

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
State Road Commissioner

Chapter 17-2A  
Series I  
(1966)

Subject: Regulations Pertaining to Particular Functions of the  
State Road Commissioner.

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Section 1. General

1.01. Scope.--These rules and regulations appertain to particular functions of the office of State Road Commissioner.

1.02. Authority.--These rules and regulations are issued under authority of West Virginia Code, Chapter 17, Article 2A, Sections 4b and 8.

1.03. Effective Date.--These rules and regulations are promulgated on October 14, 1966, and become effective on October 14, 1966.

1.04. Filing Date.--These rules and regulations were filed in the office of the Secretary of State on October 14, 1966.

1.05. Certification.--These rules and regulations are certified authentic by the State Road Commissioner by certification number

Section 2. Commissioner's Orders

2.01. Purpose.--The purpose of this section is to establish a system by which all orders of the State Road Commissioner may be permanently recorded and maintained in such manner that they will be conveniently accessible to interested persons.

2.02. Scope of Commissioner's Order.--The orders of the State Road Commissioner are official determinations or decisions which relate to the internal management and organization of the State Road Commission, or to a specific person or group of persons, or to the public in general.

2.03. Commissioner's Order Book.--The State Road Commissioner shall maintain in his office a record of all orders issued by him, which record shall be designated as the State Road Commissioner's Order Book. All orders issued by the Commissioner during each day shall be entered therein, and all such orders so entered shall be indexed and cross-indexed so as to afford a method of ready and convenient access to each such order issued by the Commissioner.

2.04. Effective Date.--Each order of the State Road Commissioner filed in the Commissioner's Order Book as provided in the preceding section, shall become effective immediately upon filing, unless

some provision of law or some statement as to the effective date of such decision is stated in the order itself.

2.05. Copies of Commissioner's Orders; Distribution.--The State Road Commissioner shall provide a certified copy of any Commissioner's Order to any person who is directly affected by any such order and who requests a copy thereof. In addition to any person requesting a copy of such order, the Commissioner may furnish copies to any governmental agency or to such other persons, firms or organizations as he may deem suitable or proper in order to provide the most effective notice of the order.

### Section 3. Hearing Procedures

3.01. Purpose.--The purpose of this section is to provide standards of conduct for all hearings by and before the State Road Commissioner.

3.02. Scope.--These rules shall apply to all hearings which may be held by the State Road Commissioner whether the same be initiated by the Commissioner or by any citizen, it being the intent hereof that these rules shall be applicable whenever, by

Amend Section 3.02 of Series I by adding the following after  
the third paragraph:

These rules shall not apply to hearings on appeal from a  
determination as to eligibility for a relocation payment, a replace-  
ment housing payment or reimbursement of expenses incidental to the  
transfer of property or of the amount of such payments. Such hearings  
will be held by the Director of the Right of Way Division or by an  
assistant designated by him to hold hearings. Such hearings shall be  
held in accordance with the procedures set forth in Section 14.01,  
Series II of these regulations.

FILED IN THE OFFICE  
JOHN D. ROCKWELL  
SECRETARY OF STATE  
THIS DATE 3/20/69

any action of the State Road Commissioner, the rights of any citizen will be adversely and directly affected and it is proper that such citizen have due notice and an opportunity to be heard thereon.

These rules shall also apply to the conduct of all hearings on claims asserted against the State Road Commission, other than claims heard and determined by the office of the Attorney General.

These rules shall not apply to hearings and public meetings held by the Commissioner for purposes of acquiring information, making findings and determining courses of action and procedure relative to the location of any road or proposed road, or to the advancement and improvement of the state road system.

These rules shall be applied in harmony with applicable state statutes and in case of conflict, state statutes shall prevail.

3.03. Records Pertaining to Hearings.--The Executive Secretary of the State Road Commission shall be responsible for all administrative and clerical duties relating to hearings and for all records and pleadings pertaining to hearings. He shall receive all applications, petitions, protests, claims or other written documents relating to a hearing before the State Road Commission. The Executive Secretary will, upon request, advise any party as to the form

or condition of any paper to be filed in any proceeding before the Commissioner. He will maintain a docket book in which shall be entered each formal case on complaint, claim, application or petition, investigation, or protest, with a file number corresponding to the number of the case together with brief chronological notations of the proceedings had in the case. He shall also maintain the Commissioner's Order Book, in which shall be recorded, on the day of their filing, any orders made or passed by the State Road Commissioner in the performance of his statutory duties.

(a) All papers or documents, of whatever character, which are received or filed in the office of the Executive Secretary, shall be stamped showing the date of receipt or filing thereof.

3.04. Complaints, Claims, Applications, Petitions, Protests.--  
Claims, complaints or applications may be either informal or formal.

(a) Informal Pleadings and Procedures.--Informal claims, complaints or applications may be made by letter or other writing addressed to the State Road Commissioner, 1800 Washington Street, East, Charleston, West Virginia, or the

office of the District Engineer. Matters thus presented, if their nature warrants, may be negotiated and settled by the State Road Commissioner, the District Engineer, or some other duly authorized employee, without formal hearings. If the matters cannot be resolved satisfactorily to all parties, the proceeding is held to be without prejudice to the right of any party to file and prosecute a formal claim, complaint or application, whereupon the informal proceeding will be discontinued. No form of informal complaint, claim or application is prescribed, but the letter or other writing must contain a clear and concise statement of the facts and the specific relief sought. However, the names of all parties affected or involved shall be stated in full, and the address of each party, with the name and address of his attorney, if any, stated therein or thereon.

(b) Formal Pleadings.--All formal complaints, claims, applications, petitions and protests shall be in writing and addressed to the State Road Commissioner. Such papers shall set forth plainly and distinctly the grounds for the relief sought or reasons for protest and should be so drawn

as fully and completely to advise the State Road Commissioner of the nature of the grievances or alleged violations of law.

(1) The names of all parties affected or involved shall be stated in full and the address of each party, with the name and address of his attorney, if any.

(2) Formal pleadings shall be substantially in the form hereinafter prescribed, and verification shall likewise be substantially in the form hereinafter prescribed. (See Forms Nos. 1 and 2, Appendix A to this Series.)

(3) Two copies of all such papers shall be filed with the Commissioner.

3.05. Answers or Responsive Pleadings by State Road Commissioner.

Within thirty days after receipt of a formal pleading or protest, the State Road Commissioner or the director of the division thereby affected shall file an answer to such pleading or protest. Such answer shall fully and plainly inform the parties involved of the

nature of the Commission's defense or reason for the decision or action upon the particular matter involved. The State Road Commissioner shall serve such answer upon the parties either in person or by registered or certified mail to the party or his attorney.

3.06. Stipulations or Agreed Facts.--The parties to any proceeding before the State Road Commissioner may, by stipulation in writing filed with the Commissioner, agree upon the facts, or any portion thereof, involved in the controversy, which stipulation shall be recorded and used at the hearing.

3.07. Hearings; Notices; Evidence.--When issue is joined by the service of an answer on the complainant upon any matter for which the Commissioner is required by law to hold a hearing or shall pursuant to these rules and regulations determine that a hearing shall be held, the Commissioner will assign a time and place for such hearing, which will be at his offices in the City of Charleston or elsewhere in the state at the discretion of the Commissioner. The hearing will be held by the State Road Commissioner or by one or more of his employees who shall have been designated by him to hold hearings.

(a) Notices.--The Commissioner shall give all parties

not less than ten days' notice of the time and place of hearing, which notice may be served upon the parties by personal delivery, or by registered or certified mail, or in any manner by which a notice may be served at law.

(b) Evidence.--The parties must prove the existence of the facts as alleged in their pleadings. The Commissioner, however, will hear such proof of facts as he may deem proper and reasonable, and may make such investigation and enter such order as the facts justify and the circumstances may require.

(1) The State Road Commissioner shall not be bound by common law or statutory rules of evidence in conducting hearings. He will admit all testimony or other evidence having reasonable probative value, but will exclude immaterial, irrelevant or unduly repetitious testimony. He shall, however, give effect to any rules of privilege recognized by the laws of this state.

(2) All evidence, including records and documents

in the possession of the State Road Commissioner may be duly offered and made a part of the record in a case. Every party to the proceeding shall be afforded adequate opportunity to rebut or offer countervailing evidence.

(3) The State Road Commissioner or his duly authorized hearing examiner, may take official notice of any generally recognized fact or any established technical or scientific fact; but parties shall be notified either before or during the hearing or by full reference in preliminary reports or otherwise, of the facts so noticed, and they shall be afforded an opportunity to contest the validity thereof.

(4) At any hearing conducted by the Commissioner, or by a designated employee thereof, witnesses shall be examined under oath in the manner and form, and in the order designated by the presiding officer. If the Commissioner or presiding officer so directs, or any party in interest so requests, the testimony given shall be reduced to writing in the form of shorthand

notes or such other form of recording as the Commissioner may direct, and preserved in the Commissioner's files. Should any party in interest request a transcript of the proceedings, or should the Commissioner direct that a transcript be prepared, then sufficient copies shall be made and delivered to each party making such request, and at the expense of the person making the request.

3.08. Depositions.--The testimony of any witness may be taken by deposition at the instance of a party, in any proceeding or investigation at any time after the same is at issue, by the consent of the Commissioner. The Commissioner may, of his own motion, order testimony to be taken by deposition in any proceeding or investigation pending before him, at any stage of such proceeding or investigation. Depositions shall be taken in a manner consistent with the provisions of Section 3, Series I, of these rules and regulations.

3.09. Subpoenas.--Subpoenas requiring the attendance of witnesses, from any place in the State of West Virginia, at any designated place of hearing before the Commissioner, or any employee of the Commissioner whom he shall have designated to hold such

hearing, for the purpose of taking the testimony of such witness, and subpoenas requiring the production of documentary evidence, will be issued upon the application of either party, by the Executive Secretary.

3.10. Decisions of the State Road Commissioner.--Every decision of the State Road Commissioner in a contested case shall be in writing accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise and separate statement of the ultimate conclusions upon each contested issue of fact without recital of evidence.

3.11. Service of Commissioner's Decision, Subpoenas and Notices.--Every decision when made by the State Road Commissioner shall be recorded in the Commissioner's Order Book, and a copy thereof shall be served forthwith by personal delivery or by registered or certified mail to each adversary party to the proceeding or to his attorney of record; and all subpoenas for parties or witnesses and all notices shall be served by personal delivery or by registered or certified mail to each adversary party to the proceeding or to his attorney of record, or as provided by law.

Section 4. Scholarships for Prospective State Road Commission  
Personnel

4.01. General.--Pursuant to the provisions of Chapter 17, Article 2A, Section 4b, Code, the State Road Commissioner is authorized to award scholarships to competent persons for the purpose of enabling and encouraging them to attend a college or university to pursue such course of study as may be approved by the State Road Commissioner, with the end in view of attracting and holding competent personnel for the State Road Commission. No more than twelve persons may hold such scholarships at any one time.

4.02. Application.--Any person who is eligible to attend any accredited college or university may apply for a State Road Commission scholarship. Application blanks shall be furnished at the Commissioner's office and when completed shall be returned to the Commissioner's office.

4.03. Certified Copy of Academic Grades.--Any person applying for a State Road Commission scholarship shall provide the Commissioner, as a part of his application, a certified copy of his grades, and the subjects studied for all previous institutions of

higher learning attended by the applicant. Where the applicant has attended high school only, a certified copy of his high school grades shall be sent to the Commissioner with the written application.

4.04. Written Essay.--Each applicant shall submit to the State Road Commissioner a written essay of not more than one thousand words explaining why he is interested in working for the State Road Commission and why he is interested in the Commission's scholarship program.

4.05. Personal Interview.--If after receiving the application and other papers required by the preceding sections, the Commissioner feels that the applicant is entitled to further consideration, a personal interview will be arranged and the applicant will be notified of the time and place at least ten days in advance.

4.06. Award of Scholarship.--Upon the basis of the information and personal impressions which the Commissioner has received from the information requested by virtue of the preceding subdivisions of this section, the Commissioner may award a scholarship to such person or persons as he considers competent and entitled thereto. Any such scholarship shall carry a stipend in an amount fixed by

the Commissioner, but not to exceed a total of \$4,000.00. The sum so awarded will be paid to the recipient of the scholarship in equal installments at the beginning of each quarter or semester wherein the recipient has agreed to pursue his course of study.

4.07. Execution of Notes.--The recipient of a scholarship shall execute negotiable promissory notes for the full amount of the scholarship stipend awarded him by the State Road Commissioner and each such note shall be in the amount actually received from the State Road fund and shall be payable on demand to the order of the State Treasurer.

4.08. Employment Credited Against Notes.--If, upon graduation, or completion of the approved course of study, the person awarded the scholarship herein described enters the employ of the State Road Commission and remains so employed, the State Road Commissioner will credit the oldest outstanding note of such person in the amount of \$400.00 for every six months period that such person is employed by the State Road Commission.

4.09. Failure to Graduate or Complete Education.--If for any reason, except death or physical or mental disability or being drafted into the armed services, the recipient of the scholarship

fails to successfully complete the course of study for which the scholarship was granted, or if after the completion of the approved course of study such person does not become or continue to be an employee of the State Road Commission, or ceases to be an employee before all such notes have been paid or cancelled, the State Road Commissioner shall demand payment of all such unpaid notes, and shall transmit them to the State Treasurer for immediate collection.

Section 5. Location, Relocation, Classification or Reclassification of State Roads

5.01. General.--The State Road Commissioner may conduct investigations and experiments, and he may hold formal or informal hearings or other public meetings and conferences for the purpose of acquiring information from which he can determine future courses of action and procedure relative to the state road system.

5.02. Commissioner's Order; Distribution.--When the Commissioner has received the results of any engineering study or survey, or investigation, or when as the result of any hearing, public meeting or conference, he determines the location, reloca-

tion, classification or reclassification or designation by number of any road in this state, he shall set forth his conclusions in an order and spread such order upon the pages of the Commissioner's Order Book to be retained as a permanent record of his conclusions and his actions regarding any such road. All such orders of the Commissioner shall become effective immediately upon being signed and entered in the Commissioner's Order Book by the Executive Secretary of the State Road Commission.

(a) Copies of Commissioner's Order.--Copies of any such order of the Commissioner shall be sent to the office of the District Engineer of the District wherein any such road is located and shall be kept available for public inspection during all normal business hours. The Commissioner may also send copies of any such order to such public officials or private persons or groups as he may feel will provide adequate public notice of his action.

5.03. Petition of Interested Persons.--Any group of twenty-five or more persons interested in the location, relocation,

classification or reclassification of any road or proposed road may file a petition in writing with the State Road Commissioner setting forth therein the request, complaint or demand of the persons signing such petition, and the Commissioner shall immediately designate one or more employees of the State Road Commission to investigate the situation described in the petition. All such petitions shall be directed to the State Road Commissioner, 1800 Washington Street, East, Charleston, West Virginia, and shall contain at least the following information.

- (a) A description of the road or proposed road in as definite terms as possible, with references to route numbers and approximate distances from intersections with other roads or from city limits where possible.
- (b) A concise and clear statement of the problem or situation which the petitioners are asking the Commissioner to resolve.
- (c) A concise and clear statement of the action the petitioners want the State Road Commissioner to take to remedy the situation described in the petition.

(d) Signatures and mailing addresses of the petitioners.

5.04. Investigation By Commission.--Upon receipt of any such petition, the State Road Commissioner shall immediately forward a copy thereof to the District Engineer of the District wherein the road problem or road situation described in the petition is located, and request that a complete investigation be undertaken as soon as practicable. The District Engineer shall then immediately commence such investigation, and during the course thereof, no less than two of the persons who have signed their names to the petition shall be personally interviewed by the District Engineer or his duly authorized representative. Where possible, the first two persons who have signed the petition will be interviewed.

5.05. Hearing.--If, after completing his investigation, the State Road Commissioner believes that a hearing should be held, or if the petitioners request a hearing, the Commissioner shall set a time and place for the hearing and shall notify all persons who have signed the petition and any other person he feels may be interested in order that all such persons may appear at the

hearing and express their views.

5.06. Commissioner's Determination.--Upon the completion of his study of the results of the investigation provided for herein, and after reviewing the evidence presented at the hearing provided for herein, if such hearing be held, the Commissioner shall decide whether the relief requested by the petition shall be granted and will notify at least the first five persons whose signatures and mailing addresses appear on the petition of his conclusions, unless the petitioners have designated some other person or group of persons to receive such notice. If the Commissioner's decision is such that it must be put into effect by means of a formal Commissioner's Order as provided for herein, the Commissioner shall send copies of the order to at least the first five persons whose signatures and mailing addresses appear on the petition.

Section 6. Abandonment and Discontinuance of State Roads

6.01. General.--Pursuant to the provisions of Chapter 17, Article 2A, Section 8(12) of the West Virginia Code, the State Road Commissioner may discontinue, vacate and close any road or highway, or any part thereof, where he finds the continuance and

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SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 10/14/66

maintenance of any such road unnecessary and improper.

6.02. Petition of Interested Persons.--Any person whose property or property interests are affected by any road or highway subject to the control and jurisdiction of the State Road Commissioner may petition the Commissioner for the abandonment and discontinuance of any such road. The petition shall describe the road, or portion of the road, in such a fashion and by reference to some form of landmarks so that it can be readily located by State Road Commission personnel; the petition shall state the reasons why the petitioner wants the road abandoned; and the petitioner shall sign his full name and provide his mailing address.

6.03. Hearing.--Upon receiving a petition for the abandonment of a road, the Commissioner may, if he deems it necessary or desirable, or shall, if the petitioner so requests, set the matter for a hearing as provided in Section 3 of Series I of these regulations, and upon the basis of the evidence produced at the hearing, the Commissioner shall determine whether the road or portion of the road should be abandoned.

6.04. Investigation By Commissioner.--The State Road Com-

missioner may on his own motion, cause an investigation to be made of any road or highway, and upon the basis of the information so produced, determine whether it is in the best interests of the state for a road, or a part of a road, to be abandoned and discontinued, and if he finds that it is in the best interests of the state so to do, he may abandon and discontinue the same. Where such an investigation is made by the Commissioner prior to a hearing, as provided for in the preceding section, the Commissioner shall produce the findings of his investigation at the hearing and allow all other interested parties to either rebut or support his findings.

6.05. Abandonment by Commissioner's Order.--In every case where the State Road Commissioner determines that it is in the best interests of the state to abandon and discontinue a road or portion of a road, he shall abandon, discontinue, vacate or close the same by a formal Commissioner's Order, duly entered in the permanent Commissioner's Order Book as provided for in Section 1 of Series I of these regulations. Any such road or portion of a road, shall be abandoned as of the date the Commissioner's Order is officially entered in the Commissioner's Order Book.

6.06. Copies of Commissioner's Order of Abandonment.--The Commissioner shall send a certified copy of any order wherein a road or a part of a road is abandoned, discontinued, vacated or closed to the following persons:

(a) The office of the District Engineer of the District wherein any such road is located, which order shall be available for public inspection during all normal business hours;

(b) The Clerk of the County Court of the county wherein the abandoned road is located;

(c) Any person who has notified the Commissioner that his personal or property interests may be affected by the abandonment, discontinuance, vacating or closing of the road in question.

FORM 1

STATE OF WEST VIRGINIA  
State Road Commissioner  
Charleston

TO THE STATE ROAD COMMISSIONER:

Your petitioner, \_\_\_\_\_ (name of petitioner) \_\_\_\_\_,  
respectfully states:

1. That \_\_\_\_\_ (Here state occupation, or business of  
petitioner, and address) \_\_\_\_\_.

2. That petitioner \_\_\_\_\_ (Here state form of relief  
sought from State Road Commission, i.e., whether an application,  
claim, complaint, or protest to a ruling or decision of the  
Commissioner, together with a brief statement setting forth  
plainly the grounds therefor.) \_\_\_\_\_

3. That \_\_\_\_\_ (Here state names of all parties, and their  
addresses, who may be involved, if any.) \_\_\_\_\_

WHEREFORE, the petitioner, or complainant, requests that  
\_\_\_\_\_ (Here set forth specifically the relief sought or action  
desired to be taken by the Commissioner.) \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Attorney for Petitioner

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Address

FORM 2

VERIFICATION

(To be added to all complaints, answers, applications and petitions.)

State of West Virginia,

County of \_\_\_\_\_, to-wit:

\_\_\_\_\_, the (petitioner, etc.)  
named in the foregoing (petition, etc.) being duly sworn, says  
that the facts and allegations therein contained are true, except so  
far as they are therein stated to be on information, and that, so  
far as they are therein stated to be on information, he believes  
them to be true.

\_\_\_\_\_  
Affiant

Taken, sworn to and subscribed before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for said County

My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

FILED IN THE OFFICE  
JAMES P. BAILEY  
SECRETARY OF STATE  
THIS DATE 10/14/66

RULES AND REGULATIONS  
OF THE  
STATE ROAD COMMISSIONER OF WEST VIRGINIA

BURL A. SAWYERS

State Road Commissioner

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
State Road Commissioner

Chapter 17-2A

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## INTRODUCTION

The following rules and regulations, promulgated by the State Road Commissioner of West Virginia under authority vested in him by law, are filed of record in the office of the Secretary of State of West Virginia, pursuant to the provisions of Chapter 29A of the Code of West Virginia (Uniform Administrative Procedures Act), requiring the recordation in said office of the administrative rules and regulations adopted by the various agencies or departments of the state government.

Section 1(c), of Article 1, of said Chapter 29A, Code, defines what constitutes a "rule", required to be filed in said office, as follows:

"'Rule' includes every regulation, standard, or statement of policy or interpretation of general application and future effect, including the amendment or repeal thereof, affecting private rights, privileges or interests, or the procedures available to the public, adopted by an agency to implement, extend, apply, interpret or make specific the law enforced or administered by it or to govern its organization or procedure, but does not include regulations relating solely to the internal management of the agency, nor regulations of which notice is customarily given to the public by markers or signs, nor mere instructions;"

In conformance with the above statute these rules and regulations are designed and intended solely to "implement, extend, apply, interpret or make specific the law", and hence Code sections relating

to the highway laws of West Virginia are neither quoted, repeated, nor paraphrased, except in singular instances where a rule cannot clearly be understood without reference to the statutory base upon which it is premised or out of which it grows. It follows that appropriate Code provisions must be consulted as to all matters covered by statute. However, occasional citations are made to specific Code sections, for the purpose of denoting rule making powers delegated to the Commissioner in a given instance, or to establish a frame of reference with respect to the statute law upon which certain rules or regulations are predicated.

Conformably, these rules and regulations do not contain material merely informational in character, except as immediately hereinafter contained, and in the appendices hereto.

There follows an outline (not exhaustive) of the powers, functions, and duties, of the State Road Commissioner, The State Road Commission of West Virginia (a 7-man body corporate), and the various divisional units and offices of the State Road Commission (the non-corporate governmental unit or agency engaged and employed in the conduct and carrying out of the state road program and system).

(A). The State Road Commissioner.--The State Road Commissioner is appointed by the Governor, for a term of four years, by and with the consent of the Senate. The powers and duties of the Commissioner include, but are not limited to, those specified in Chapter 17,

Article 2A, Section 8, Code, as follows:

The Commissioner may:

(1) Exercise general supervision over the state road program and the construction, reconstruction, repair and maintenance of state roads and highways;

(2) Determine the various methods of road construction best adapted to the various sections and areas of the state and establish standards for the construction and maintenance of roads and highways therein;

(3) Conduct investigations and experiments, hold hearings and public meetings and attend and participate in meetings and conferences within and without the state for purposes of acquiring information, making findings and determining courses of action and procedure relative to advancement and improvement of the state road and highway system;

(4) Enter private lands to make inspections and surveys for road and highway purposes;

(5) Acquire, in name of the commission, by lease, grant, right of eminent domain or other lawful means, all lands and interests and rights in lands necessary and required for roads, rights of way, cuts, fills, drains, storage for equipment and materials, and road construction and maintenance in general;

(6) Procure photostatic copies of any or all public records

on file at the State Capitol of Virginia which may be deemed necessary or proper in ascertaining the location and legal status of public road rights of way located or established in what is now the State of West Virginia, which photostatic copies, when certified by the Commissioner, may be admitted in evidence, in lieu of the original, in any of the courts of this state;

(7) Plan for and hold annually a school of good roads, of not less than three nor more than six days' duration, for instruction of his employees, which school shall be held in conjunction with West Virginia University and may be held at the University or at any other suitable place in the state;

(8) Negotiate and enter into reciprocal contracts and agreements with proper authorities of other states and of the United States relating to and regulating the use of roads and highways with reference to weights and types of vehicles, registration of vehicles and licensing of operators, military and emergency movements of personnel and supplies and all other matters of interstate or national interest;

(9) Locate and relocate primary and secondary roads and classify and reclassify and designate by number the routes within the primary and secondary road system;

(10) Create, extend or establish, upon petition of any interested party or parties or on the Commissioner's own initia-

tive, any new road or highway as may be found necessary and proper;

(11) Exercise jurisdiction, control, supervision and authority over local roads, outside the state road system, to the extent determined by him to be expedient and practicable;

(12) Discontinue, vacate and close any road or highway, or any part thereof, the continuance and maintenance of which are found unnecessary and improper, upon petition and hearing, or upon investigation initiated by the Commissioner;

(13) Close any state road while under construction or repair and provide a temporary road during the time of such construction or repair;

(14) Adjust damages occasioned by construction, reconstruction or repair of any state road or the establishment of any temporary road;

(15) Establish and maintain a uniform system of road signs and markers;

(16) Fix standard widths for road rights of way, bridges and approaches thereto and fix and determine grades and elevations therefor;

(17) Test and standardize materials used in road construction and maintenance, either by governmental testing and standardization activities or through contract by private agencies;

(18) Allocate the cost of retaining walls and drainage projects, for the protection of a state road or its right of way, to

the cost of construction, reconstruction, improvement or maintenance;

(19) Acquire, establish, construct, maintain and operate, in the name of the Commission, roadside recreational areas along and adjacent to state roads and highways;

(20) Exercise general supervision over the construction and maintenance of airports and landing fields under the jurisdiction of the West Virginia Board of Aeronautics, of which the Commissioner is a member, and make a study and general plan of a statewide system of airports and landing fields;

(21) Provide traffic engineering services to municipalities of the state upon request of the governing body of any such municipality and upon such terms as may be agreeably arranged;

(22) Institute complaints before the Public Service Commission or any other appropriate governmental agency relating to freight rates, car service and movement of road materials and equipment;

(23) Invoke any appropriate legal or equitable remedies to enforce his orders, to compel compliance with requirements of law and to protect and preserve the state road and highway system or any part thereof;

(24) Make and promulgate rules and regulations for the government and conduct of personnel, for the orderly and efficient administration and supervision of the state road program and for the effective and expeditious performance and discharge of the duties and responsibilities placed upon him by law;

(25) Delegate powers and duties to his appointees and employees who shall act by and under his direction and be responsible to him for their acts;

(26) Designate and define such construction and maintenance districts within the state road system as may be found expedient and practicable;

(27) Contract for the construction, improvement and maintenance of state roads;

(28) Comply with provisions of present and future federal aid statutes and regulations, including execution of contracts or agreements with and cooperation in programs of the United States government and any proper department, bureau or agency thereof relating to plans, surveys, construction, reconstruction, improvement and maintenance of state roads and highways;

(29) Prepare budget estimates and requests;

(30) Establish a system of accounting covering and including all fiscal and financial matters of the Commission;

(31) Establish an advance right of way acquisition revolving fund, a materials revolving fund, and an equipment revolving fund;

(32) Enter into contracts and agreements with and cooperate in programs of counties, municipalities and other governmental agencies and subdivisions of the state, relating to plans, surveys,

construction, reconstruction, improvement, maintenance and supervision of highways, roads, streets and other travel ways when and to the extent determined expedient and practical;

(33) Report, as provided by law, to the Governor and the Legislature;

(34) Purchase materials, supplies and equipment required for the state road program and system;

(35) Dispose of all obsolete and unusable and surplus supplies and materials, which cannot be used advantageously and beneficially by the Commission in the state road program, by transfer thereof to other governmental agencies and institutions or by exchange, trade or sale thereof;

(36) Investigate road conditions, official conduct of Commission personnel and fiscal and financial affairs of the Commission and hold hearings and make findings thereon or on any other matters within the jurisdiction of the Commission; and,

(37) Establish road policies and administrative practices.

(B). The State Road Commission of West Virginia.--The State Road Commission of West Virginia is a body corporate, composed of seven members, who are appointed by the Governor for terms of seven years each, by and with the consent of the Senate. The State Road

Commission of West Virginia is an advisory body, and its powers and duties, as specified in Chapter 17, Article 2, Section 10, Code, are as follows:

(1) To consider and study the entire field of legislation and administration concerning roads and highways, and motor vehicle regulation.

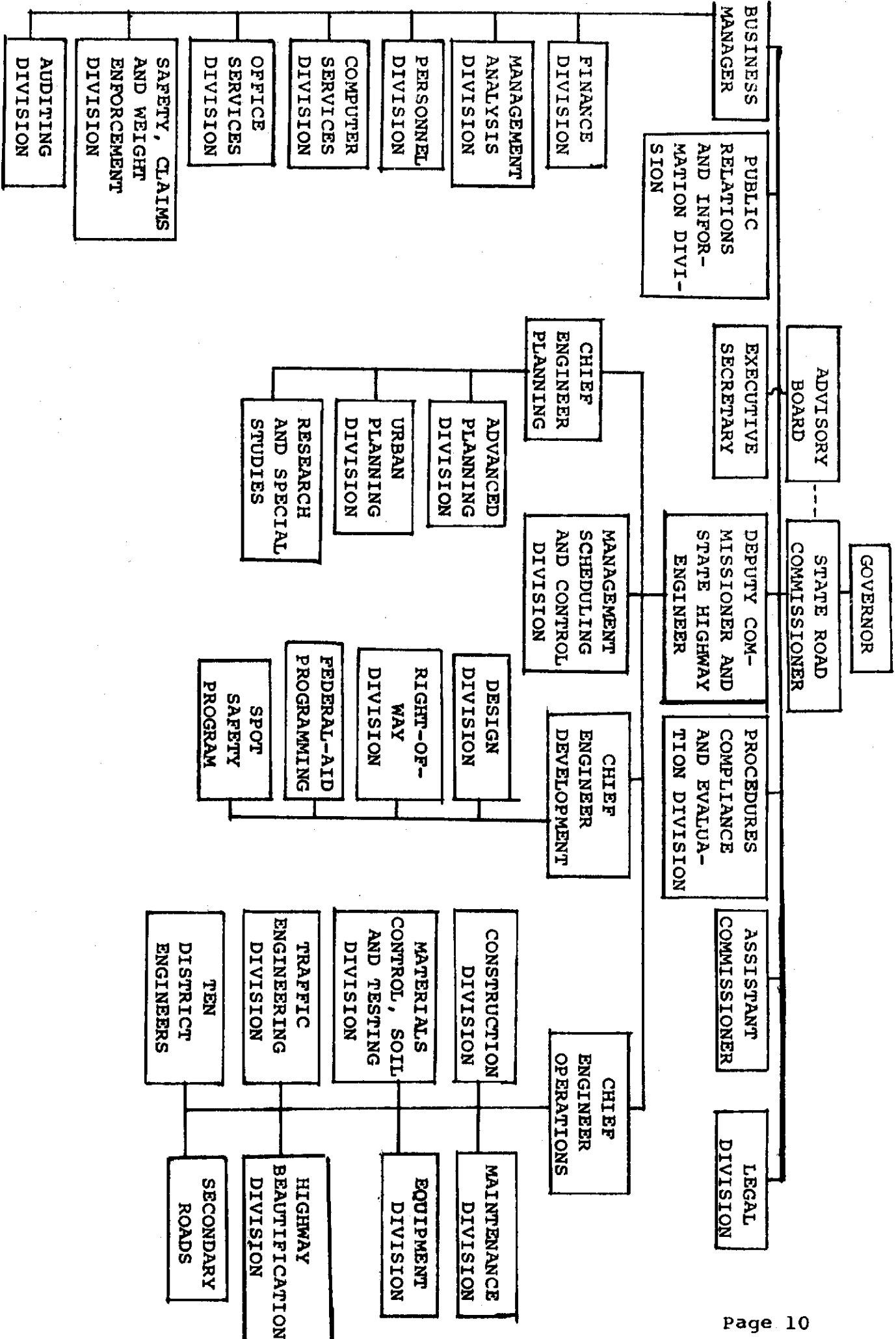
(2) To advise the Commissioner concerning the highway needs of particular localities or districts of the state.

(3) To recommend policies and practices to the Commissioner relative to any duty imposed upon him by law.

(4) To investigate the conduct and the work of the department, and for this purpose it shall have access at any time to all books, papers, documents and records of the department.

(5) To advise or make recommendations to the Governor and the Legislature relative to the highway policy of the state.

(C). Organization of the State Road Commission.--The organization of the State Road Commission (a non-corporate governmental unit) is not defined by statute, the composition and internal structure thereof being left by the Legislature to the discretion of the State Road Commissioner. Changes in such structure from time to time necessarily occur in order to keep abreast of changing conditions and to meet current needs and necessities. Attention is invited to the chart shown on the next page hereof (page number 10),



delineating the now organizational composition of the Commission and the channels of delegated authority and responsibility within the Commission, as promulgated by Commissioner's order duly entered and made effective January 1, 1966.

The following breakdown (necessarily synoptic in character) is designed to supply general information as to what division or office handles which matters within the compass of State Road Commission activities, and should, therefore, be consulted or contacted in respect to questions or problems which may arise in connection with matters within Commission authority, jurisdiction and control. The divisions and the powers, functions and duties thereof, are hereinbelow listed and set forth, for convenience sake, in alphabetical order, after a few words with respect to certain offices and their position in respect to "chain of command" responsibilities within the Commission.

1. Advisory Board.--The Advisory Board (so designated on the aforementioned chart) is the 7-man body corporate legally known and constituted as The State Road Commission of West Virginia, the powers, functions and duties of which have been previously adverted to on pages 8-9 hereof.

2. Deputy Commissioner and State Highway Engineer.--As the name indicates, this is the number-two position in the State Road

Commission. The large scale operations of the Chief Engineer Planning, Chief Engineer Development, and the Chief Engineer Operations, are under the direction of the Deputy Commissioner and State Highway Engineer, as are the activities of the Management Scheduling and Control Division.

3. Assistant Commissioner.--The Assistant Commissioner works directly with the Commissioner, and, among other things, performs liaison duties with other branches or departments of the state government.

4. Executive Secretary.--The Executive Secretary likewise works directly with the Commissioner, and is closely connected with the activities of the Advisory Board. Delegated duties of the Executive Secretary include the review and signing of various of the documents and papers initiating within the Commission.

5. Business Manager.--The Business Manager is responsible for all financial operations of the State Road Commission. He has supervisory duties with respect to the following divisions: Finance Division, Management Analysis Division, Personnel Division, Computer Services Division, Office Services Division, Safety, Claims and Weight Enforcement Division, and Auditing Division.

6. Chief Engineer Planning.--As the name indicates, the Chief

Engineer Planning is charged with the responsibility of the preparation and planning of all roadway programs and road construction and improvement projects. The activities of the Advanced Planning Division, Urban Planning Division, and Research and Special Studies Office are under his supervision.

7. Chief Engineer Development.--The Chief Engineer Development is responsible for roadway programs and projects through the design and right of way acquisition stages. He, in addition, supervises federal-aid programming and safety improvement projects. In the carrying out of such functions he oversees and coordinates the activities of the following units: the Design Division, Right of Way Division, Federal-Aid Program Office, and Spot Safety Program Department.

8. Chief Engineer Operations.--The Chief Engineer Operations is charged with the responsibility of carrying out and completing all roadway projects which have passed to him after going through the offices of Chief Engineer Planning and Chief Engineer Development, in the manner above noted. In the exercise of such authority he supervises the functions of the following divisions: Construction Division, Maintenance Division, Materials Control, Soil and Testing Division, Traffic Engineering Division, Equipment Division, Highway Beautification Division, Secondary Roads Department, and the offices of the District Engineers located in the various State

Road Commission Districts (10 in number).

The powers, functions and duties of the several divisions and offices other than those above mentioned, are, in summary form, as follows:

9. Advanced Planning Division.--The basic objectives of this division are the development of long range plans for priority roadway improvements and new construction projects. Preliminary engineering work is performed by the division as a forerunner to survey and design. The division is composed of 5 units as follows: Route and Planning Section, Records, Statistics and Mapping Section, Traffic Analysis Section, Long-Range Planning Section, and Administrative Section.

10. Auditing Division.--In addition to performing auditing functions, this division keeps and provides inventory records and accounting data for employment and use in the management of the affairs of the Commission. It is divided into three sections: Utilities Audit, Construction Audit, and Internal Audit.

11. Computer Services Division.--This division processes data to furnish requested information to other divisions or offices within the Commission, and keeps and maintains machine records pertaining to various Commission activities.

12. Construction Division.--The Construction Division is

charged with the responsibility of letting contracts for road construction, supervising all road construction from beginning to completion (cf., however, Maintenance Division), superintending the performance of the contract to the end that it shall be in accordance with prescribed standards, plans and specifications, authorizing disbursement of funds in payment for road construction, and numerous other functions related to the construction of all roads within the state highway system, including all federal-aid roads.

13. Design Division.--The Design Division has the responsibility for preparation of, or the review and approval of, plans and specifications for the construction, reconstruction, relocation and maintenance of all roads within the state highway system, including federal-aid roads. The division is composed of seven groups or sections as follows: In-House Design Group, Interstate Design Group, Non-Interstate Consultant Design Group, Bridge Design Group, Preliminary Study Group, Location and Survey Group, and Review Section.

14. Federal-Aid Program Office.--This unit obtains and assembles all data required by the United States Bureau of Public Roads for the authorization and allocation of federal funds for a proposed roadway project, and maintains close liaison with the Bureau of Public Roads to obtain program approval and in all matters

pertaining thereto.

15. Finance Division.--All financial functions and operations of the State Road Commission clear through the Finance Division, which is directly responsible in its operations to the Business Manager.

16. Highway Beautification Division.--The major areas of responsibility of the Highway Beautification Division are with respect to landscaping and roadside development, and the regulation and control (in implementation of statute law) of the outdoor advertising and salvage yard industries or businesses. Conformably, the division is organized into three units as follows: Landscaping and Roadside Development Department, Salvage Yard Control Department, and Outdoor Advertising Department.

17. Legal Division.--The Legal Division advises the Commissioner and the various divisions and offices within the Commission as to all matters of legal import pertinent to Commission functions. Services rendered by the division include, but are not limited to, the following: the research of legal questions and the preparation of memoranda and opinions with respect thereto; the drafting of legal documents originating within the Commission and the review of all such documents originating outside the Commission and submitted by persons doing business, or seeking to do business, with the Com-

mission; representation of the Commission in court proceedings, in appellate matters of whatsoever nature and in all proceedings instituted in courts of original jurisdiction (the division is responsible, among other things, for the institution and carrying out of all condemnation proceedings for the acquisition of rights of way for state road purposes); appearance on behalf of the Commission before administrative bodies. In sum, the division furnishes services to the Commission in connection with all legal matters germane to the operations of the Commission. The division is represented by an attorney in each of the ten districts of the State Road Commission. The division reports directly to the Commissioner.

18. Maintenance Division.--This division is charged with the maintenance of all interstate, primary and secondary mileage included in the state road system. Certain reconstruction and new construction projects are also handled by this division. The component sections of the Maintenance Division are as follows: Program Section, Materials and Supply Section, Buildings and Grounds Section, Interstate Maintenance Section, State Construction Detachment, Permit Section, Traffic Signs and Pavement Markings Section, and AFDCU Section (cooperating with the State Department of Welfare under the Aid to Fathers of Dependent Children of the Unemployed Program).

19. Management Analysis Division.--The primary function of

this division is the study of operational techniques and methodologies and the application thereof to the improvement of management methods and procedures. Industrial engineering studies are undertaken to eliminate duplicate or unnecessary effort or activity. The division conducts studies in depth of the use of forms and records to increase efficiency and promote economy in the use thereof.

20. Management Scheduling and Control Division.--This division is responsible for the project scheduling of all types of new construction, and also makes periodic project status reports. The division uses detailed schedules and long-range schedule projections to compile and maintain expenditure forecasts and estimates of workload requirements of the State Road Commission. In addition certain historical data has been compiled and placed on file by the division through the use of the so-called Critical Path Method for project scheduling and statistical compilation. The division functions are intermediate between those of the office of the Chief Engineer Planning, and those of the office of Chief Engineer Development. It reports directly to the Deputy Commissioner and State Highway Engineer.

2. Materials Control, Soil and Testing Division.--This division has various duties all pointed at insuring the use of top quality materials in state road construction and maintenance projects. It performs necessary laboratory and field testing functions. It

investigates soil and rock features, engages in steel and concrete testing, and, generally, in the testing of all types of materials used in road construction.

22. Office Services Division.--The numerous activities of this division include the photographing and reproduction of documents and papers for other divisions within the State Road Commission, the maintenance of the State Road Commission library and record room, the direction and supervision of services for the maintenance of buildings and office equipment, and the operation of a purchasing center for office supplies, furniture, machinery and equipment.

23. Personnel Division.--This division recruits employees meeting necessary qualifications, undertakes training programs, makes staff and organization studies, classification and pay studies, engages in manpower surveys and conducts turnover analysis, and in general undertakes studies pointed to the promotion of greater efficiency and higher production levels, plus the encouragement and development of career progression for qualified personnel within the Commission.

24. Procedures Compliance Evaluation Division.--The chief function of this division is to make inspections and conduct reviews to insure that full compliance is being had with the policies,

methods and procedures required to be followed by the State Road Commission and mandated by the United States Bureau of Public Roads. The division reports directly to the Commissioner to facilitate prompt evaluation of its findings and to expedite immediate remedial or corrective action where required.

25. Public Relations and Information Division.--This division is responsible for assisting news and communications media in assembling information of interest to the general public. The division responds to individual requests from such media, and when the subject matter is deemed of public interest, takes the initiative in providing information relating to the activities and functions of the State Road Commission. The division reports directly to the Commissioner.

26. Research and Special Studies Office.--This office coordinates and supervises research programs entered into pursuant to agreement or contract with qualified research agencies, such as, for example, West Virginia University. It may be noted in this connection that important research in certain areas is encouraged by the federal government and federal monies in an approved instance are made available for this purpose.

27. Right of Way Division.--The Right of Way Division is charged with the responsibility of acquiring all real property needed for

state road purposes. In connection therewith all title abstracts, appraisals and negotiations for the acquisition of real estate, preparation of deeds, leases, options, agreements, and closings, are within the province of the division. Other functions include, but are not limited to, the sale or exchange of excess real estate and structures, the lease of real property from or to the Commission, the relocation of utility and railroad facilities as required by highway construction, and the furnishing of relocation assistance for persons dislocated by roadway construction. The District Attorneys are responsible to the Right of Way Division for all abstracting and closing functions.

28. Safety, Claims and Weight Enforcement Division.--As the name suggests, the functions of this division are tripartite. With respect to safety on the highways, the division, among other things, operates and maintains safety patrol vehicles on interstate highways, handles the matter of issuance (or denial or revocation as the case may be) of Certificates of Approval for safety glass, lighting equipment, seat belts, etc., acts for the Commissioner as issuing authority for special permits for overdimensional mobile homes and house trailers, and oversees the operation on highways of Commission vehicles, to the end of promoting public safety and minimizing Commission time losses, costs and claims. The division processes claims for and against the Commission, with emphasis on

the fact finding aspects thereof. The division, in addition, acts in a supervisory capacity with respect to weight enforcement on the bridges and highways of the state road system.

29. Secondary Roads.--This unit is under the supervision of the Director of the Maintenance Division, and the scope of its activities is sufficiently described by its title.

30. Spot Safety Program.--This unit specializes in accident prevention programs, with particular attention being paid to specific locations which have been identified as hazardous by reason of accident experience, or in the light of traffic engineering judgment are deemed peculiarly in need of precautionary studies and measures.

31. Traffic Engineering Division.--The primary and underlying function of this division is to secure and obtain maximum safety on the highways with due regard for the expeditious movement of traffic. The division is responsible for the determination of and direction as to the placement and location of all traffic signs, signals and devices on state roads throughout the state. (Assistance is rendered to municipal authorities in this regard.) An auxiliary function is consultation and cooperation with design in the traffic engineering and safety considerations fundamental to road construction. The division is composed of three sections as follows: Operations Section, Design Section, Planning and Research Section.

32. Urban Planning Division.--This division undertakes comprehensive urban transportation studies, and enters into cooperative arrangements with local agencies in this field.

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In concluding this introduction, it is reiterated that the organization of the State Road Commission is not static and that it is subject to revision at the discretion of the Commissioner to keep pace with changing conditions and meet and satisfy the demands and necessities thereof.

It might be pointed out that certain of the divisions have prepared manuals governing their operations. At the time of this writing such divisions are: Accounting, Advanced Planning, Construction, Finance, Legal, Maintenance, Materials Control, Soil and Testing, Right of Way, and Safety, Claims and Weight Enforcement. These manuals are available for public inspection, and give a comprehensive treatment of the functions of such divisions.

There follow hereinafter, the Rules and Regulations of the State Road Commissioner of West Virginia, duly promulgated and adopted and made effective by order of the Commissioner entered on the 14th day of October, 1966.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
State Road Commissioner

Chapter 17-2A  
(1966)

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