qualify as a self-insurer, or for approval of other securities or agreements, and notices of cancellation must be in the forms prescribed and approved by the Commission.

2.6.d. Certificates of insurance, surety bonds, and notices of cancellation must be filed with the Commission in duplicate. Upon receipt and approval by the Commission, one copy will be stamped "received and approved" and returned to the home office of the insurance or surety company.

2.6.e. Insurance policies and surety bonds shall be written in the full and correct name of the individual, partnership, corporation, or other person to whom the certificate or permit is issued. In case of a partnership, all partners shall be named.

2.6.f. All policies and certificates of insurance filed with this Commission shall denote a definite expiration date. The expiration date shall be at least forty-five (45) days after the date of issuance.

2.6.g. Surety bonds, policies of insurance endorsements or certificates of insurance and other securities and agreements shall not be cancelled until after thirty (30) days' notice in writing from the insurance company, surety or sureties, motor carrier, or other party thereto, as the case may be, has first been given to the Commission at its office in Charleston, West Virginia. The thirty (30) days shall commence from the date such notice is actually received at the office of the Commission.

2.6.h. Motor carriers subject to the jurisdiction of this Commission are hereby required to maintain in effect at all times the security for the protection of the public prescribed by these rules.

2.6.i. Policies of insurance as amended by the endorsements provided by these rules covering bodily injury liability, property damage liability, and cargo liability must be written by insurance companies legally authorized to transact business in this State.

2.6.j. The Commission may, at any time, refuse to accept or may revoke its approval of any surety bond, policy of insurance (or certificate of insurance in lieu thereof), qualification as a self-insurer, or other securities or agreements if, in its judgment, such security does not comply with these rules or, for any reason, fails to provide satisfactory or adequate protection for the public.

~~§150-9-2.~~ ~~§150-9-3.~~ **Rules and Regulations Applicable to All or Some Motor Carriers.**

~~2.1.~~ 3.1. 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.~~ 3.2. Filing of tariffs and rate schedules.

~~2.2.1.~~ 3.2.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 approved by, and filed with, the Commission.

~~2.2.2.~~ 3.2.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 ~~c~~Commission in the "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 thereto that may have been, or may hereinafter be, adopted.

~~2.2.3.~~ 3.2.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.~~ 3.3. Safety rules and regulations; exceptions.

3.3.a. Every motor carrier subject to the Commission's jurisdiction and every private commercial carrier subject to the Commission's safety jurisdiction shall, without regard to whether said carrier is engaged in intrastate or interstate commerce, establish, maintain, and operate said motor carrier's carriers' 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, 180, 325, 350, 382, 383, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, and 399 as amended January 1, 1995 in effect on the effective date of these rules; and in Title 40 CFR part 262 in effect on the effective date of these rules. Copies of said rules and regulations may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

3.3.b. Every commercial vehicle that is operated by any carrier on the public highways of West Virginia, whether engaged in interstate or intrastate commerce, shall be operated in full compliance with the safety rules and regulations listed in the first paragraph of Rule 3.3.

3.3.c. Every motor vehicle of any capacity that is operated in the for-hire transportation of passengers or property by any motor carrier on the public highways of West Virginia, whether engaged in interstate or intrastate commerce, shall be operated in full compliance with the safety rules and regulations listed in the first paragraph of Rule 3.3.

3.3.d. Notwithstanding the provisions of Title 49 CFR part 387, the provisions of Rule 2.1, rather than of Title 49 CFR part 387, shall govern the filings and limits of insurance or other financial responsibility that relate to the intrastate for-hire transportation of passengers upon the public highways of West Virginia and the intrastate for-hire transportation of nonhazardous property upon the public highways of West Virginia. Provided, however, that the provisions of Title 49 CFR part 387 shall govern the limits of insurance or other financial responsibility that relate to the intrastate and interstate transportation of hazardous property upon the public highways of

West Virginia and the interstate transportation of passengers and nonhazardous property upon the public highways of West Virginia to the extent that such transportation is subject to financial responsibility and insurance regulation.

3.3.e. For the purposes of 49 CFR 395.1, which relates to hours of service of drivers, the planting and harvesting season in West Virginia runs from the first day of January through the thirty-first day of December of each calendar year, unless and until the West Virginia Legislature designates a different period for the planting and harvesting season in West Virginia.

~~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.~~

~~2.5.1. 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 on the effective date of these rules.~~

~~2.5.2. Definitions.~~

~~a. 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.~~

~~b. 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.~~

~~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 on the effective date of these rules.~~

3.4. Record maintenance and retention.

3.4.a. Every motor carrier shall maintain and retain adequate records to enable the Commission to ascertain the revenues received by, and the expenditures made by, that carrier with respect to activities over which the Commission has rate jurisdiction. Every motor carrier should also maintain and retain adequate records to enable the Commission to ascertain the revenues received by, and the expenditures made by, that carrier with respect to transportation activities over which the Commission may not have rate jurisdiction. Each current or former motor carrier shall retain the records for a period of at least thirty-six (36) months.

3.4.b. Furthermore, all current and former motor carriers shall retain all federal and state income tax forms and related schedules for at least five (5) years after the conclusion of the tax period to which those forms and schedules relate. In addition, current motor carriers must retain indefinitely any papers relating to the initial articles of incorporation or organization, and amendments thereto, and adequate documentation relating to the acquisition and depreciation of existing assets.

3.4.c. The failure by a motor carrier to maintain and retain adequate records may lead to the Commission's dismissal or denial, in whole or in part, of a request by that motor carrier to increase its rates.

3.4.d. The provisions of Rule 3.4 do not apply to motor carriers insofar as they are exempt carriers.

2-6- 3.5. Applications, documents, and other papers; facsimile filings; electronic filings.

3.5.a. Applications, documents, and other papers shall be filed with the Commission upon the forms prescribed by Section 10- of this Sseries, except that the Commission may accept such other forms of applications, documents, or papers, as the Commission may deem proper, if such applications, documents, or other papers contains the same information required by the prescribed forms. Each such application, document, or paper shall be accompanied by the applicable filing fee required under Rule 2-7- 2.6. If no filing fee is indicated in said rule for the filing of a specific category of application, document, or paper, said the filing may be made free of charge.

3.5.b. For the convenience of an applicant or carrier who prefers not to pay by cash, check, or money order, the Commission may, by general order, establish a surcharge to defray the estimated extra costs of accommodating the particular

payment preferences of that applicant or carrier.

3.5.c. The Commission may, by general order, authorize facsimile filings and electronic filings.

~~2.7.~~ 3.6. Filing fees.

~~2.7.1.~~ 3.6.a. Application for a certificate of convenience and necessity or for a contract-carrier permit or for the amendment of a certificate or the amendment of a permit:—
\$100.00

~~2.7.2. Application for the reinstatement of a suspended certificate or a suspended permit. —\$75.00~~

~~2.7.3.~~ 3.6.b. Application for the transfer of a certificate or a permit. —\$50.00 or for the transfer of several certificates and/or permits from the same transferor or to the same transferee: \$75.00

~~2.7.4. Application for the amendment of a certificate or a permit. —\$75.00~~

~~2.7.5. Application to abandon service under a certificate. —\$15.00~~

~~2.7.6. Application for authority to adopt or change a trade name under a certificate or permit. —\$25.00~~

~~2.7.7. Application for the transfer of several certificates and/or permits. —\$50.00~~

3.6.c. Application for the merger of two (2) or more corporations or limited liability companies holding separate certificates or permits or of a corporation and a limited liability company holding separate certificates and permits: \$100.00

3.6.d. Application for the acquisition of control of a corporation or limited liability company through acquisition of at least 50% of its stock or membership interest: \$100.00

3.6.e. Annual insurance registration application: \$25.00

~~2.8.~~ 3.7. Publication of notice of hearings, of applications, or of petitions.

Notice of a hearings, of an application, or of a petition must be published in accordance with the applicable publication order. setting the matter for hearing. A certificate Each

affidavit of publication of notice of a hearing from the a publisher must be filed with the Commission on or before the day of hearing unless the Commission or Administrative Law Judge specifies a different date. Each affidavit of publication of notice of an application or of a petition must be filed in accordance with the publication order.

2.9. 3.8. Violation of motor vehicle laws as basis for suspension or revocation of operating authority.

The violation by a motor carrier, or its officer or agent, of any law contained in Chapters 17, 17A, 17B, 17C, 17D, or 17E, 24, or 24A of the West Virginia Code, or of any state or federal environmental, health, or income-tax statute or regulation, may, pursuant to the provisions of §24A-2-5(d) and §24A-3-3(d), either as admitted by the motor carrier or as provided in a criminal proceeding, or as admitted by the motor carrier or as proved in a Commission proceeding by a preponderance of the evidence, shall be sufficient cause for the suspension and/or revocation of the authority of any motor carrier operating under the jurisdiction of the Public Service Commission.

2.10. 3.9. Issuance and transfer of Uniform vehicle identification cards or stamps with respect to motor vehicles held by same carrier.

3.9.a. Uniform Vehicle Identification Cards or Stamps vehicle identification cards shall be issued only in the name under which the authority held by an authorized wrecker company, or the certificate or permit held by a motor carrier, as the case may be, a certificate, or permit is held, or under which authority or exempt status from the Interstate Commerce Commission applicable federal agency is held.

2.11. Transfer of cards or stamps.

3.9.b. The transfer of Uniform Vehicle Identification Cards or ICC identification stamps issued by this Commission uniform vehicle identification cards shall be authorized, subject to the following rules, restrictions, and limitations: 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 purchased for the new vehicle at an issuance fee of three dollars (\$3.00). Transfers will be permitted only from one motor vehicle to another motor vehicle owned by the same authorized motor carrier. A uniform vehicle identification card issued for a motor vehicle that has been replaced by a motor 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.

~~2.11.1. 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).~~

~~2.11.2. Transfers will be permitted only from one motor vehicle to another motor vehicle owned by the same authorized carrier.~~

~~2.11.3. 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.~~

~~2.11.4. 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.~~

3.10. Acquisition and surrender of uniform vehicle identification cards by carriers in cases involving the transfer of certificates or permits.

3.10.a. The approved transferees of one (1) or more certificates of convenience and necessity and/or contract-carrier permits shall acquire new uniform vehicle identification cards and pay the special annual assessments prescribed by law within a reasonable time following the issuance of the Commission order approving the transfer of the certificates and/or permits.

3.10.b. A motor carrier that has been authorized to transfer one (1) or more certificates of convenience and necessity and/or contract-carrier permits shall, within a reasonable time following the issuance of the Commission order approving the transfer of the certificates and/or permits, surrender to the Commission all uniform vehicle identification cards of the motor vehicles that it will cease operating if and when the transfer is consummated.

~~2.12.~~ 3.11. Requirement that motor carrier use and display name or authorized trade name; and certificate and/or permit number(s); compliance with applicable statutes relating to trade names; exceptions.

3.11.a. No motor carrier shall use any trade name or any fictitious name unless such that name is has been authorized for such carrier's use by order of the Commission. Except where otherwise provided herein, a motor 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.

3.11.b. No motor carrier shall apply for, or receive authorization from the Commission to use, a trade name that is the same as, or is deceptively similar to, a name or trade name under which the Commission has already authorized another motor carrier to operate, unless the latter carrier has already ceased motor-carrier operations under that name or trade name.

3.11.c. Before requesting authorization from the Commission to use a trade name or assumed name, every individual, sole proprietorship, or general partnership that holds or seeks authority from the Commission to operate as a motor carrier must first comply with the provisions of §47-8-2 of the West Virginia Code and must file a certificate of true name in the office of the clerk of the county commission of the county wherein that motor carrier or applicant for motor-carrier authority maintains its principal place of business.

3.11.d. Before requesting authorization from the Commission to use a trade name or assumed name, every business entity organized as a corporation, limited partnership, limited liability partnership, limited liability company, business trust, or voluntary association that holds or seeks authority from the Commission to operate as a motor carrier must first comply with the provisions of §47-8-4 of the West Virginia Code and must file a certificate of true name in the office of the West Virginia Secretary of State.

3.11.e. The provisions of Rule 3.11.d do not apply to motor carriers insofar as they are exempt carriers.

3.12. Requirement that motor carrier display name or trade name and certificate and/or permit number(s); additional requirement for taxicabs, limousines, and wrecker vehicles; exceptions.

3.12.a. Every motor carrier other than an exempt carrier shall display its authorized trade name (or where no such trade name is authorized, the name in which authority is held)

and (except as to wrecker vehicles) at least one of its certificate or permit numbers on each side of each motor vehicle that the motor carrier operates under its operating authority, subject to the following exclusion: excluding, however, any luxury vehicle that the carrier operates as a limousine. The letters of the carrier's authorized trade name or name in which authority is held shall be not less than three (3) inches in height. Temporary placards may be used for leased equipment subject to this series.

3.12.b. In addition to complying with the requirements set forth in Rule 3.12.a., every common carrier by motor vehicle in the transportation of passengers in taxicab service or limousine service shall, on each side of every taxicab or limousine -- other than a luxury vehicle that is operated in limousine service -- that it operates, display the carrier's name or trade name and the location of its principal place of business, in lettering that is at least three (3) inches in height.

3.12.c. In addition to complying with the requirements set forth in Rule 3.12.a., every common carrier by motor vehicle in the transportation of passengers in taxicab or limousine service shall also conspicuously display its rates on the right side of every taxicab or limousine -- other than a luxury vehicle that is operated in limousine service -- that it operates. Each carrier operating under a Commission-approved taxicab-zone-rate structure shall, in each of its vehicles, also display a map, clearly visible to occupants in the rear of the taxicab, showing the territory served, the various zones, and the applicable fares.

3.12.d. In addition to complying with the requirements set forth in Rule 3.12.a., every wrecker company shall also conspicuously display, on each cab door of every wrecker vehicle that it operates, the wrecker company's name or trade name and the location of its principal place of business, in lettering that is at least three (3) inches in height.

3.13. Requirement that motor carriers and private commercial carriers operating in West Virginia obtain and display on their vehicles a United States Department of Transportation identification number; application forms; additional information to be displayed.

3.13.a. Every motor carrier and every private commercial carrier shall, where applicable, obtain and shall, while operating in intrastate or interstate commerce in West Virginia, conspicuously display -- (a) on each motor vehicle operated for hire; (b) on each motor vehicle, operated for any commercial purpose, with a gross vehicle rating of ten thousand

one (10,001) pounds or more; (c) on each motor vehicle, operated for any commercial purpose, designed to transport more than fifteen (15) passengers, including the driver; and (d) on each motor vehicle used to transport hazardous materials in a quantity requiring placarding under federal hazardous material regulations, as adopted by the Commission -- on the outside of that vehicle, an identification number issued by the United States Department of Transportation or Commission. This requirement is not applicable to companies that do not own or operate any motor vehicles over which the United States Department of Transportation has safety jurisdiction.

3.13.b. The Commission Staff will maintain application forms to enable carriers to apply for United States Department of Transportation identification numbers.

3.13.c. In addition to displaying the identification number issued by the United States Department of Transportation on each of its commercial motor vehicles, a carrier that owns or operates such vehicles shall also display on them any other identifying information or markings required by 49 CFR §390.21.

~~2.13. Acquisition of cards of 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 sixty (60) 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.~~

~~2.14. Surrender of Uniform Vehicle Identification Cards by transferor.~~

~~Uniform Vehicle Identification Cards issued to any carrier that is subsequently authorized to transfer its authority shall be surrendered to the Commission within sixty (60) days after the date of the order authorizing such transfer.~~

~~2.15. 3.14. Resident interstate intrastate motor carriers that also hold federal operating authority.~~

~~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 W.~~

~~Va. Code for the particular capacity of vehicle; and each Every~~ motor carrier, resident or domiciled in West Virginia, operating both interstate, under authority granted to it by the ~~Interstate Commerce Commission~~ appropriate federal agency, and intrastate, under authority granted to it by the 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 of the West Virginia Code 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 operations, both intrastate and interstate, in West Virginia.

~~2.16.~~ 3.15. Interruption of service; exceptions.

In ~~all cases~~ any case of interruption of the regular service of ~~by any motor carrier of passengers, solid waste, or household goods, to which these Rules are applicable, where such in which~~ the interruptions are continued or is likely to continue over a period of for more than forty-eight (48) hours, written notice shall, the motor carrier shall file written notice, within forty-eight (48) hours after the commencement of said interruption, be filed with in the office of the Commission's Executive Secretary of the Commission of the character, cause, and probable duration of the same. that interruption of service. This requirement does not apply to motor carriers insofar as they are exempt carriers.

~~2.17.~~ 3.16. Suspension of certificates and permits because of motor carrier's failure to apply for and obtain ~~Uniform~~ Vehicle ~~Identification~~ Card and to pay special assessment.

~~2.17.1.~~ 3.16.a. Pursuant to the requirements imposed upon motor carriers by ~~W. Va. Code §§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~~ 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.

~~2.17.2.~~ 3.16.b. If, by August 1st of said fiscal year, a motor carrier has ~~still failed to not yet~~ applied for and to obtained at least one (1) ~~Uniform Vehicle Identification Card~~ 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 uniform vehicle identification card or has failed to pay said special annual assessment.

~~2.17.3.~~ 3.16.c. 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 uniform vehicle identification card for, or has failed to pay the special annual assessment for, the fiscal year in which said date falls.

~~2.17.4.~~ 3.16.d. 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 uniform vehicle identification card(s) prior to November 1st of said fiscal year. The Commission may expeditiously lift the suspension of each carrier ~~which~~ that complies with the requirements set forth in said letter.

~~2.17.5.~~ 3.16.e. 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, uniform vehicle identification cards, the Commission may, on its own motion, commence proceedings to revoke all operating authority held by said carrier.

~~2.17.6.~~ 3.16.f. All letters and documents relevant to motor carriers who were suspended on October 1 of a fiscal year in accordance with Rule ~~2.17.3.~~ 3.16.c. 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.

3.16.g. The provisions of Rule 3.16 do not apply to authorized wrecker companies or to motor carriers insofar as they are exempt carriers.

~~2.18.~~ 3.17. Prohibition of unauthorized operations and unauthorized charges, tips, and gratuities by common and contract

carriers; penalties and sanctions.

~~2-18-1.~~ 3.17.a. No common carrier by motor vehicle in the transportation of passengers, household goods, or solid waste shall may operate within this State on the public highways of West Virginia without first having obtained a certificate of convenience and necessity from the Commission.

~~2-18-2.~~ 3.17.b. No common carrier by motor vehicle in the transportation of passengers, household goods, or solid waste shall may operate on the public highways of West Virginia outside the territory ~~or routes~~ set forth in its certificate(s).

~~2-18-3.~~ 3.17.c. No contract carrier by motor vehicle in the transportation of passengers, household goods, or solid waste shall may operate within this State on the public highways of West Virginia without first having obtained a permit from the Commission.

~~2-18-4.~~ 3.17.d. No contract carrier by motor vehicle in the transportation of passengers, household goods, or solid waste shall may operate outside of the territory ~~or routes~~ set forth in its permit(s).

3.17.e. No wrecker company may operate for hire over the public highways of West Virginia without first having obtained a letter of authorization to do so from the Commission's Transportation Division.

~~2-18-5.~~ 3.17.f. No motor carrier in the transportation of passengers, household goods, or solid waste and no wrecker company, as to a third-party tow, shall may charge, demand, collect, or receive a greater or less or difference 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 may any such motor carrier or wrecker company 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.

~~2-18-6.~~ 3.17.g. Any common carrier or contract carrier by motor vehicle in the transportation of passengers, household goods, or solid waste which that operates motor vehicles for hire over the public highways of this State West Virginia 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 Chapter 24 and 24A of the ~~W. Va.~~ West

Virginia Code.

3.17.g. No common carrier by motor vehicle, no contract carrier by motor vehicle, and no officer, employee, or agent thereof, may request, suggest, or solicit the payment of a tip or gratuity for services performed pursuant to a certificate or permit held by that carrier.

3.17.h. The operator of a motor vehicle transporting passengers or property under the authority of a certificate or permit may accept or receive a tip or gratuity offered voluntarily without violating its tariff on file with the Commission.

3.17.i. No motor carrier, and no operator of a motor vehicle operated under the authority of a certificate or permit held by that carrier, may discriminate for or against a member of the public on the basis of a payment, or nonpayment, of a tip or gratuity to an employee or agent of that carrier.

3.17.j. No motor carrier may include in its billing or invoice a tip or gratuity.

3.17.k. A common carrier or contract carrier by motor vehicle may prohibit its employees and agents from receiving or accepting any tip or gratuity for services performed under the authority held by that carrier and may also inform its customers that its employees and agents are prohibited from receiving any tip or gratuity for services performed under the authority held by that carrier.

3.17.l. The provisions of Rule 3.17. do not apply to motor carriers insofar as they are exempt carriers.

~~2-19.~~ 3.18. 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 ~~W. Va.~~ West Virginia Code or by the rules set forth in this §series.

~~2-20.~~ 3.19. Acquisition of stock control of incorporated motor carriers; issuance of stock by incorporated motor carriers; acquisition of control of limited liability companies that are motor carriers; exceptions.

~~2-20-1.~~ 3.19.a. No person shall, before obtaining the Commission's consent and approval to do so, acquire, either directly or indirectly, either fifty percent (50%) of, or a majority of, the common stock of any incorporated common carrier

by motor vehicle or incorporated contract carrier by motor vehicle organized in and doing business in this State. West Virginia.

~~2.20.2.~~ 3.19.b. No incorporated common motor 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,~~ 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 (1) or more of its divisions to the provision of a public service set forth in ~~W. Va. Code §24-2-1 Code 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.c. No person shall, before obtaining the Commission's consent and approval to do so, acquire, either directly or indirectly, at least fifty percent (50%) of, or a majority of, the membership interest of any limited liability company, organized in, and doing business in, West Virginia, that is operating as a motor carrier in West Virginia.

3.19.d. The provisions of Rule 3.19. do not apply to an individual who is acquiring control of a wrecker company that does not perform third-party tows.

3.19.e. Any individual or other person that has, after July 1, 2002, acquired control of a wrecker company -- through the acquisition of at least fifty percent (50%) of its corporate stock, if the wrecker company is a corporation organized and doing business in West Virginia, or through the acquisition of at least fifty percent (50%) of its membership interest, if the wrecker company is a limited liability company organized and doing business in West Virginia -- shall, within thirty (30) days after the acquisition of control, file a letter, with the office of the Executive Secretary of the Commission, explaining the specifics of that acquisition. The letter shall set forth the name of, address of, and telephone number of, and percentage of ownership interest held by, each former and present holder of at least ten percent (10%) of the stock or membership interest, as the case may be.

~~2.21.~~ 3.20. Consummation of transfer of certificates and permits.

~~2.21.1.~~ 3.20.a. 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 the date upon which it was consummated.

~~2.21.2.~~ 3.20.b. 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.

~~2.22.~~ 3.21. Descriptions of operating authority in applications and orders.

~~2.22.1.~~ 3.21.a. 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 route along which, the holder of said certificate or permit proposes to operate.

~~2.22.2.~~ 3.21.b. 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.

~~2.22.3.~~ 3.21.c. With the exceptions 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 Division 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 Division of Highways.

~~2.22.4.~~ 3.21.d. No reference to unincorporated communities shall be made in certificates or permits issued by the Commission.

~~2.22.5.~~ 3.21.e. 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 Division of Highways applicable to said routes, with said routes visibly marked on said maps.

~~2.22.6.~~ 3.21.f. 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.

~~2.23.~~ 3.22. Rates, fares, and charges by common carriers and contract carriers by motor vehicle.

~~2.23.1.~~ 3.22.a. Every common carrier by motor vehicle and every contract carrier by motor vehicle shall file tariffs reflecting the rates, fares, and charges approved by the Commission for said carriers.

~~2.23.2.~~ 3.22.b. No contract carrier by motor vehicle 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 by motor vehicle 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 by motor vehicle is authorized to operate.

~~2.24.~~ 3.23. Mandatory transfer of certificate or permit after death of holder(s).

Within three (3) years after the death of one (1) 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.

~~2.25.~~ 3.24. Inspection and examination of land, buildings, equipment, records, and papers of motor carriers, and private commercial 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 private commercial carriers and to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of such carriers. Every motor carrier and every private commercial carrier shall submit ~~its~~ their accounts, books, records, memoranda, correspondence, and other documents for inspection and copying, and shall submit ~~its~~ their lands, buildings, and equipment for examination and inspection, to any employee of the Commission

upon the oral or written request of such employee.

3.25. Requirement that drivers and helpers of motor carriers be employees thereof; exceptions.

3.25.a. All motor-carrier services provided by a motor carrier to the public must be fully subject to the right of the motor carrier to control and supervise the individual workers who are actually providing those services to the public.

3.25.b. Every driver and every helper who receive compensation for services provided to the public under the name or trade name of a motor carrier or under the color of operating authority issued to a motor carrier by the Commission must be employees of that motor carrier.

3.25.c. Every motor carrier is prohibited from using independent contractors to operate its motor vehicles in the transportation of passengers and property and from using independent contractors to operate as helpers in the transportation of motor vehicles, household goods, and solid waste.

3.25.d. Every motor carrier shall comply fully with applicable laws and regulations relating to income taxes, Social Security, Medicare, workers compensation, and unemployment compensation.

3.25.e. The provisions of Rule 3.25. do not apply to motor carriers insofar as they are exempt carriers.

3.26. Prohibition on use and possession of radar detectors in commercial vehicles; seizure; destruction of radar detectors as contraband.

3.26.a. No person may, while operating a commercial motor vehicle on the public highways of West Virginia, use a radar detector.

3.26.b. No person may, while operating a commercial vehicle on the public highways of West Virginia possess a radar detector. Provided, however, that this prohibition does not apply to a radar detector that both is (a) transported outside the driver's compartment of the commercial vehicle and (b) is completely inaccessible to, inoperable by, and imperceptible to the driver while he or she is operating the commercial motor vehicle. For the purpose of this provision, the driver's compartment of a passenger-carrying commercial motor vehicle shall include all space designed to accommodate the driver and/or the passengers.

3.26.c. Enforcement officers of the Commission may seize, as evidence and/or contraband, any radar detector that is used or possessed in violation of Rule 3.26.

3.26.d. Upon order of the Commission, after notice has been given to the operator of, owner of, and, where applicable, the lessee of, a motor vehicle in which a radar detector was used or possessed in violation of the first paragraph of Rule 3.26., the radar detector may be destroyed as contraband.

3.27. Prohibition of application for, or acquisition of, operating authority by public entity.

After July 1, 2002, no county commission, municipality, county or regional solid waste authority, or any other public entity shall apply for, or be issued, a certificate of convenience and necessity or contract-carrier permit.

3.28. Requirement that motor carriers inform customers of regulatory jurisdiction of Commission.

Every bill or invoice issued by, or on behalf of, a motor carrier of passengers in limousine service or taxicab service, or by, or on behalf of, a motor carrier of household goods or solid waste, must include the following words in bold capital letters:

THE RATES, TERRITORY, QUALITY OF SERVICE, INSURANCE, SAFETY, AND PRACTICES OF THIS AND OTHER COMPANIES THAT TRANSPORT PASSENGERS IN LIMOUSINE OR TAXICAB SERVICE, FOR COMPENSATION, OR THAT TRANSPORT HOUSEHOLD GOODS OR SOLID WASTE, FOR COMPENSATION, ARE REGULATED BY THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA. IF YOU FEEL THAT YOU HAVE BEEN CHARGED OR TREATED UNFAIRLY, YOU MAY COMPLAIN TO THAT AGENCY AT THE FOLLOWING ADDRESS: EXECUTIVE SECRETARY, PUBLIC SERVICE COMMISSION OF WEST VIRGINIA, P. O. BOX 812, CHARLESTON, WV 25323 OR BY CALLING 1 (800) 247-8789.

~~§150-9-3. Rules and regulations applicable to particular carriers.~~

~~3.1. Exempt carriers.~~

~~An intrastate carrier that is exempt by the provisions of §24A-1-3 will be issued a certificate of exemption upon presentation of proof that such carrier operates exclusively in the transportation of an exempt commodity.~~

~~3.2. 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:~~

~~3.2.1. A certificate authorizes operations only under the name in which it is issued.~~

~~3.2.2. 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:~~

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

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

~~3.2.3. The term "special facilities," as used in paragraph 3.2.2.b. of this Rule, 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.~~

~~3.2.4. 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.~~

~~3.3. 3.29. Binding estimates by common carriers by motor vehicle of household goods.~~

~~3.3.1. 3.29.a.~~ Upon a request filed by ~~a shipper,~~
the individual who is to pay for the transportation of household
goods (the customer), every common carrier by motor vehicle of
household goods shall provide a binding estimate for
transportation and related services furnished by said carrier in
accordance with the following criteria:

~~a1.~~ Every binding estimate must be in writing and
must be signed by representatives of both the ~~shipper~~ customer
and the carrier;

~~b2.~~ 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~~ customer;

~~c3.~~ 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;

~~d4.~~ Any binding estimate may be revised, through
the written, mutual agreement of the ~~shipper~~ customer 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

~~e5.~~ 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~~
customer.

~~3.3.2. 3.29.b.~~ Provided, however, that upon a request
by the ~~shipper,~~ customer, 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~~ customer and the carrier, and shall be effective
for the same period as the binding estimate.

~~3.4. Binding estimates by carriers of mobile or modular
homes.~~

~~3.4.1. Upon a request filed by a customer, every
common carrier of mobile or modular homes shall provide a binding
estimate for transportation and related services furnished by
said carrier in accordance with the following criteria:~~

~~a. Every such binding estimate must be in writing and must be signed by a representative of both the customer and the carrier.~~

~~b. Every such 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 customer.~~

~~c. Every such binding estimate is limited to the origin, destination and other services specified therein, which shall include, but not be limited to, the cost of trip permits, bulldozer service, wrecker service, tolls, and flag vehicles.~~

~~d. Any such binding estimate may be revised, through written mutual agreement of the customer 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.~~

~~e. Prior to moving the home, the carrier may revise the binding estimate if the origin, destination, and/or any part thereof, have been added, changed or deleted by the customer.~~

~~3.4.2. Provided, however, that the provisions of this rule shall not apply to expenses for labor and materials resulting from mechanical failure in the customer's equipment. Such expenses and delays shall be borne by the customer unless otherwise agreed by the parties in writing.~~

~~3.5. Printed invoice by carrier of mobile or modular homes required.~~

~~Except for charges made pursuant to binding estimates in compliance with Rule 3.4., no charge shall be made by a carrier of mobile or modular homes to a customer for the transportation of mobile or modular homes or for any services incidental to such service unless such charge is upon a printed, sequentially numbered invoice executed in duplicate. One such copy of the invoice shall be presented to said customer prior to payment. A copy of each invoice shall be retained by the carrier for a period of at least two (2) years after the last date of service by the carrier to the customer. The following information, but no other information, shall appear on the invoice:~~

~~3.5.1. The name, trade name or logo, if any, of the carrier and the address of its base of operation.~~

~~3.5.2. The date and time the request for service was~~

~~received and the name, address, and telephone number of the customer.~~

~~3.5.3. The date, time, and place of departure of the carrier's vehicle.~~

~~3.5.4. The place from which the mobile or modular home was transported.~~

~~3.5.5. The date and time that the carrier's vehicle arrived at the place where the mobile or modular home was located.~~

~~3.5.6. The place to which the mobile or modular home was transported and the time that it arrived there.~~

~~3.5.7. The date and time that the carrier's vehicle returned to the base of operations or was dispatched pursuant to the next call, whichever came first.~~

~~3.5.8. A description of the mobile or modular home, including, but not limited to, its length, width, brand name, and serial number.~~

~~3.5.9. An itemization of the charges for connection, transportation, and any other services rendered pursuant to the carrier's tariff.~~

~~3.5.10. The rates and charges in the carrier's tariff on file with the Commission (which may appear on the back of the invoice if referenced on the front in bold letters).~~

~~3.5.11. The following words which must appear on the front of the invoice in bold capital letters:~~

~~THE RATES AND CHARGES FOR THE TRANSPORTATION OF MOBILE AND MODULAR HOMES, AND FOR SERVICES INCIDENTAL THERETO, ARE REGULATED BY THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA. IF YOU FEEL THAT YOU HAVE BEEN CHARGED UNFAIRLY, YOU MAY COMPLAIN TO THAT AGENCY.~~

~~a. A line for the signature of the customer, if he or she was available before, while, or after the vehicle was moved.~~

~~§150-9-3. §150-9-4. Rules and Regulations Applicable to Particular Motor Carriers Transporting Passengers.~~

~~4.1. Transportation of property by motor carriers of passengers.~~

A motor carrier authorized to transport passengers may also transport property if the transportation of property is performed in a safe and lawful manner.

~~§150-9-4. Rules and regulations applicable to motor carriers 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 (bus) 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.~~

~~4.4.1. Carriers subject to the provisions 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 newspaper, 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 series (M.C. Form 39).~~

~~4.4.2. 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 not later than seven (7) days prior to the effective date of said revised schedule.~~

~~4.4.3. The Commission may, in its discretion and for good cause shown, by order allow such revision upon less time than the notices herein specified.~~

~~4.4.4. 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.~~

~~4.4.5. 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.~~

~~4.5.1. Intercity bus carriers subject to the provisions 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.~~

~~4.5.2. 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 east seven (7) days prior to the effective date.~~

~~4.5.3. 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.~~

~~4.5.4. Such revised time schedules shall be 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.~~

~~4.5.5. The Commission may, in its discretion and for good cause shown, by order allow such revision upon less time than the notices herein specified.~~

~~4.5.6. 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.~~

~~4.5.7. The provisions of this rule shall apply to all time schedule changes except those involving the discontinuance of trips for which authority has been ranted for a specified period of time.~~

~~4.6. Reserve equipment.~~

~~Carriers subject to the provisions 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 this section is applicable which is operated over a regular route 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.~~ 4.2. Safety and Sanitation in vehicles in which passengers are transported.

All motor vehicles to in which this section is applicable passengers are being transported in intrastate common or contract carriage in West Virginia 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 this section is applicable shall not converse with passengers or others while the vehicle is in motion, except as may be necessary in his or her employment as operator.~~

~~4.10. Transportation of property.~~

~~Common carriers of passengers by motor vehicle for hire operating over regular routes 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.~~

~~4.11.1. 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.~~

~~4.11.2. 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.~~

~~4.11.3. 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.~~

~~4.11.4. Origin Territory — Any common carrier of passengers by motor vehicle subject to this section 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;~~

~~c. 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.~~

~~4.11.5. Destination Territory — Common carriers of passengers by motor vehicle subject to this section 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 paragraph 4.11.4. of this Rule except on return movement of the same special or charter party as provided herein.~~

~~4.11.6. Limitations of Service — No common carrier of passengers by motor vehicle subject to this section 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.~~

~~§150-9-5. Rules and Regulations Applicable To Motor Carriers 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.~~

~~5.1.1. A "taxicab" is a vehicle equipped with at least three (3) 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.~~

~~5.1.2. A "limousine" is a vehicle, equipped with at least three (3) 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. to transport a passenger or passengers in specialized limousine service.~~

~~5.1.3. "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.~~

~~5.1.4. 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.~~

~~5.1.5. 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.~~

~~5.1.6. A taxicab or limousine may be used for the transportation of property to the extent permitted by Rule 5.12.~~

~~5.2. 4.3. One party operation. Use of taxicab by several different passengers at the same time.~~

~~4.3.a. When a person or persons an individual or individuals engage a taxicab for transportation under the zone or mileage rates fixed by approved tariffs, no other person, or persons, individual, or individuals, 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 the original passenger because of the refusal of such person that individual 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.~~

4.3.b. If several individuals who have boarded a taxicab at one location choose to be transported to a single common destination, the driver of the taxicab shall charge them at rates fixed by the applicable tariff as if they are all members of the same party unless they are unwilling to agree on how to apportion the fare among themselves. If they are unable to agree on how to apportion the fare, the taxicab driver shall still charge the same total fare as if they are all members of the same party but shall apportion the fare equally among those individuals.

4.3.c. If several individuals who have boarded a taxicab at one location choose to be transported to different destinations, the driver shall, for each separate destination, charge the individual or individuals leaving the taxicab at that destination as if that individual or those individuals were the only passenger or passengers in the taxicab.

~~5.3.~~ 4.4. Stopovers. Taxicab stopovers.

When two (2) 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, her, or their destination. This provision may be waived upon the consent of the affected passengers.

~~5.4.~~ 4.5. Refusal of transportation. Service by taxicabs in entire operating territory.

4.5.a. No person, or persons, individual shall be denied taxicab service merely because such person he or she desires transportation in a direction or to a destination other than that in which, or to which, the taxicab driver desires to operate. This prohibition does not apply to a proposed trip that a common carrier by motor vehicle in the transportation of passengers in taxicab service lacks operating authority to make.

4.5.b. A common carrier by motor vehicle in the transportation of passengers in taxicab or limousine service shall not direct or permit any taxicab driver or limousine driver to limit transportation of passengers from any specific area of origination to any specific destination or territory other than

the complete territory authorized under that carrier's certificate(s).

4.5.c. For trips in which the destination is estimated to be more than ten (10) road miles from the point of origination, the driver of a taxicab may, prior to commencing the trip, require that the passenger or passengers advance the driver up to one half of the total estimated charge for that trip.

~~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. 4.6. Unauthorized persons within taxicabs.~~

No person individual other than the driver shall be allowed within any taxicab unless such person that other individual 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. 4.7. Responsibility for servicing and maintenance.~~

The holder of a certificate authorizing operation in taxicab 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 ~~5-8-1. 4.8.~~ 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 ~~5-8-1. 4.8.~~ and P.S.C. W.Va. M.C. Form No. 55.

~~5.8. 4.8. Taxicab leasing; leased equipment.~~

~~5-8-1. 4.8.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.

~~5-8-2. 4.8.b.~~ The holder of a certificate authorizing operation in taxicab service may lease from another person (the lessor) 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 subject to this section 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 this section 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. Marketing equipment.~~

~~On every motor vehicle subject to this section there shall be a sign on each side displaying the name or trade name of the motor carrier and the city or town from which such carrier is authorized to operate under its certificate. Every motor carrier subject to this section shall also comply with Rule 2.12. Rule 5.11. may be waived for good cause shown in the case of specialized limousine service.~~

~~5.12. Transportation of property.~~

~~Common carriers by motor vehicle of passengers in taxicab or limousine service are permitted to transport packages, food, and other items of personal property which may be conveniently and reasonably transported by taxicabs or limousines. 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. 4.9. Inspection facilities.~~

~~Every motor carrier subject to regulation under this section authorized to transport passengers shall provide sufficient facilities and assistance to Transportation Division Commission personnel for the purpose of conducting vehicle safety inspections. Such facilities shall include the use of a lift and floor jack.~~

~~5.14. 4.10. Twenty-four (24) hour service.~~

A common carrier by motor vehicle of passengers in taxicab service shall provide service to the public twenty-four (24) hours per day, seven (7) days per week, unless this requirement is expressly waived by the Commission.

~~5.15.~~ 4.11. Taxicab metering.

Every motor common carrier by motor vehicle of passengers by in taxicab service shall be required to equip each motor 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.~~ 4.12. Taxicab and limousine inspection.

Every vehicle registered by a motor carrier of passengers by taxicab or limousine 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.

4.13. Requirement that limousines and taxicabs have working seatbelts for driver and all passengers.

Every limousine and every taxicab must have working seatbelts for the driver and for all other individuals who are being transported in the limousine or taxicab.

4.14. Requirement that common carriers by motor vehicle operate motor vehicles as buses, limousines, or taxicabs.

4.14.a. Any applicant for common carrier authority to transport passengers must, in a single application, apply to do one of three (3) things: (1) transport passengers in bus service, (2) transport passengers in limousine service, or (3) transport passengers in taxicab service.

4.14.b. If a certificate authorizing a common carrier by motor vehicle to transport passengers does not indicate a specific type of service (bus, limousine, or taxicab), that certificate shall, after January 1, 2003, be interpreted to authorize its holder to transport passengers in limousine service. After January 1, 2003, the holder of that certificate must comply with the rules in this series that apply to limousine service.

\$150-9-5. Rules and Regulations Applicable to Motor Carriers Transporting Used Tires.

5.1. Requirement that motor carriers of used tires register with Commission before transporting used tires; responsibility of solid-waste carriers to transport used tires from residential households.

5.1.a. No person shall transport used tires, for hire, over the public highways of West Virginia, in intrastate or interstate commerce, from a point or place located within West Virginia, without first having registered with the Commission to do so. Persons who have already registered vehicles to operate in intrastate commerce pursuant to common-carrier certificates or contract-carrier permits shall not be required to register again under this rule.

5.1.b. The Commission Staff shall maintain forms to enable for-hire carriers of used tires to register with the Commission. (See P.S.C. W.Va. M.C. Form No. 65)

5.1.c. The registration by a carrier of used tires under Rule 5.1. does not relieve that carrier of any duty to apply for, and obtain, operating authority from the Commission to transport used tires for hire in trips over which the Commission has economic jurisdiction.

5.1.d. Common carriers by motor vehicle in the transportation of solid waste in residential service are required to transport used tires and other bulky goods from residential households in accordance with the provisions of Rule 7.6.

~~§150-9-5. Rules and Regulations Applicable To Motor Carriers Transporting Passengers And Property In Taxicab or Limousine Service.~~

~~§150-9-6. Rules and Regulations Applicable To Motor Carriers Transporting Wrecked And/Or Disabled Motor Vehicles (Wreckers)- Wrecker Companies.~~

~~6.1. Printed invoice required.~~

6.1. Prohibition of for-hire third-party towing by unauthorized wrecker company.

No wrecker company, other than an authorized wrecker company, shall transport motor vehicles for hire, by wrecker truck.

6.2. Authorization and printed invoice required for third-party tow; necessary information; period for retention of records.

6.2.a. No wrecker company, other than an authorized

wrecker company, may charge for wrecker service, or for services incidental to wrecker service.

6.2.b. No wrecker company may charge for wrecker service, or for services incidental to wrecker service, with respect to a third-party tow, unless the proposed charge is upon a printed invoice executed in duplicate.

6.2.c. One copy of the invoice for wrecker service shall, prior to payment, be presented to the individual who makes payment for such wrecker service.

6.2.d. The wrecker company shall retain a copy of each invoice for wrecker service with respect to a third-party tow for a period of at least three (3) years after the last date of service by the wrecker company with respect to that third-party tow.

6.2.e. The wrecker company shall include the following information on every invoice with respect to a third-party tow:

1. the name, trade name, if any, address, and telephone number of the wrecker company;

2. the date and time that the request for service was received and the full name, address, and telephone number of the individual who requested the wrecker service;

3. the name, address, and telephone number of the owner of the towed vehicle;

4. the license plate number of, and the date, time, and place of departure of, the wrecker vehicle;

5. the place from which the vehicle to be towed was transported;

6. the date and time that the wrecker vehicle arrived at the place where the vehicle to be towed was located;

7. the place to which the towed vehicle was transported and the time that it arrived there;

8. the date and time that the wrecker vehicle returned to the base of operations or was dispatched pursuant to the next call, whichever came first;

9. the make and license plate number of the towed vehicle;

10. an itemization of the charges for towing, storage time, or any other service rendered pursuant to the wrecker company's tariff;

11. a schedule including the Commission-approved rates and charges in the wrecker company's tariff on file with respect to third-party tows (which schedule may appear on a subsequent page, or back of a page, if referenced on the front page in bold letters);

A. the following words which must appear on the front of the invoice in bold capital letters:

THE RATES AND CHARGES FOR THIRD-PARTY-TOW WRECKER SERVICE, AND FOR SERVICES INCIDENTAL THERETO, ARE REGULATED BY THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA. IF YOU FEEL THAT YOU HAVE BEEN CHARGED UNFAIRLY, YOU MAY COMPLAIN TO THAT AGENCY AT THE FOLLOWING ADDRESS: EXECUTIVE SECRETARY, PUBLIC SERVICE COMMISSION OF WEST VIRGINIA, P. O. BOX 812, CHARLESTON, WV 25323.

12. a line for the signature of the individual who requested the service if he or she was available before, while, or after the vehicle was towed;

13. a line for the name and signature of the individual paying for the service; and

14. any additional information used by the wrecker company to identify the vehicle, driver, or customer more specifically.

~~No charge shall be made to a customer for wrecker service or services incidental to wrecker service unless such charge is upon a printed, sequentially numbered invoice executed in duplicate. One such copy of the invoice shall be presented to said customer prior to payment. A copy of each invoice shall be retained by the carrier for a period of at least two (2) years after the last date of service by the carrier to the customer. The following information, but no other information, shall appear on the invoice:~~

~~6.1.1. The name, trade name or logo, if any, of the carrier and the address of its base of operation.~~

~~6.1.2. The date and time the request for service was received and the name, address and telephone number of the party requesting wrecker service.~~

~~6.1.3. The name, address and telephone number of the~~

~~owner of lessee of the towed vehicle.~~

~~6.1.4. The license plate number of, and the date, time, and place of departure of, the wrecker.~~

~~6.1.5. The place from which the towed vehicle was transported.~~

~~6.1.6. The date and time that the wrecker arrived at the place where the towed vehicle was located.~~

~~6.1.7. The place to which the towed vehicle was transported and the time that it arrived there.~~

~~6.1.8. The date and time that the wrecker returned to the base of operations or was dispatched pursuant to the next call, whichever came first.~~

~~6.1.9. The make and license plate number of the towed vehicle.~~

~~6.1.10. An itemization of the charges for towing, storage time, or any other service rendered pursuant to the carrier's tariff.~~

~~6.1.11. The rates and charges in the carrier's tariff on file with the Commission (which may appear on the back of the invoice if referenced on the front in bold letters).~~

~~a. The following words which must appear on the front of the invoice in bold capital letters:~~

~~**THE RATES AND CHARGES FOR WRECKER SERVICE, AND FOR SERVICES INCIDENTAL THERETO, ARE REGULATED BY THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA. IF YOU FEEL THAT YOU HAVE BEEN CHARGED UNFAIRLY, YOU MAY COMPLAINT TO THAT AGENCY.**~~

~~6.1.12. A line for the signature of the customer or person requesting service if he or she was available before, while, or after the vehicle was towed.~~

~~6.1.13. Any additional information required by the carrier to identify the vehicle, driver, or customer more specifically.~~

~~6.2. 6.3. Charge for capacity required. Prohibition on charging for use of vehicle of unnecessary capacity.~~

In no case shall the charge for a wrecker vehicle used in a third-party tow be greater than the charge for a wrecker vehicle of the capacity needed to perform the service.

~~6.3.~~ 6.4. Storage charge.

No charge shall be made ~~to a customer~~ for storage service ancillary incidental to towing a third-party tow, unless the carrier wrecker company has complied with Rule ~~6-10.~~ 6.9. and has, prior to the storage of the vehicle in question, filed with the Commission the lawful rates and charges for such service. Charges for "inside storage" with respect to a third-party tow shall be assessed pursuant to the ~~carrier's wrecker company's~~ carrier's wrecker company's tariff and shall be assessed only if ~~a customer's~~ the towed vehicle has been stored inside a roofed building. ~~All~~ For third-party tows, all other storage shall be considered "outside storage". All such inside storage and all such outside storage shall comply with the provisions of Rule ~~6-10~~ 6.9.

~~6.4.~~ 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 used by a wrecker company must be equipped with a revolving or strobe flashing lighted lamp visible under normal atmospheric conditions from a distance of five-hundred (500) 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 West Virginia Division 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 used by a wrecker company must carry a broom and shovel and the driver of and/or helper of on the wrecker vehicle shall, when servicing a wreck leaving debris upon the highway, cleanup up and remove that debris upon the highway that ~~is susceptible to being~~ can be removed by a broom and shovel.

6.7. Special equipment.

Every wrecker vehicle used by a wrecker company ~~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; (e) safety flares; and (f) safety triangles.

~~6.7.1. Fire axe, or single bitted axe and crowbar;~~

~~6.7.2. First aid kit complying with Title 49 CFR §393.96(c) as amended;~~

~~6.7.3. Fire extinguisher (charged);~~

~~6.7.4. Chock blocks; and~~

~~6.7.5. Safety flares and safety triangles.~~

~~6.8. Twenty four (24) hour service.~~

~~A common carrier by motor vehicle of wrecked and/or disabled motor vehicles shall provide service twenty four (24) hours per day, seven (7) days per week unless this requirement is expressly waived by the Commission.~~

~~6.9.~~ 6.8. Type of wrecker equipment.

Every motor carrier wrecker vehicle operated by a wrecker company engaged in the business of towing of wrecked or disabled motor vehicles shall meet the following specifications, unless said specifications are expressly waived by the Commission:

~~6.9.1.~~ 6.8.a. One (1) Tton wrecker vehicle.

a1. 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.

b2. At least 100 feet (with a tolerance of twenty-five percent [25%]) of 3/8" diameter cable attached to the wrecker winch.

c3. 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~~ 6.8.

~~6.9.2.~~ 6.8.b. Two (2) ton wrecker vehicle.

a1. 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~~ manufacturer's capacity rating of at least ten (10) tons.

b₂. At least 100 feet (with a tolerance of twenty-five percent [25%]) of 7/16" diameter cable attached to each wrecker winch.

c₃. A tow sling which must be commercially manufactured and designed to prevent damage to vehicle.

~~6.9.3.~~ 6.8.c. Three (3) ton wrecker vehicle.

a₁. A truck chassis with a ~~manufacturer's~~ 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~~ manufacturer's capacity rating of at least twenty (20) tons.

b₂. At least 200 feet (with a tolerance of twenty-five percent [25%]) of cable, on each winch, at least 9/16" in diameter.

c₃. Airbases designed to lock the rear wheels automatically upon failure, and to supply air to disabled vehicles.

d₄. A tow sling which must be commercially manufactured and designed to prevent damage to vehicle.

~~6.9.4.~~ 6.8.d. ~~Slide back carrier (light).~~ Rollback wrecker vehicle (light).

a₁. 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 a minimum length of 17 feet.

b₂. One (1) hydraulic winch of not less than four (4) tons capacity.

c₃. A minimum of 30 feet of 3/8" diameter cable.

~~6.9.5.~~ 6.8.e. ~~Slide back carrier (heavy).~~ Rollback wrecker vehicle (heavy).

a₁. A truck chassis with a manufacturer's rated capacity of at least fifteen thousand (15,000) 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 rating of at least six (6) tons and a minimum length of 18 feet.

b2. Fifty (50) feet of 3/8" diameter cable.

~~6.10. Storage places for towed vehicles.~~

6.9. Storage facilities for motor vehicles transported in third-party tows by wrecker companies.

6.9.a. Any authorization by the Commission of a wrecker company to transport motor vehicles for hire shall in no way diminish the wrecker company'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 retains some jurisdiction over the towing of wrecked vehicles shall not in any way diminish the authority of the West Virginia Division 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 companies.

~~6.10.1. 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 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.~~

~~6.10.2.~~ 6.9.b. No wrecker operator company shall store, or deliver to a place of storage, any towed motor vehicle or part thereof that has been transported thereto pursuant to a third-party tow unless the place of storage is either:

a1. a structure fully enclosed by walls and a roof;

b2. a salvage yard duly licensed by the Commissioner of Highways, pursuant to §17-23-3 of the West Virginia Code; or

e3. a facility which is completely enclosed by a fence, or other suitable barrier, which is both:

A. reasonably capable of preventing the theft of the stored vehicles or parts thereof; and

B. at least eight (8) feet in height.

~~6-10-3.~~ 6.9.c. A wrecker operator company shall not, with respect to a third-party tow, 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:

a1. a structure fully enclosed by walls and a roof;

b2. a salvage yard which has been both:

A. issued a license by the Commissioner of Highways, pursuant to §17-13-3 of the West Virginia Code; and

B. issued a salvage-yard permit by the county planning commission or other appropriate county agency having jurisdiction over the place of storage; or

e3. 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 ~~6-10-4.~~ 6.8.d. of this Rule.

~~6-10-4.~~ 6.9.d. A wrecker operator company may temporarily store a junked, dismantled, or totally wrecked motor vehicle, or part thereof, in a facility owned by that operator if:

a1. the facility is completely enclosed by a fence, or other suitable barrier, which is both:

A. reasonably capable of preventing the theft of the stored vehicle or part thereof; and

B. at least eight (8) feet in height;

b2. that vehicle, or part thereof, is both:

A. stored at least twenty (20) feet from the paved section of the nearest street, road, or highway; and

B. completely secluded from view from any

and all nearby points off the premises, or completely covered by some form of opaque material; and

c3. no more than three (3) such vehicles are stored at the same time at the same facility.

~~6.10.5.~~ 6.9.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, company, which must then either:

a1. demonstrate that the vehicle is reasonably capable of being returned to an operable condition; or

b2. ensure that the vehicle is stored at one of the places of storage described in paragraph ~~6.10.3.~~ 6.9.c. of this section.

6.10. Prohibition on temporarily leaving or parking towed vehicles next to public highway; exception.

6.10.a. Except as provided in Rule 6.10.b., no wrecker company shall, even temporarily, leave or park a towed motor vehicle, or portion thereof, within twenty (20) feet of the nearest section of paved public highway unless the towed motor vehicle, or portion thereof, is separated from the public highway by a fence, guardrail, or other physical barrier that would prevent a motor vehicle traveling along the public highway from colliding with the parked towed vehicle, or portion thereof.

6.10.b. The prohibitions in this rule shall not apply to the placement of motor vehicles, or portions thereof, within one-half mile of the scene of an accident or of a traffic blockage involving those motor vehicles. Provided, however, that the wrecker company or companies involved in making such placement shall transport such motor vehicles, or portions thereof, to an appropriate storage facility or other appropriate destination as soon as is practicable after the accident scene has been cleared or the traffic blockage has been eliminated.

6.11. Prohibition on transporting towed vehicle without conspicuous illumination.

In addition to complying with safety rules that have been promulgated by the United States Department of Transportation and incorporated by reference in Rule 2.3., every wrecker company that tows a motor vehicle must ensure that the illumination of the rear part of the towed vehicle is conspicuous and bright

enough to alert nearby motorists of the location of the end of the vehicle that is being towed. To accomplish this, the wrecker company shall, where appropriate, use conspicuous reflectors.

~~6.11. Wheel lift or roll back wrecker service.~~

~~Wheel lift or roll back wrecker service shall be provided by the carrier and charged to the customer only if either:~~

~~6.11.1. the customer or a law enforcement agency has requested such service and has affixed a signature to the applicable invoice; or~~

~~6.11.2. a recognized industry publication or the manufacturer of the customer's vehicle has specified such service to be necessary of the proper towing of the customer's vehicle. The specification of this type of service in publications of the American Automobile Association shall be sufficient for purposes of this rule.~~

§150-9-7. Rules Applicable To Motor Carriers Transporting Solid Waste.

7.1. Application of rules.

The rules in this section shall apply to all motor carriers engaged in the transportation of solid waste, by motor vehicle for hire of trash, rubbish, and garbage for customers over the public highways of this State. The term "trash, rubbish, and garbage" in this section shall be synonymous with the term "solid waste" herein and shall include any garbage, paper, litter, refuse, cans, and bottles; sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; other discarded material; carcasses of any dead animal or any other offensive or unsightly matter; and solid, liquid, semisolid, or contained liquid or gaseous material resulting from industrial, commercial, mining, or community activities; but shall not include solid or dissolved material in sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources and have permits under article five, chapter twenty, of the West Virginia Code, or source, special nuclear, or by product material as defined by the Atomic Energy Act of 1954, as amended.

The term "bulky goods" in this section shall refer to those items of residential solid waste which are too large to be placed into suitable waterproof containers as defined in Section 7.2.7. of this Rule and shall include such items as household furniture, large appliances such as washers and dryers as well as other such materials which cannot be reasonably and conveniently collected during regularly scheduled weekly operation, but shall exclude

~~construction or building debris.~~

7.2. Conditions of service.

7.2.1a. ~~A~~ With respect to a residential customer, a common carrier by motor vehicle of solid waste shall not be required to pick up trash, rubbish, or garbage solid waste unless it has been placed by the that customer at curbside or roadside of a public highway or public access route serving the customer's premises. Provided, however, that a carrier shall make exceptions to this rule, upon prior request, for households solely occupied by persons incapacitated by age or illness, individuals who are 65 years of age or older or who are incapacitated by illness or disability or where circumstances make compliance curbside or roadside placement of solid waste either impractical or unreasonable.

7.2.2b. ~~All~~ Every motor carriers of solid waste shall maintain all motor vehicles used in the transportation of trash, rubbish, and garbage solid waste in a proper and sanitary operating condition.

7.2.3c. ~~All~~ Every motor carriers of solid waste in residential service shall provide and maintain a regularly scheduled pickup service. Exceptions to the regularly scheduled pickup service shall be made only for reasons beyond the carrier's control. The carrier shall give each residential customer the schedule of pickup service to be provided.

7.2.4d. To allow its customers to communicate with it, ~~each~~ every motor carrier of solid waste shall be reachable by telephone during normal business hours and shall attempt to respond to telephone messages by customers within one (1) hour of any telephone message left by a customer during normal business hours. All telephone service from places within the carrier's certificated territory to the carrier's telephone number(s) shall be toll-free.

7.2.5e. A motor carrier of solid waste or its employees may, but are not required to, accept payment of bills along the operating route.

7.2.6f. ~~Each~~ Every motor carrier of solid waste shall establish at least two (2) payment options, including the United States Mail and a designated place convenient to a majority of the carrier's customers.

7.2.7g. Except as to the transportation of bulky goods, a common ~~A~~ carrier by motor vehicle of solid waste shall not be required to pick up trash, rubbish, or garbage may refuse to collect solid waste from a residential customer unless that

solid waste which is not in a suitable, waterproof container with a loaded weight of fifty (50) pounds or less. For purposes of this rule, the term "container" shall include plastic bags and garbage cans.

7.2.8h. Without receiving additional compensation, a motor carrier of solid waste may refuse to pick up more trash, rubbish, or garbage collect solid waste that was not than may reasonably be expected to have been generated by one customer or household. the individuals residing in the household of a subscribing residential customer. In order to invoke a specific limit, however, with respect to the collection of trash, rubbish, and garbage from a customer or household, however, the carrier must apply for and obtain the Commission's approval of a specific per bag rate or charge applicable to situations in which the customer household generates a quantity or weight of trash, rubbish, and garbage that is in excess of said reasonable generation.

7.2.i. A motor carrier of solid waste may not impose a specific bag, quantity, or weight limit on waste generated by a residential customer without prior approval by the Commission.

~~7.2.9.~~ 7.2.j. Carriers Motor carriers of solid waste are encouraged to apply for the Commission's approval of either optional or mandatory usage-sensitive rates (for example, a per-bag rate). If a carrier's Commission-approved tariff includes a usage-sensitive rate as a customer option, the carrier may be authorized to charge a flat rate covering the weekly pickup of the contents of a certain number of containers per customer household; in such cases, the customers would be required to pay usage-sensitive rates for weekly accumulations above the established container limit.

7.2.k. A motor carrier of solid waste in residential service is not required to collect and transport automotive components, parts, or frames that weigh more than two hundred (200) pounds each. A residential customer should use an authorized wrecker company to transport such items to a salvage yard or other appropriate destination.

7.2.l. A motor carrier of solid waste is not required to collect and transport from a subscribing residential customer household any construction and demolition debris that was not generated by projects located on the property of that subscribing residential customer household.

7.2.m. To be compensated by a subscribing residential customer for the collection and transportation of construction and demolition debris and/or to be compensated by a nonsubscribing residential household for the collection and

transportation of construction and demolition debris, a motor carrier of solid waste must first apply for, and obtain, the Commission's approval of a specific rate for the collection and transportation of such construction and demolition debris.

~~7.2.10.~~ 7.2.n. A motor carrier of solid waste shall not be required to empty containers in which burning has taken place.

~~7.2.11.~~ 7.2.o. A motor carrier of solid waste shall be responsible for cleaning up any ~~trash, rubbish, or garbage~~ solid waste spilled by it when making pickups.

~~7.2.12.~~ 7.2.p. Nothing in ~~this~~ Rule 7.2. shall be construed to require a motor carrier of solid waste to collect or transport materials that the solid waste facilities landfill used by that carrier refuses to accept.

7.3. Termination of service for nonpayment of bill.

~~7.3.1a.~~ Unless otherwise provided in the tariff of a motor carrier of solid waste, a bill is due at the end of the period of service for which a bill, coupon, or voucher, as the case may be, has been issued. Upon providing written notice, as hereinafter set forth in this Rule, a motor carrier of solid waste may terminate service to any customer who has failed to pay any one bill within thirty (30) days after the due date.

~~7.3.2b.~~ Notice of termination of service shall be in writing and shall be given by United States Mail at least seven (7) days prior to the termination of service. Such notice shall specifically inform the customer that his service will terminate as of a specified date.

7.4. Participation in recycling programs.

~~7.4.1a.~~ Every ~~common~~ motor carrier engaged in the transportation of solid waste shall participate in a recycling program applicable to at least ~~twenty (20)~~ thirty (30) percent of the waste stream generated by said carrier's customers.

7.4.b. Every motor carrier of solid waste shall, at least once per month, provide curbside or roadside collection of recyclable materials -- including, at a minimum, newspapers, glass, metal cans, and at least two types of plastic -- to all subscribing residential customer households, to all subscribing commercial customers, and to all contracting shippers.

~~7.4.2.~~ By January 1, 2000, every such common carrier shall participate in a recycling program applicable to at least ~~thirty (30)~~ percent of the waste stream generated by said

~~carrier's customers.~~

~~7.4.3.~~ 7.4.c. To recover additional estimated costs associated with the recycling program, any ~~such~~ motor carrier of solid waste may apply for the approval of a surcharge to be applied to ~~some or all of said~~ that carrier's customers.

7.5. Furnishing list of residential customers, or of non-subscribing residents, to solid waste authorities.

Every common carrier of solid waste shall, on an annual basis, provide a listing of its residential customers, including names and service addresses or, in the alternative, a listing of the names and addresses of non-subscribing residents in its service area, to each county or regional solid waste authority having jurisdiction in the carrier's operating territory. The express purpose of this Rule is to assist such authorities in enforcing §22C-4-10 of the West Virginia Code and other applicable laws.

7.6. Establishment of monthly bulky goods collection service available to all ~~residential~~ households located in motor carrier's operating authority.

~~7.6.1a.~~ By January 1, 1999, every Every common motor carrier of solid waste shall ~~establish~~ provide regularly scheduled monthly bulky goods collection service available to all ~~residential~~ households located in that carrier's operating territory.

7.6.2b. To recover additional estimated costs associated with implementation of bulky goods collection service, any such carrier may apply to the Commission for approval of (a) surcharges to be applied to all of that carrier's regular residential customers and/or (b) a schedule of charges to be applied to all other individuals located in that carrier's operating territory who request bulky goods collection service from that carrier.

7.6.3c. A motor carrier of solid waste may propose a surcharge not to exceed ~~fifty (50) cents~~ one dollar (\$1.00) per subscribing residential customer per month and not be required to file the information required by Rule 42 of the Commission's tariff rules. Proposed surcharges in excess of ~~fifty (50) cents~~ one dollar (\$1.00) per subscribing residential customer per month must include the required Rule 42 information. The Commission may, by general order, raise this surcharge above one dollar (\$1.00) per subscribing residential customer per month.

7.6.d. To enable it to predict the number and size of bulky goods for collection on a monthly bulky goods collection

date, a motor carrier of solid waste may require that customers place bulky goods on the curbside by 7:00 a.m. on the last day that it conducts its regular household waste collection that precedes the date of that carrier's monthly bulky goods collection. The carrier shall provide reasonable notice of this requirement to all existing residential customers and inform each new customer of this requirement at the time bulky goods service is requested.

7.7. Annual written agreements between common carriers by motor vehicle of solid waste and their commercial customers.

7.7.a. Every common carrier by motor vehicle of solid waste shall, on an annual basis, enter into a written agreement with each of its commercial customers. Each agreement shall run from the date of the agreement to a date no later than the following June 30th.

7.7.b. Every agreement under Rule 7.7. shall be drafted in accordance with the Commission's general orders governing such agreements.

7.7.c. Every agreement under Rule 7.7. shall state that the Commission has jurisdiction to ascertain the appropriate rate for the service described in the agreement upon application by the commercial customer, if there is a dispute about the appropriate rate and that the Commission may raise, lower, or modify the rates set forth in the agreement without permission from the commercial customer.

§150-9-8. Temporary Authority.

8.1. Temporary authority -- The Commission will ~~may~~ grant temporary authority upon an application for a certificate or permit to operate as a common or contract carrier where by motor vehicle if 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 if~~ 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 Rule 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, or 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 Rule 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 temporary authority under Rule 8.1. but corresponding permanent authority is denied following a hearing on the application, the applicant shall surrender all ~~P.S.C.~~ Uniform Vehicle Identifications 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 Rule 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., P.S.C. W.Va. M.C. 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 requiring the Commission to grant the authority for which application is made. Acceptance of an affidavit as prescribed in Rule 8.5. and as set forth by Section 10., P.S.C. W.Va. M.C. 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 Rule 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; exceptions.

A motor carrier of passengers or property may acquire by

lease the entire amount of equipment operated under its authority. However, that motor carrier may not, without prior approval from the Commission, obtain that equipment from another motor carrier or public utility.

9.2. Uniform vehicle identification cards.

Uniform Vehicle Identification Cards ~~must be obtained~~ shall be issued 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., P.S.C. W.Va. M.C. 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 by motor vehicle from a supplier another company shall be under the exclusive direction and control of such carrier the lessee for the duration of the lease.

~~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:~~

~~9.6.1. 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;~~

~~9.6.2. 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;~~

~~9.6.3. 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;~~

~~9.6.4. The leased equipment must display appropriate identification showing operation by the lessee during the performance of such transportation (see Rule 2.12.);~~

~~9.6.5. 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;~~

~~9.6.6. 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;~~

~~9.6.7. The term of the lease must be for a minimum period of thirty (30) days; and~~

~~a. 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.~~

9.6. Exceptions.

The provisions of Rules 9.1, 9.2, 9.3, and 9.4 do not apply to the leasing of motor vehicles by motor carriers insofar as they are exempt carriers.

9.7. Single-source leasing prohibited.

The single-source leasing, from another person or company, of both motor vehicles and drivers used in the for-hire transportation of passengers, motor vehicles, household goods, and solid waste is prohibited.

§150-9-10. Forms.

10.1. The following forms are hereby adopted for use in the administration of 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. legible. ~~The forms prescribed hereby may be altered from time to time to permit the use of a different year or date~~

~~designation or as otherwise may be deemed convenient or necessary.~~

~~10.1.1a. 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.~~

~~10.1.2. 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.~~

~~10.1.3. 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. (See Form No. 30)~~

~~10.1.4. 10.1.b. P.S.C. W.VA. M.C. Form No. 3 -- Application for an issuance of Uniform Vehicle Identification Cards for all exclusively intrastate passenger carriers operating partially or wholly in intrastate commerce.~~

~~10.1.5. 10.1.c. P.S.C. W.VA. M.C. Form No. 4 -- Form used by each carrier when paying the assessment fee required by §24A-6-6.~~

~~10.1.6. 10.1.d. P.S.C. W.VA. M.C. Form No. 5 -- Application for permit to operate as a contract carrier of property by motor vehicle of passengers or property.~~

10.1.e. P.S.C. W.VA. M.C. Form No. 5-A -- Application for amendment of permit to operate as a contract carrier by motor vehicle of passengers or property.

10.1.f. P.S.C. W.VA. M.C. Form No. 5-B -- Application by contract carrier by motor vehicle to adopt trade name.

10.1.g. P.S.C. W.VA. M.C. Form No. 5-C -- Application by contract carrier by motor vehicle to change trade name.

~~10.1.7. 10.1.h. 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 of property.~~

10.1.i. P.S.C. W.VA. M.C. Form No. 6-A -- Application for amendment of certificate of convenience and necessity to operate as a common carrier by motor vehicle.

10.1.j. P.S.C. W.VA. M.C. Form No. 6-B -- Application by common carrier by motor vehicle to adopt trade name.

10.1.k. P.S.C. W.VA. M.C. Form No. 6-C -- Application by common carrier by motor vehicle to change trade name.

~~10.1.8. 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.~~

~~10.1.9. 10.1.l. 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. of passengers.~~

10.1.m. P.S.C. W.VA. M.C. Form No. 8-A -- Application for registration -- charter bus service.

~~10.1.10. 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.~~

~~10.1.11. 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.~~

~~10.1.12. 10.1.n. P.S.C. W.VA. M.C. Form No. 11 -- Application for approval of the transfer and assignment of certificate(s) of convenience and necessity and/or permits [to be completed by the present holder of certificate(s) and/or permit(s)].~~

~~10.1.13. 10.1.o. P.S.C. W.VA. M.C. Form No. 11-A -- Application for approval of the transfer and assignment of certificate(s) of convenience and necessity and/or permits [to be completed by the proposed holder of certificate(s) and/or permit(s)].~~

~~10.1.14. 10.1.p. P.S.C. W.VA. M.C. Form No. 17 -- Notice of cancellation of motor carrier policies of insurance [for use under insurance regulations].~~

~~10.1.15. 10.1.q. P.S.C. W.VA. M.C. Form No. 18 -- Notice of cancellation of motor carrier surety bonds [for use under insurance regulations].~~

~~10.1.16. 10.1.r. P.S.C. W.VA. M.C. Form No. 21 -- Application for authority to self-insure [for use under insurance regulations].~~

~~10.1.17.~~ 10.1.s. 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 [for use under
insurance regulations].

~~10.1.18.~~ 10.1.t. P.S.C. W.VA. M.C. Form No. 23 --
Endorsement for motor common carrier policies of insurance for
cargo liability [for use under insurance regulations].

~~10.1.19.~~ 10.1.u. 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 [for use under
insurance regulations].

~~10.1.20.~~ 10.1.v. P.S.C. W.VA. M.C. Form No. 25 --
Certificate of insurance for motor ~~common~~ carrier policies of
insurance for cargo liability [for use under insurance
regulations].

~~10.1.21.~~ 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.~~

~~10.1.22.~~ P.S.C. W.VA. M.C. Form No. 30 -- 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. (To
be used in conjunction with Form No. 2 B).

10.1.23w. P.S.C. W.VA. M.C. Form No. 31 --
Certificate of lease.

10.1.24x. P.S.C. W.VA. M.C. Form No. 33 -- Affidavit
of contractor for ~~temporary authority.~~ in support of application
for permit.

~~10.1.25.~~ P.S.C. W.VA. M.C. Form No. 34 -- Tariffs of
~~rates, rules, and regulations by common carriers of passengers.~~

~~10.1.26.~~ 10.1.y. P.S.C. W.VA. M.C. Form No. 35 --
Tariffs of rates, rules, and regulations by common carriers of
~~property.~~ by motor vehicle of passengers or property and by
contract carriers by motor vehicle of passengers or property.

~~10.1.27.~~ P.S.C. W.VA. M.C. Form No. 36 -- Time
~~schedules of common carriers of passengers operating over regular
routes.~~

~~10.1.28.~~ P.S.C. W.VA. M.C. Form No. 39 -- Notice of
~~time schedule changes for posting in buses.~~

~~10.1.29. P.S.C. W.VA. M.C. Form No. 40 Notice of application for temporary authority.~~

~~10.1.30. 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.~~

~~10.1.31. 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.~~

~~10.1.32. 10.1.z. P.S.C. W.VA. M.C. Form No. 44 -- Out of Service Vehicle Sticker.~~

~~10.1.33. 10.1.aa. P.S.C. W.VA. M.C. Form No. 45-A -- Motor Carrier bodily injury liability and property damage liability surety bond [for use under insurance regulations].~~

~~10.1.34. 10.1.bb. P.S.C. W.VA. M.C. Form No. 46 -- Motor common carrier cargo liability surety bond [for use under insurance regulations].~~

~~10.1.35. P.S.C. W.VA. M.C. Form No. 48 and 19-A (Small carrier) Application for change in rates.~~

~~10.1.36. 10.1.cc. P.S.C. W.VA. M.C. Form No. 49 -- Violation notice.~~

~~10.1.37. P.S.C. W.VA. M.C. Form No. 50 Uniform trash, rubbish and garbage tariff.~~

~~10.1.38. 10.1.dd. P.S.C. W.VA. M.C. Form No. 52 -- Taximeter Inspection Report.~~

~~10.1.39. P.S.C. W.VA. M.C. Form No. 54 Transit Authority Exemption.~~

~~10.1.40. 10.1.ee. P.S.C. W.VA. M.C. Form No. 55 -- Taxicab Driver's Lease Agreement and Daily Manifest.~~

~~10.1.41. 10.1.ff. P.S.C. W.VA. M.C. Form No. 56 -- Citation and Complaint.~~

~~10.1.42. 10.1.gg. P.S.C. W.VA. M.C. Form No. 57 -- Incident Report -- Hazardous Material.~~

~~10.1.43. 10.1.hh. P.S.C. W. VA. M.C. Form No. 58 -- Driver/Vehicle Report.~~

~~10.1.44. 10.1.ii. P.S.C. W.VA. M.C. Form No. 59 --~~

Carrier Safety/Compliance Review Form.

10.1.jj. P.S.C. W.VA. M.C. Form No. 60 -- Vehicle Registration Approval Form.

10.1.kk. P.S.C. W.VA. M.C. Form No. 62 -- Accident Report.

10.1.ll. P.S.C. W.VA. M.C. Form No. 63 -- Motor Carrier Insurance Registration Form.

10.1.mm. P.S.C. W.VA. M.C. Form No. 64 -- Letter of Insurance Registration.

10.1.nn. P.S.C. W.VA. M.C. Form No. 65 -- Used-Tire Carrier Registration Form.

NOTE: P.S.C. W.VA. M.C. Forms Nos. 2, 2-B, 7, 9, 10, 12, ~~12~~, 13, 14, 15, 16, 19, 20, 22, 24, 26, 27, 28, 29, 30, 32, 34, 36, 37, 38, 39, 40, 41, 42, 43, 45, 47, 50, 51, ~~and~~ 53, 54, ~~and~~ 61 are obsolete and no longer in use. P.S.C. W.VA. M.C. Form No. 48 is removed from these rules and is renumbered and attached to the Commission's Tariff Rules as M.C. Tariff Form 42.

FORMS MAY BE OBTAINED FROM THE SECRETARY OF STATE'S OFFICE

P.O. Box 812

Charleston, WV 25323

ATT: Motor Carrier Section

M.C. FORM 5

P.S.C. W. VA. M.C. FORM NO. 5

FILING FEE: \$100.00

PHONE: 1-800-247-TRUX FAX: (304)340-0394

FAX: (304) 340-0394

M.C. CASE NO. _____

~~PUBLIC SERVICE COMMISSION OF WEST VIRGINIA~~

~~CHARLESTON, WEST VIRGINIA~~

~~CONTRACT CARRIER APPLICATION FOR PERMIT~~

**APPLICATION FOR PERMIT-
CONTRACT CARRIER**

Approved: _____ I.D. Number: _____

1. Applicant Name _____

2. Applicant Address _____

Phone Number _____

1. Applicant Name: _____

Address: _____ City/State/Zip: _____

Phone: _____ Fax: _____ E-mail: _____

3-2. Name in which permit will read: (If different from Question No. 1): _____

4. Applicant is: Sole Proprietorship _____ Partnership _____ Corporation _____

_____ Limited Liability Company _____ (Note: If applicant is corporation, attach list of principal stockholders and officers.)

3. Proposed certificate/permit holder is: Sole Proprietorship _____ Partnership* _____ Corporation** _____

_____ Limited Liability Company*** _____

* Attach list of partners. ** Attach list of principal stockholders and officers. *** Attach list of members.

5-4. Proposed Area of Operation (be specific-attach additional information if necessary): _____

6-5. Net worth of applicant (total assets minus total liabilities): _____

7-6. Does applicant own, or is he/she an officer in, a company which owns any other motor carrier certificates? _____

If so, attach list of certificate number(s), name of company or companies, and county or counties where in which operations are authorized (if applicable).

8-7. Commodities Passengers or class of commodities: _____

9-8. Contract with: 1) Name _____

Address _____

2) Name _____

Address _____

10-9. Will the proposed service competes with any other common or contract carrier(s)? _____ (If so, attach list.)

11-10. Is applicant familiar with the Public Service Commission's Rules and Regulations, and applicable law governing motor carriers? _____

12-11. Is applicant requesting temporary authority? _____

VERIFICATION

I swear(or affirm) that I have knowledge of the affairs of _____,
the above-named motor carrier, and that this application has been prepared or examined by me on his/her or its
his/her/its behalf, and to the best of my knowledge is true, correct, and complete.

AFFIANT _____

Sworn to and subscribed before me this _____ day of _____, 19 20 _____

NOTARY PUBLIC _____

My commission expires _____, 19 20 _____

County _____ State _____

(Revised 3-13-2002)

P.O. Box 812

Charleston, WV 25323

ATT: Motor Carrier Section

P.S.C. W.VA. M.C. FORM NO. 6

PSC M.C. FORM 6

FILING FEE: \$100.00

PHONE: 1-800-247-TRUX FAX: (304)340-0394

M.C. CASE NO. _____

**APPLICATION FOR CERTIFICATE OF
CONVENIENCE AND NECESSITY-
PROPERTY SERVICE**

Approved: _____ I.D. Number: _____

SECTION 1(ALL applicants must complete this section.)

1. Applicant Name: _____

Address: _____ City/State/Zip _____

Phone: _____ Fax: _____ E-mail: _____

2. Name in which certificate will read:(If different from Question No. 1) _____

3. Applicant is: Sole Proprietorship _____ Limited Liability Company _____

Partnership _____ Limited Liability Partnership _____

Corporation* _____ *If corporation, attach list of principal stockholders and

officers: _____

Proposed certificate/permit holder is: Sole Proprietorship _____ Partnership* _____ Corporation** _____

Limited Liability Company*** _____

* Attach list of partners. ** Attach list of principal stockholders and officers. *** Attach list of members.

4. Commodity or class of commodities: _____

5. Is applicant familiar with the Public Service Commission's Rules and Regulations, and applicable law governing motor carriers? _____

SECTION 2(Complete ONLY if applying to transport solid waste or household goods).

1. Proposed Area of Operation(be specific-attach additional information if necessary): _____

2. Proposed Rates(be specific-attach additional information if necessary): _____

3. Net worth of applicant(Total assets minus total liabilities): _____

4. Does applicant own, or is he/she an officer in, a company which owns any other motor carrier certificates? _____

If so, attach list of certificate number(s), name of company or companies, and county or counties in which operations are authorized (if applicable).

5. Do the public convenience and necessity require the proposed service? _____

6. If the proposed service competes with any other common or contract carrier, is the existing service adequate? _____

VERIFICATION

I swear (or affirm) that I have knowledge of the affairs of _____, the above-named motor carrier, and that this application has been prepared or examined by me on his/her/its behalf, and to the best of my knowledge is true, correct, and complete.

AFFIANT _____

Sworn to and subscribed before me this _____ day of _____, 19 20 _____

NOTARY PUBLIC _____

My commission expires _____, 19 20 _____

County _____ State _____

(Revised 3-13-2002)

Return to: Public Service Commission of West Virginia
P.O. Box 812
Charleston, WV 25323
ATT: Motor Carrier Section

(For PSC use only)

PSC M.C. FORM 11

P.S.C. W.VA M.C. FORM NO. 11

FILING FEE: \$50.00

PHONE: 1-800-247-TRUX FAX: (304)340-0394

M.C. CASE NO. _____

**APPLICATION FOR TRANSFER OF
CERTIFICATE AND/OR PERMIT**
(To be completed by **PRESENT** holder
of certificate/permit):

Approved: _____ I.D. Number: _____

1. Name in which certificate(s) and/or permit(s) are held: _____

2. Address: _____ City/State/Zip _____
Phone: _____ Fax: _____ E-mail: _____

3. Certificate(s) and/or permit(s) being transferred:

Certificate/Permit No.	Date Issued	Case Number
_____	_____	_____
_____	_____	_____

4. Does present holder of these certificate(s) and/or permit(s) own any other motor carrier certificate(s) and/or permits? If so, please list number(s) of certificate(s) and/or permit(s) and names of county or counties in which operations are authorized, as well as any other business or trade names under which operations are conducted.

5. List all assets being transferred with certificate(s) and/or permits. Please note that this application will **NOT** be accepted for processing unless this question is completed.

Description of Asset	Date Acquired	Cost	Accumulated Depreciation to Date of Sale	Net Book Value (cost less accumulated depreciation)
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(Please attach additional sheets if necessary.)

VERIFICATION

I swear (or affirm) that I have knowledge of the affairs of _____
the above-named motor carrier, and that this application has been prepared or examined by me on his/her/its behalf,
and to the best of my knowledge is true, correct, and complete.

AFFIANT _____

Sworn to and subscribed before me this _____ day of _____, 1920

NOTARY PUBLIC _____

My commission expires _____, 19 20 _____

County _____ State _____

(Revised 3-13-2002)

Return to: Public Service Commission of West Virginia

(PSC Use Only)

P.O. Box 812

Charleston, WV 25323

ATT: Motor Carrier Section

PHONE: 1-800-247-TRUX FAX: (304)340-0394

M.C. CASE NO. _____

PSC M.C. FORM 11-A

P.S.C. W.VA. M.C. FORM NO. 11-A

APPLICATION FOR TRANSFER OF CERTIFICATE/PERMIT

(To be completed by **PROPOSED** holder of certificate)

1. Name of proposed certificate/permit holder: _____

2. Address: _____ City/State/Zip _____

Phone: _____ Fax: _____ E-mail: _____

3. Proposed certificate/permit holder is: Sole Proprietorship _____ Limited Liability Company _____

Partnership _____ Limited Liability Partnership _____

Corporation * _____ *If corporation, attach list of principal

stockholders and officers.

Proposed certificate/permit holder is: Sole Proprietorship _____ Partnership* _____ Corporation** _____

Limited Liability Company*** _____

*Attach list of partners. **Attach list of principal stockholders and officers. ***Attach list of members.

4. Certificate(s) and/or permit(s) being transferred:

Certificate/Permit No. Date Issued Case Number

5. Does the proposed holder of these certificate(s) and/or permit(s) own any other Motor Carrier certificate(s) and/or permit(s)? If so, please list number(s) of certificate(s) and/or permit(s) and names of counties in which operations are authorized, as well as any other business or trade names under which operations are conducted.

6. Is proposed certificate/permit holder familiar with the present certificate/permit holder's rates and charges which are on file with the Commission? _____

7. Is proposed certificate/permit holder familiar with the rules and regulations of the Commission governing motor carriers? _____

8. Proposed financing arrangements:

A) Total price being paid for certificate(s) and/or permit(s) and any assets: _____

B) Total amount of debt: _____ C) Interest rate for debt: _____

D) Monthly payment required: _____ E) Term of repayment(months): _____

Note-Please attach copies of any written contract of sale between present and proposed certificate/permit holders. Also attach any debt or mortgage agreement which will be the obligation of the proposed certificate/permit holder. Attach additional sheets if necessary.

VERIFICATION

I swear (or affirm) that I have knowledge of the affairs of _____
the above-named motor carrier, and that this application has been prepared or examined by me on his/her/its behalf,
and to the best of my knowledge is true, correct, and complete.

AFFIANT _____

Sworn to and subscribed before me this _____ day of _____, 19 20 _____

NOTARY PUBLIC _____

My commission expires _____, 19 20 _____

County _____ State _____

(Revised 3-13-2002)

M.C. FORM 31

(Revised 4-28-00)

P.S.C. W.VA. M.C. FORM NO. 31

(Revised 3-13-02)

Phone: 1-800-247-TRUX

Fax: (304)340-0394

~~2000-01~~ 2002-03 CERTIFICATE OF LEASE

_____, a motor carrier of property, certifies the need for additional motor vehicle equipment to provide adequate service under authority issued by the Public Service Commission of West Virginia, or the Federal Highway Administration, or both, and therefore has leased from:

Owner of Vehicle _____
Address _____
City _____ State _____ Zip _____

for a period of not less than 30 days the following described vehicles:

Make & Serial Number: _____ Make & Serial Number: _____

Make & Serial Number: _____ Make & Serial Number: _____

Make & Serial Number: _____ Make & Serial Number: _____

In obtaining Uniform Vehicle Identification Card(s) for said vehicle(s), it is hereby agreed by both parties that the vehicle(s) shall be operated in the lessee's motor carrier service; that the use of said vehicle(s) shall be subject to the **exclusive** direction and control of the lessee for the duration of the lease; and that upon termination of said lease, the owner-lessor will surrender the Uniform Vehicle Identification Card(s) to the motor carrier to be returned to the Public Service Commission for cancellation or transfer through proper procedure.

STATE OF _____
COUNTY OF _____

Subscribed and sworn to before me
this _____ day of _____, 19 20
My Commission expires _____

(Motor Carrier or Representative Signature)

Notary Signature _____

STATE OF _____
COUNTY OF _____

Subscribed and sworn to before me
this _____ day of _____, 19 20
My Commission expires _____

(Owner of Vehicle Signature)

Notary Signature _____

A new certificate of lease must be submitted to the Public Service Commission upon application for the transfer

of a Uniform Vehicle Identification Card from one leased vehicle to another. A new Certificate of Lease must be filed with the Public Service Commission each fiscal year to accompany applications for Uniform Vehicle Identification Cards. A certificate of lease on file for a previous fiscal year will **not** be recognized for a subsequent fiscal year. No lease will be accepted or approved for a period of less than thirty days duration.

P.O. Box 812

Charleston, WV 25323

ATT: Motor Carrier Section

PHONE: 1-800-247-TRUX FAX: (304)340-0394

M.C. CASE NO. _____

PSC M.C. FORM 33
P.S.C. W.VA. M.C. FORM NO. 33
CONTRACT CARRIER BY MOTOR VEHICLE
CONTRACTOR'S STATEMENT IN SUPPORT OF APPLICATION FOR PERMIT

1. Company Name: _____

Address: _____ City/State/Zip: _____

Phone: _____ Fax: _____ E-mail: _____

2. Name and title of person making this statement: _____

3. Name of applicant whose services company wishes to contract _____

4. Commodity Passengers or commodities to be transported: _____

5. Proposed ~~A~~area of ~~O~~operation (be specific-attach additional information if necessary): _____

6. Rate to be paid to applicant: _____

7. Duration of proposed contract: _____

8. Has company made an effort to obtain the services of a common carrier for this purpose? _____ If so, please describe: _____

VERIFICATION

I swear (or affirm) that I have knowledge of the affairs of _____, the above-named motor carrier company, and that this application has been prepared or examined by me on his/her/its behalf, and to the best of my knowledge is true, correct, and complete.

AFFIANT _____

Sworn to and subscribed before me this _____ day of _____, 19 20

NOTARY PUBLIC _____

My commission expires _____, 19 20

County _____ State _____
(Revised 3-13-2002)

MF-P.S.C. W.Va. No. _____
Cancels MF-P.S.C. W.Va. No. _____

Certificate No:

P.S.C. M.C. CERTIFICATE(S) OR PERMIT(S) NO(S).

**Rates, Rules, and Regulations Governing
the Transportation of**

FILED WITH THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

Issued _____, 197-20 _____

Effective _____, 197-20 _____

Issued by _____

By _____

If this page will not contain all the rates, extra pages of same size may be inserted.

P.S.C. W.VA. M.C. FORM NO. 55

TAXICAB LEASE AGREEMENT AND DAILY MANIFEST

NAME OF LESSEE: _____ **LEASE #** _____

TAXICAB LEASE AGREEMENT

This Agreement, made and entered into at _____ County,
West Virginia, this _____ day of _____, 1920 _____,
by and between _____, hereinafter called
“Lessor”, and _____, residing at _____
_____, hereinafter called “Lessee”.

WITNESSETH

WHEREAS, the Lessor is ~~the owner of certain licenses and a common carrier by motor vehicle in the transportation of passengers in taxicab service and owns or holds by a separate lease agreement automobiles which are identifiable as~~ _____ and are equipped for the business of as taxicabs for hire; and

WHEREAS, the Lessor maintains office, telephone call service, radio dispatching, repair and maintenance service in the County of _____ and State of West Virginia; and

WHEREAS, the Lessee represents that he or she is a careful and qualified driver, licensed as a taxicab driver by the State of West Virginia, is at least 18 years of age, and desires to lease a taxicab from the Lessor.

NOW, THEREFORE, in consideration of the mutual promises and covenants of the parties herein contained, the parties have agreed as follows:

CAR AND EQUIPMENT

1. At the Lessee's request, the Lessor agrees to furnish to the Lessee a taxicab in good working order with a full tank of gas and painted (or with a decal) with the Lessor's insignia, equipped with radio, and any other equipment as required by state law, the rules and regulations of the Public Service Commission of West Virginia, and local ordinances relating to taxicabs.

SERVICES

2. The Lessor agrees to make available to the Lessee telephone call service and radio service. The Lessee shall not be required to accept any radio dispatch call other than those which he or she may of his or her own ~~violation~~ volition desire to accept. However, the Lessor is obligated under Rule ~~5.4~~ 4.5 of the ~~Motor Carrier Rules and Regulations Governing Motor Carriers, Private Commercial Carriers, and the Filing of Evidence of Insurance and Financial Responsibility by Motor Carriers~~ of the Public Service Commission of West Virginia to insure that 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. Since adherence to the Rule determines whether the Lessor may continue to operate under its certificate, the Lessee agrees also to be bound by this Rule. The Lessee shall not be restricted in any manner as to the area in which he or she may operate said taxicab, nor shall he or she be required to remain in any specified place, as long as he or she adheres to the laws and ordinances of the municipality in which the vehicle may be operated and as long as he or she does not operate beyond the scope of the Lessor's certificate(s) of convenience and necessity.

CUSTODY, CONTROL, AND REDELIVERY

3. The parties agree that during each lease period the vehicle shall remain in the exclusive custody and absolute control of the Lessee, as an employee of the Lessor, and that at the termination of each such lease period the Lessee shall deliver the vehicle, and surrender possession thereof, to the Lessor at any location designated by the Lessor. During the period when the Lessee has ~~the said that~~ that vehicle under his or her exclusive custody and control, the Lessee agrees to operate it as a taxicab in full compliance with all governmental regulations pertaining to the use and operation of taxicabs, and to comply fully with the laws and ordinances of any municipality in which the vehicle may be operated.

GAS, OIL, TIRES, SERVICING, MAINTENANCE, AND REPLACEMENTS

4. The Lessor shall furnish tires, repairs, servicing, and greasing, and where required, replace necessary equipment and accessories for the proper operation and use of the said vehicle, including tools and antifreeze solution. However, the Lessee shall be solely responsible for the cost of towing or removal of any vehicle mired in mud or snow or otherwise disabled due solely to the negligence of the Lessee while off the Lessor's premises. In the event the vehicle becomes either totally unfit for operation during the lease term thereof, or is stolen, the Lessee shall immediately give notice thereof to the Lessor; whereupon the Lessor shall make every reasonable effort to replace the vehicle with a vehicle of similar make and model, which, upon acceptance by the Lessee, shall be subject to this agreement at the same rental and terms specified for the vehicle so replaced. The Lessee shall be responsible for his or her own gasoline, and, at the end of the lease period, agrees to leave the vehicle with a full tank of gas. The Lessor agrees to sell to the Lessee gasoline on an availability basis at the Lessor's designated prices.

LICENSE, REGISTRATION, AND INSURANCE

5. The Lessor agrees to provide the required license tags and registration required by the laws of the State of West Virginia, and the title shall be registered in the name of the Lessor. The Lessor further agrees to provide automobile liability insurance in amounts not less than required by law, and the Lessee hereby agrees to comply with and be bound by all the terms, conditions, limitations and restrictions of the automobile liability insurance policy which are, by reference, incorporated herein. The Lessee agrees to report immediately to the Lessor any accident, collision, or impact involving the vehicle and deliver to the Lessor every summons, process, or pleading served upon him or her. The Lessee further agrees that he or she will cooperate with the Lessor and its insurer in the investigation of any accident and in the defense of any lawsuit brought in connection therewith.

DAMAGES NOT COMPENSATED BY INSURANCE

6. Any damages occurring to the said vehicle while it is in the care, custody and control of the Lessee, for which the Lessor is not compensated under insurance coverage which it provides for itself, shall be paid by the Lessee to the Lessor, provided however that the term "damages" as used in this paragraph does not include normal wear and tear.

STATUS OF LEASE

~~7. Lessor and Lessee agree that their intent is that Lessee shall be an independent contractor, in that Lessor shall have no right to control or interfere with the Lessee's operation of the taxicab during the term of the lease. As such, Lessee's operation of the taxicab shall be free from interference by Lessor, and subject only to the applicable statutes, regulations, and rules of the Public Service Commission of West Virginia, the State of West Virginia, the County or Municipality in which the Lessee operates the taxicab, and the United States. Lessee further agrees that because of~~

~~the intent to create this status as an independent contractor, Lessor will not withhold any Federal, State, or city income taxes, or social security taxes or unemployment taxes with respect to payments to him, that he will be liable for and will pay all such taxes and other amounts due from him. It is understood by the parties (Lessors-Lessees) that whether the intent to create the status of independent contractor is successful is dependent on the terms of this Agreement and the actual facts and features of the relationship in a particular case, as distinguished from the name and form given to the relationship by the express words of this Agreement. If the status of the Lessee is found to be that of an independent contractor, then the Lessor has no responsibility to provide coverage under the Worker's Compensation Act of West Virginia for the benefit of the Lessee. If the Lessor is called upon to pay any charges assumed herein by the Lessee, Lessee will reimburse the Lessor upon demand. Lessor shall not be responsible for any injury to Lessee resulting from the use or operation of said taxicab, and the Lessee will insure himself against such injury if he desires such insurance.~~

RENTAL FEE

8.7. The Lessee shall pay the Lessor the rental provided for in the schedule attached hereto and made a part hereof. On a daily basis and prior to the acceptance of a taxicab, the Lessee shall select the basis upon which rental shall be calculated as set forth in said schedule. Payment of such rental shall be made to the Lessor at the time of return of said taxicab to the Lessor.

SECURITY DEPOSIT

9.8. In addition to the rental payment, the Lessee will pay to the Lessor a security deposit of not less than One Dollar (\$1.00) per day. The purpose of this deposit is to insure the return of the taxicab in the same condition as accepted by the Lessee. The deposit shall be returned to the Lessee not later than ten (10) days after termination of the Lease Agreement.

FINES AND PENALTIES

10.9. During the period when the vehicle is in the sole care, custody, and control of the Lessee, the Lessee (as between the Lessor and the Lessee) shall be solely liable and responsible for all fines and penalties imposed for parking or traffic violations, and the Lessee agrees to reimburse the Lessor any sum which the Lessor may be required to pay due to the nonpayment of such fines and penalties by the Lessee.

OPERATE CAREFULLY AND LAWFULLY CAREFUL AND LAWFUL OPERATION

11.10. In order to protect the Lessor's good will and licenses, the Lessee shall keep himself or herself and said taxicab in a neat and clean condition and agrees to conduct himself or herself and operate said taxicab reasonably, prudently, courteously, and in a careful manner. The

Lessee agrees to operate said taxicab in conformity with all laws, ordinances, and regulations of the United States, State of West Virginia, and applicable municipalities. ~~It is expressly understood between the parties hereto that, once the Lessee takes possession of the taxicab, he or she will exercise complete discretion in the operation of same and in the performing of those duties generally recognized to be a part of performing taxicab services. Discretion in the operation of the said taxicab is vested in the Lessee, and the Lessor shall do no more than make available to the Lessee telephone call service or radio service of prospective passengers.~~ The Lessee agrees to return said the taxicab to the Lessor in as good condition and repair as it was when received by the Lessee, reasonable use and ordinary wear and tear excepted. The Lessee further agrees to inspect his or her taxicab at the beginning of each term, and that he or she will test the brakes, both foot and emergency, steering, lights, signal lights and all other equipment(including oil level). If the Lessee notices any defects or damage, he or she shall immediately report same to the Lessor.

TERM

~~12.11.~~ The Lessor agrees to lease said taxicab to the Lessee, with the intent to operate as an ~~independent contractor, employee,~~ for a day-to-day term, which is reviewable renewable daily by the acceptance of a taxicab by the Lessee and the delivery of a taxicab by the Lessor. The lease may be cancelled immediately by either Lessee or Lessor by the refusal of said delivery for any reason by the Lessor, or by the refusal for any reason of acceptance by the Lessee, or by written notice to either party.

ASSIGNMENT-SUBLEASE

~~13.12.~~ Under no circumstances shall the Lessee by be permitted to assign this lease agreement, or sublease said taxicab to any other person at any time.

ADVERTISING ON VEHICLE

~~14.13.~~ The Lessee shall not affix any advertisement or markings to the vehicle without the written consent of the Lessor.

ILLEGAL USE, CONFISCATION, AND BANKRUPTCY

~~15.14.~~ The Lessee shall neither use nor allow said vehicle to be used for illegal purposes or otherwise subject such vehicle to confiscation. In the event of confiscation, the Lessee agrees to reimburse the Lessor for the fair market value of the vehicle confiscated together with any other expenses incurred by the Lessor as a result thereof. If any Petition in Bankruptcy is filed by or against the Lessee during the term hereof, such event will constitute a default of this lease.

ADHERENCE TO PUBLIC SERVICE COMMISSION RULES AND REGULATIONS

~~16.15.~~ The Lessee agrees to be bound by all the rules and regulations applicable to motor vehicles transporting passengers and property in taxicab service as prescribed by the Public Service Commission of West Virginia. Violations of said rules shall be sufficient cause for the Lessor not to enter into any future taxicab rental agreements with the Lessee.

TITLE

~~17.16.~~ It is expressly understood and agreed that this is a contract of leasing and that the Lessee acquires no ownership, title, property, rights or interest in the said vehicle, accessories or equipment leased pursuant to this agreement.

MANIFEST

~~18.17.~~ The Lessee further agrees to complete and submit to the Lessor, at the end of each lease period, a manifest which substantially complies with the manifest which is contained in P.S.C. W.Va. M.C. Form No. 55.

RATES

~~19.18.~~ The Lessee agrees to be bound by, and charge only those rates and charges approved by, the Public Service Commission of West Virginia for the operation of the leased vehicle. Failure to charge the approved rates and charges shall be sufficient cause for the Lessor not to enter into any future taxicab rental agreements with the Lessee.

IN WITNESS THEREOF, the parties hereto have caused this instrument to be duly executed the day and year first above written.

LESSEE

LESSOR

(Cab Company)

By _____

Return to: Public Service Commission of West Virginia
P.O. Box 812
Charleston, WV 25323
ATT: Motor Carrier Section

(For PSC use only)

P.S.C. W.Va. M.C. FORM No. 6-A [This form is new - no strikethrough and underline shown]

FILING FEE: \$75.00

PHONE: 1-800-247-TRUX FAX: (304)340-0394

M.C. CASE NO. _____

**APPLICATION FOR AMENDMENT OF
CERTIFICATE-COMMON CARRIER**

Approved: _____ I.D. Number: _____

1. Applicant Name: _____

Address: _____ City/State/Zip _____

Phone: _____ Fax: _____ E-mail: _____

2. Name in which certificate reads: (If different from Question No. 1) _____

3. Applicant is applying to amend Public Service Commission Motor Carrier Certificate No. _____

to (please describe): _____

(Attach further information if necessary)

VERIFICATION

I swear(or affirm) that I have knowledge of the affairs of _____
the above-named motor carrier, and that this application has been prepared or examined by me on his/her/its behalf,
and to the best of my knowledge is true, correct and complete.

AFFIANT _____

Sworn to and subscribed before me this _____ day of _____, 20 _____

NOTARY PUBLIC _____

My commission expires _____, 20 _____

County _____ State _____

(Revised 3-12-2001)

Return to: Public Service Commission of West Virginia
P.O. Box 812
Charleston, WV 25323
ATT: Motor Carrier Section

(For PSC use only)

P.S.C. W.Va. M.C. FORM No. 6-B [This form is new - no strikethrough and underline shown]

FILING FEE: \$25.00

PHONE: 1-800-247-TRUX FAX: (304)340-0394

M.C. CASE NO. _____

**APPLICATION TO ADOPT TRADE NAME-
COMMON CARRIER**

Approved: _____ I.D. Number: _____

1. Applicant Name: _____

Address: _____ City/State/Zip _____

Phone: _____ Fax: _____ E-mail: _____

2. Name in which certificate reads: (If different from Question No. 1) _____

3. Applicant is applying to adopt trade name of _____

under Public Service Commission Motor Carrier Certificate No. _____, authorizing operation

as a common carrier in the transportation of _____

There will be no change whatsoever in the ownership of the certificate, or in the manner or method of operation.

VERIFICATION

I swear (or affirm) that I have knowledge of the affairs of _____,
the above-named motor carrier, and that this application has been prepared or examined by me on his/her/its behalf,
and to the best of my knowledge is true, correct and complete.

AFFIANT _____

Sworn to and subscribed before me this _____ day of _____, 20____

NOTARY PUBLIC _____

My commission expires _____, 20____

County _____ State _____

Return to: Public Service Commission of West Virginia
P.O. Box 812
Charleston, WV 25323
ATT: Motor Carrier Section

(For PSC use only)

P.S.C. W.Va. M.C. FORM No. 6-C [This form is new - no strikethrough and underline shown]

FILING FEE: \$25.00

PHONE: 1-800-247-TRUX FAX: (304)340-0394

M.C. CASE NO. _____

**APPLICATION TO CHANGE TRADE NAME-
COMMON CARRIER**

Approved: _____ I.D. Number: _____

1. Applicant Name: _____

Address: _____ City/State/Zip _____

Phone: _____ Fax: _____ E-mail: _____

2. Name in which certificate reads: (If different from Question No. 1) _____

3. Applicant is applying to change trade name from _____

to _____ under Public Service Commission Motor

Carrier Certificate No. _____, authorizing operation as a common carrier in the transportation

of _____

~~There will be no change whatsoever in the ownership of the certificate, or in the manner or method of operation.~~

VERIFICATION

I swear(or affirm) that I have knowledge of the affairs of _____,
the above-named motor carrier, and that this application has been prepared or examined by me on his/her/its behalf,
and to the best of my knowledge is true, correct, and complete.

AFFIANT _____

Sworn to and subscribed before me this _____ day of _____, 20____

NOTARY PUBLIC _____

My commission expires _____, 20____

County _____ State _____

Return to: Public Service Commission of West Virginia
P.O. Box 812
Charleston, WV 25323
ATT: Motor Carrier Section

(For PSC use only)

P.S.C. W.Va. M.C. FORM No. 8

FILING FEE: \$100.00

PHONE: 1-800-247-TRUX FAX: (304)340-0394

M.C. CASE NO. _____

**APPLICATION FOR CERTIFICATE OF
CONVENIENCE AND NECESSITY-
PASSENGER SERVICE**

Approved: _____ I.D. Number: _____

CHECK ONE: Taxi() Limousine() Specialized Limousine()
Regular Route Bus Service() Other() _____

1. Applicant Name: _____
Address: _____ City/State/Zip _____
Phone: _____ Fax: _____ E-mail: _____
2. Name in which certificate will read:(If different from Question No. 1) _____
3. Proposed certificate/permit holder is: Sole Proprietorship ___ Partnership* ___ Corporation** ___
Limited Liability Company*** _____
*Attach list of partners. **Attach list of principal stockholders and officers. ***Attach list of members.
4. Proposed Area of Operation(be specific-attach additional information if necessary) _____
5. Proposed Rates(be specific-attach additional information if necessary): _____
6. Net worth of applicant(Total assets minus total liabilities): _____
7. Does applicant own, or is he/she an officer in, a company which owns any other motor carrier certificates? _____
If so, attach list of certificate number(s), name of company or companies, and county or counties in which operations are authorized(if applicable).
8. Do the public convenience and necessity require the proposed service? _____
9. If the proposed service competes with any other common or contract carrier, is the existing service adequate? _____
10. Is applicant familiar with the Public Service Commission's Rules and Regulations, and applicable law governing motor carriers? _____

VERIFICATION

I swear(or affirm) that I have knowledge of the affairs of _____,
the above-named motor carrier, and that this application has been prepared or examined by me on his/her/its behalf,
and to the best of my knowledge is true, correct, and complete.

AFFIANT _____

Sworn to and subscribed before me this _____ day of _____, 20_____

NOTARY PUBLIC _____

My commission expires _____, 20_____

County _____ State _____

(Revised 3-12-2002)

Return to: Public Service Commission of West Virginia
P.O. Box 812
Charleston, WV 25323
ATT: Motor Carrier Section

(For PSC Use Only)

P.S.C. W.Va. M.C. FORM No. 8-A [This form is new - no underlines/strike-throughs shown]

PHONE: 1-800-247-TRUX FAX: (304)-340-0394

Approved: _____ I.D. No: _____

**APPLICATION FOR REGISTRATION-
CHARTER BUS SERVICE**

1. Applicant's Name: _____

2. Company Name (if different from No. 1): _____ *

*Note-Name must match exactly with name on insurance filing(s), and with any interstate motor carrier registrations (DOT, FHWA).

3. Applicant's Address: _____

Phone Number: _____ Fax Number: _____

4. Proposed certificate/permit holder is: Sole Proprietorship _____ Partnership* _____ Corporation** _____
Limited Liability Company*** _____

*Attach list of partners. **Attach list of principal stockholders and officers. ***Attach list of members.

5. Net worth of applicant(total assets minus total liabilities): _____

6. Is applicant familiar with the Public Service Commission's rules and regulations and applicable law governing motor carriers? _____

VERIFICATION

I swear (or affirm) that I have knowledge of the affairs of _____,
the above named applicant, and that this application has been prepared or examined by me on his/her/its behalf, and to the best of my knowledge is true, correct, and complete.

AFFIANT: _____

Sworn to and subscribed before me this _____ day of _____, 20 _____

NOTARY PUBLIC: _____

My commission expires _____, 20 _____
County _____ State _____

VEHICLE REGISTRATION

PSC FORM M.C. 60

APPROVAL FORM [This form is new - no underlines/strike-throughs shown]

New or replacement equipment for the purpose of transporting passengers and property in the taxicab or limousine service, or towing or hauling wrecked or disabled vehicles, must be inspected by a PSC Motor Carrier Enforcement Officer before registration and use.

Date Assigned: [date assigned]
Inspector: [inspector]

Carrier Name: [carrier name]
Carrier Address: [address], [city/state/zip]
County: [county] Phone Number: [phone number]

Type of Vehicle: Taxi 1-ton wrecker Light slide back carrier
Bus 2-ton wrecker Heavy slide back carrier
Limousine 3-ton wrecker

Year: [year] Make: [make] V.I.N. Number: [VIN number]

Number of doors: _____ G.V.W.R.: _____

For taxi, bus, and limousine vehicle and equipment specifications, see PSC Motor Carrier Rules, Section 5.1.
For wrecker and slide back vehicle and equipment specifications, see PSC Motor Carrier Rules, Section 6.9.

Wrecker Specifications:

Air Brakes: Yes _____ No _____
Commercially manufactured crane, winches and tow sling? Yes _____ No _____
Type of winch: _____ Type of crane: _____
Tonnage of Winch: _____ CA Dimension _____ *
Single or double winch: Single _____ Double _____ Length _____ *
Feet of cable per winch: 1st _____ 2nd _____ (*Applies to light & heavy slide back carriers only.)
Cable size: 3/8" _____ 7/16" _____ 9/16" _____

(Signature of inspector) (Date) Vehicle passed specifications: _____
Vehicle rejected: _____ **

**If equipment is rejected, the carrier may seek an express waiver of the applicable rule from the Public Service Commission.

Reasons for rejection: _____

NOTE: PSC Form M.C. 60 is NOT acceptable for DMV registration purposes. A completed M.C. Form 4, processed and approved by the PSC, must be submitted to DMV to legally register this vehicle.

[This form is new - no underlines/strike-throughs shown]

Reporting Investigator I.D./ Badge No. _____ Investigator Name _____ Sheet _____ of _____

1. Date of Accident _____ Mo. _____ Day _____ Yr. 2. Time of Accident _____ Hrs. 2a. Form Number _____

2b. Name of Police Agency _____

3a. ON: Number or Name of Highway or Street _____

County _____

Township or City _____

3b. If not at intersection _____ ft. or _____ miles N E S W of _____ (nearest highway, street, milepost, bridge, or other landmark)

DRIVER VEHICLE INFORMATION

4a. Truck or bus driver's name: Last _____ First _____ M.I. _____

4b. Date of Birth _____ Mo. _____ Day _____ Yr.

Driver's license number _____ State _____ Class _____ End _____ Exp. Date _____ Mo. _____ Day _____ Yr.

Medical card Y/N Exp. Date _____ Mo. _____ Day _____ Yr.

4c. Driver's Address: Street _____ City _____ State _____

Zip Code _____

5a. Carrier Name: _____ Source: Bill Vehicle Driver

Street _____

City _____ State _____ Zip Code _____

5b. Owner Name: _____

Street _____

City _____ State _____ Zip Code _____

5c. Carrier I.D. Numbers: WV# _____
DOT _____
ICC _____

5d. Vehicle I.D. No. (VIN): Year _____ Make _____ Lic. _____ State _____ GVWR _____

VIN# _____

Year _____ Make _____ Lic. _____ State _____ GVWR _____

VIN# _____

6. Highway Type: A. Non-Divided (2-way traffic) B. Divided highway, median w/o barrier C. Divided highway w/ barrier D. One way highway or street

7. Environmental Conditions: A. No Adverse Condition B. Rain C. Sleet D. Snow E. Fog F. Rain and Fog G. Sleet and Fog

H. Other: smog, smoke, blowing sand or dust

8. Road Surface Conditions: A. Dry B. Wet C. Snow/Slush D. Ice E. Sand, mud, or oil F. Other

9. Light Condition: A. Dark B. Dark but lighted C. Dawn D. Dusk E. Daylight

9a. Type of Accident Collision Involving: A. Pedestrian B. Motor Vehicle in Traffic C. Parked Motor Vehicle D. Other

Return to: Public Service Commission of West Virginia
P.O. Box 812
Charleston, WV 25323
ATT: Motor Carrier Section

(For PSC use only)

P.S.C. W.Va. M.C. FORM No. 63 [This form is new - no underlines/strike-throughs shown]

APPLICATION FEE: \$25.00

PHONE: 1-800-247-TRUX FAX: (304)340-0394

MOTOR CARRIER INSURANCE REGISTRATION

FISCAL YEAR 2002-2003

(Effective July 1, 2002 through June 30, 2003)

Approved: _____

DOT Number: _____

NOTE: If your company has, for the 2002-2003 fiscal year, applied for and obtained at least one(1) Uniform Vehicle Identification Card, and paid the special annual assessment fee to the Commission, this form does NOT need to be completed.

1. Applicant Name _____

2. Business Name(if different from Question No. 1) _____

3. Address: _____ City/State/Zip _____

Phone: _____ Fax: _____ E-mail: _____

4. Proposed certificate/permit holder is: Sole Proprietorship____ Partnership*____ Corporation**____
Limited Liability Company***____

*Attach list of partners. **Attach list of principal stockholders and officers. ***Attach list of members.

5. Type of items transported: _____

6. Required proof of insurance on file with the Commission: _____

VERIFICATION

I swear(or affirm) that I have knowledge of the affairs of _____,
the above-named motor carrier, and that this application has been prepared or examined by me on his/her/its behalf,
and to the best of my knowledge is true, correct and complete.

AFFIANT _____

Sworn to and subscribed before me this _____ day of _____, 20____

NOTARY PUBLIC _____

My commission expires _____, 20____

County _____ State _____

(3-12-2002)

P.S.C. W.Va. M.C. FORM No. 64
MOTOR CARRIER INSURANCE REGISTRATION
FISCAL YEAR 2002-2003

[This form is new - no underlines/strike-throughs shown]

(Carrier Name)

(Address)

(City/State/Zip)

RE: Insurance Registration

This document is evidence that the above carrier has registered with the Public Service Commission of West Virginia for the current fiscal year for insurance purposes and has provided the Commission with proof of commercial liability insurance as required by the West Virginia statutes and Commission regulations.

It is understood that the carrier's insurance registration may be revoked by the Commission at any time if, for any reason, satisfactory or adequate protection is not provided for the public by this motor carrier. For more information, contact:

Public Service Commission of West Virginia -
Motor Carrier Section
P.O. Box 812
Charleston, WV 25323
304-340-0417

Mail to:

(Company Name)

(Address)

(City/State/Zip)

Return to: Public Service Commission of West Virginia
P.O. Box 812
Charleston, WV 25323
ATT: Motor Carrier Section
PHONE: 1-800-247-TRUX
FAX: (304)340-0394

(For PSC use only)

P.S.C. W.Va. M.C. FORM No. 65 [This form is new - no underlines/strike-throughs shown]

USED-TIRE CARRIER REGISTRATION FORM

Approved: _____ DOT Number: _____

NOTE: If your company owns a motor carrier certificate or permit from the Commission authorizing the intrastate hauling of solid waste generally or of used tires, this form does NOT need to be completed.

1. Applicant Name _____

2. Business Name (if different from Question No. 1): _____

3. Address: _____ City/State/Zip _____

Phone: _____ Fax: _____ E-mail: _____

4. Proposed certificate/permit holder is: Sole Proprietorship _____ Partnership* _____ Corporation** _____
Limited Liability Company*** _____

*Attach list of partners. **Attach list of principal stockholders and officers. ***Attach list of members.

VERIFICATION

I swear (or affirm) that I have knowledge of the affairs of _____,
the above-named motor carrier, and that this application has been prepared or examined by me on his/her/its behalf,
and to the best of my knowledge is true, correct and complete.

AFFIANT _____

Sworn to and subscribed before me this _____ day of _____, 20____

NOTARY PUBLIC _____

My commission expires _____, 20____

County _____ State _____

(3-12-2002)

