

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

Form #3

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2009 JUL 31 PM 12:58

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

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

CITE AUTHORITY: W.Va. Code 29-18-6-11(B)(i)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 2

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: _____

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.



Authorized Signature

WV Department of Transportation, State Rail Authority, Series 2

Valuation of Used Rolling Stock and Equipment

Proposed Amendments to a Legislative Rule

July 31, 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.

STATEMENT OF FACTS AND CIRCUMSTANCES EXPLAINING ANY CHANGES THAT HAVE BEEN MADE:

There were no comments made, and therefore, no changes have been made.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Valuation of Used Rolling Stock and Equipment

Rule Title: _____
 Type of Rule: Legislative Interpretive Procedural
 Agency: WV Dept. 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.

None

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 31, 2009

Signature of Agency Head or Authorized Representative
Mark A. Murphy

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 31, 2009

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Dept of Transp - State Rail Authority
Bldg. 5, Room 164
1900 Kanawha Blvd. E.
Charleston, WV 25305-0430
(304) 558-2804

LEGISLATIVE RULE TITLE: Valuation of Used Rolling Stock and Equipment

1. Authorizing statute(s) citation W.Va Code 29-18-6-11(B)(i)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
July 8, 2009

b. What other notice, including advertising, did you give of the hearing?
None

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 31, 2009 at 9:00 a.m.

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)

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

Marvin Murphy, Kathy Holtsclaw

WV Division of Highways

Bldg. 5, Room 164

1900 Kanawha Blvd. E.

Charleston, WV 25305-0430

- 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)

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.

b. Date of hearing or comment period:

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

d. Attach findings and determinations and reasons:

Attached

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2009 JUL 31 PM 12:58

TITLE 172
LEGISLATIVE RULE
DEPARTMENT OF TRANSPORTATION
STATE RAIL AUTHORITY

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.