



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

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

AGENCY: Multimodal Transportation Facilities TITLE-SERIES: 220-01
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: 220-01 Valuation of Used Rolling Stock and Equipment

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 17-16F-5(b); 17-16F-13(f)

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

The Agency possesses general rulemaking authority to effectuate the Article. Further, the Agency has specific rulemaking authority to codify the process for the valuation and purchase of used rolling stock for railroad operations. This rule does just that.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/28/2023

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/28/2023

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

None

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This rule existed under the former agency, the State Rail Authority, for purchase of used railroad rolling stock with a cap of \$500,000 as set by statute. This authority exempted the Agency from the requirements of W.Va. Code 5A-3 provisions generally used for procurement due to the uniqueness of this commodity. In the revised statute which created the DMTF in July of 2022, this authority was carried over and the limit is now set at \$1,000,000. The former process utilized Agency staff for valuation and report. This revised rule allows for qualified individuals, which may or may not be paid employees of the DMTF, to conduct the threshold inquiry and reporting to the Commissioner for condition and value.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

State code provides for this authority of the DMTF Commissioner, this rule memorializes the process going forward.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

None

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

The effect of this rule will not result in any added cost or revenue to the State.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Stephen R Connolly -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 220
LEGISLATIVE RULE
DEPARTMENT OF TRANSPORTATION
DIVISION OF MULTIMODAL TRANSPORTATION FACILITIES

SERIES 1
VALUATION OF USED ROLLING STOCK AND EQUIPMENT

§220-1-1. General.

1.1. Scope. -- This rule sets forth the methods for determining the value of used rolling stock or equipment to be purchased by the West Virginia Division of Multimodal Transportation Facilities.

1.2. Authority. -- 17-16F-5(b); 17-16F-13(f).

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.

§220-1-2. Valuation of Used Rolling Stock and Equipment.

2.1. In accordance with W. Va. Code §17-16F-13(f), the Division of Multimodal Transportation Facilities may acquire rolling stock and equipment with a value of one million dollars (\$1,000,000.00) 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.

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

2.2.a. Two persons qualified by knowledge, training, skill and/or experience in the railroad industry shall be selected by the Commissioner for assignment to inspect the proposed rolling stock and equipment for use in operations of the Division of Multimodal Transportation Facilities. These persons shall report the condition of the rolling stock and equipment to the Commissioner of the Division of Multimodal Transportation Facilities.

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

2.2.c. The Division of Multimodal Transportation Facilities shall maintain a signed price quote from the vendor, the Commissioner's justification, and the statements of value from the independent dealers, brokers or railroads on file at the office of the Division of Multimodal Transportation Facilities.