

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

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2001 JUL 25 A 10:57

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #3

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Department of Transportation, State Rail Authority TITLE NUMBER: 172

CITE AUTHORITY §29-18-6-11(B)

AMENDMENT TO AN EXISTING RULE: YES NO

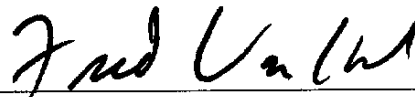
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 2

TITLE OF RULE BEING PROPOSED: Valuation of Used Rolling Stock and Equipment

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Fred VanKirk, P.E.
Secretary/Commissioner of Highways

State Rail Authority, Series 2
Valuation of Used Rolling Stock and Equipment
Agency Approval of a Proposed Rule and
Filing with the Legislative Rule-Making Review Committee
July 25, 2001

SUMMARY OF PROPOSED RULE:

Series 2 addresses the method by which the West Virginia State Rail Authority will determine the value of used rolling stock or equipment it anticipates purchasing.

STATEMENT OF CIRCUMSTANCES:

This rule filing is necessary to comply with changes to W. Va. Code §29-18-6-11(B) as a result of H.B. 3015, passed April 14, 2001 and signed by the Governor on May 15, 2001.

FISCAL NOTE FOR PROPOSED RULES

June 19, 2001

Rule Title: Series 2, Valuation of Used Rolling Stock and Equipment

Type of Rule: Legislative Interpretive Procedural

Agency State Rail Authority
 Address 120 Water Plant Drive
Moorefield, WV 26836

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Personal Services	0.00	0.00			
Current Expense	0.00	0.00			
Repairs & Alterations	0.00	0.00			
Equipment	0.00	0.00			
Other	0.00	0.00			
Estimated Total Cost	0.00	0.00	0.00	0.00	0.00

2. Explanation of above estimates:


These rule changes do not impact any annual or fiscal year costs.

3. Objectives of this rule:

This new legislative rule is being filed to address changes to W. Va. Code §29-18-6-11(B) as a result of H.B. 3015, passed April 14, 2001 and signed by the Governor on May 15, 2001. This rule documents the method by which the West Virginia State Rail Authority will determine the value of used rolling stock or equipment it anticipates purchasing.

4. Explanation of Overall Economic Impact of Proposed Rule.
- A. Economic Impact on State Government
- No economic impact.
- B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens:
- No economic impact.
- C. Economic Impact on Citizens/Public at Large.
- No economic impact.
5. Contact Person and Telephone Number.
- Ms. Cindy K. Butler
Phone - 538-2305

June 19, 2001

A handwritten signature in cursive script, appearing to read "Fred VanKirk", is written over a horizontal line.

Fred VanKirk, P.E.
Secretary/Commissioner of Highways

Legislative Rule-Making Review Committee

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 25, 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) State Rail Authority

120 Water Plant Drive

Moorefield WV 26836 304/538-2305

LEGISLATIVE RULE TITLE: Valuation of Used Rolling Stock and Equipment

1. Authorizing statute(s) citation §29-18-6-11(B)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 19, 2001

b. What other notice, including advertising, did you give of the hearing?

No additional notice was provided.

c. Date of Public Hearing(s) or Public Comment Period ended:

July 22, 2001

- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

Filed with Sec. of State: 7/25/2001 Published in State Register: 7/27/2001

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

William Hartman, Executive Director

WV State Rail Authority

120 Water Plant Drive, Moorefield, WV 26836

304/538-2305, fax: 304/538-7474

- g. ***IF DIFFERENT FROM ITEM 'f'***, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Cindy K. Butler

WV State Rail Authority

120 Water Plant Drive, Moorefield, WV 26836

304/538-2305, fax: 304/538-7474 [e-mail: ckbutler@dot.state.wv.us]

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

Not Applicable

b. Date of hearing or comment period:

Not Applicable

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

Not Applicable

d. Attach findings and determinations and reasons:

Attached

State Rail Authority, Series 2
Valuation of Used Rolling Stock and Equipment
Agency Approval of a Proposed Rule and
Filing with the Legislative Rule-Making Review Committee

SUMMARY OF PUBLIC COMMENTS and RESPONSES:

The public comment period was advertised in the State Register, published June 22, 2001. No comments were received on the proposed amendments. Therefore, no changes were made to the proposed rule filed with the Secretary of State on July 25, 2001.

**TITLE 172
LEGISLATIVE RULE
DEPARTMENT OF TRANSPORTATION
STATE RAIL AUTHORITY**

FILED

2001 JUL 25 A 10: 57

SERIES 2

VALUATION OF USED ROLLING STOCK AND EQUIPMENT

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§172-2-1. General.

1.1. Scope. -- This rule sets forth the methods for determining value of used rolling stock or equipment to be purchased by the West Virginia State Rail Authority

1.2. Authority. -- W. Va. Code §29-18-6-11(B).

1.3. Filing Date. --

1.4. Effective Date. --

Executive Director will submit a verification of the current market value of like equipment. This verification is to be submitted to the Executive Director in writing. The Executive Director will document these findings and have authority to purchase said equipment if the Executive Director determines that the equipment/rolling stock is a valuable asset at a fair price.

2.2.c. A signed price quote from the vendor, the Executive Director's justification and the statements of value from the independent third parties will be on file at the office of the State Rail Authority.

§172-2-2. Valuation of Used Rolling Stock and Equipment.

2.1. In accordance with W. Va. Code §29-18-6-11(B), the State Rail Authority may acquire used rolling stock and equipment with a value of one hundred thousand dollars or less without following the provisions of W. Va. Code §5A-3. With exception of used rolling stock or equipment, all other purchases will be conducted in accordance with the provisions of W. Va. Code §5A-3 and §29-18.

2.2. The procedure for determining the value of said equipment/rolling stock is as follows:

2.2.a. Two qualified State Rail Authority employees will inspect the proposed equipment/rolling stock. They will report the condition of the equipment/rolling stock to the Executive Director of the State Rail Authority.

2.2.b. The Executive Director will verify the current market value with railroad equipment dealers, brokers or other railroads. Where practicable, the Executive Director will obtain a verification of current market value from at least two dealers, brokers or other railroads. The third party contacted by the