

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #2

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2009 JUL -8 PM 4: 02

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Department of Transportation State Rail Authority TITLE NUMBER: 172

RULE TYPE: Legislative CITE AUTHORITY: W.Va. 29-18-6-11(B)(i)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Two

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

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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 August 7, 2009 AT 10:00 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Marvin Murphy; Kathy Holtsclaw

WV Department of Transportation
Bldg. 5, Room 164

1900 Kanawha Blvd. E.
Charleston, WV 25305-0430

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

Paul d. Mettler, Jr.
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

WV Department of Transportation, State Rail Authority, Series 2

Valuation of Used Rolling Stock and Equipment

Proposed Amendments to a Legislative Rule

July 8, 2009

SUMMARY OF PROPOSED RULE:

Series 2 provides rules pertaining to the procedure for determining the value of used rolling stock and equipment for purchasing purposes.

STATEMENT OF CIRCUMSTANCES:

This rule filing is necessary to comply with changes to WV Code §29-18-6, passed April 10, 2009 and in effect 90 days from passage.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Valuation of Used Rolling Stock and Equipment

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Department of Transportation State Rail Authority

Address: Bldg. 5, Room 164
1900 Kanawha Blvd. E.
Charleston, WV 25305-0430

Phone Number: 304-558-2804 Email: marvin.g.murphy@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

These rule changes do not impact costs and revenues of the state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: _____

Rule Title: Valuation of Used Rolling Stock and Equipment

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

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

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Date: July 8, 2009

Signature of Agency Head or Authorized Representative

Paul A. Mattos, Jr.

FILED

TITLE 172
LEGISLATIVE RULE
DEPARTMENT OF TRANSPORTATION
STATE RAIL AUTHORITY

2009 JUL -8 PM 4: 02

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 2
VALUATION OF USED ROLLING STOCK AND EQUIPMENT

§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)(i).

1.3. Filing Date. --

1.4. Effective Date. --

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

2.1. In accordance with W. Va. Code §29-18-6-11(B)(i), the State Rail Authority may acquire rolling stock and equipment with a value of ~~one~~ five hundred thousand dollars (\$500,000.) or less without following the provisions of W. Va. Code §5A-3, et. seq. With the exception of used rolling stock or equipment, all other purchases will be conducted in accordance with the provisions of W. Va. Code §§5A-3 et. seq and 29-18 et. seq.

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

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

2.2.b. The Executive Director shall verify the current market value with railroad equipment dealers, brokers or other railroads. Where practicable, the Executive Director shall obtain a verification of current market value from at least two dealers, brokers or other railroads. The dealers, brokers or railroads contacted by the Executive Director shall submit a written verification of the current market value of similar equipment. The Executive Director shall document these findings and may purchase the equipment if the Executive Director determines that the rolling stock and equipment is a valuable asset at a fair price.

2.2.c. The State Rail Authority shall maintain a signed price quote from the vendor, the Executive Director's justification and the statements of value from the independent dealers, brokers or railroads on file at the office of the State Rail Authority.