

**WEST VIRGINIA**  
**SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #3

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FILED  
DEC -1 1977

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

AGENCY: West Virginia Department of Highways TITLE NUMBER: 157

CITE AUTHORITY §17-2A-8(1),(2) & §17-4-19

AMENDMENT TO AN EXISTING RULE: YES  NO


IF YES, SERIES NUMBER OF RULE BEING AMENDED: III

TITLE OF RULE BEING AMENDED: Construction and Reconstruction  
of State Roads

IF NO, SERIES NUMBER OF NEW 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.

  
\_\_\_\_\_  
W. S. Fitchie, Jr.  
Commissioner



WEST VIRGINIA DEPARTMENT OF HIGHWAYS

1900 Washington Street, East  
Charleston, West Virginia  
25305

ARCH A. MOORE, JR.  
GOVERNOR

WILLIAM S. RITCHIE, JR.  
COMMISSIONER

February 16, 1988

Honorable Ken Hechler  
Secretary of State  
State Capitol Building  
Charleston, West Virginia 25305

Dear Secretary Hechler:

Legislative Rules  
Highways Commissioner  
Submission of Typographical  
Correction of Agency Approved Rule  
Construction and Reconstruction  
of State Roads, Series III

Attached is a replacement of pages 31, 59 and 60 found to have minor typographical errors from the December 1, 1987 Agency Approved Rule Filing. For pages 31 and 59 a reference to the 1982 adopted "Standard Specifications Roads and Bridges" was not appropriately revised to the current 1986 adoption. For page 60, Section 9.3 (1), paragraph two, line 7, the phrases "following types of" and "unless requested by the", should have been stricken through.

Sincerely yours,

W. S. Ritchie, Jr.  
Commissioner

WSR:Cj

Attachment

*Chargued  
2/16/88  
ja*

FILED  
FEB 16 1988

Contract or Contracts or any portion thereof, or of his right, title, or interest therein, without written consent of the Engineer. In case such consent is given, the Contractor will be permitted to sublet a portion thereof but shall perform, with his own organization, work amounting to not less than 50 percent of the total contract cost, except that any items designated in the Contract as "speciality items" may be performed by subcontract and the cost of any such specialty items so performed by subcontract may be deducted from the total cost before computing the amount of work required to be performed by the Contractor with his own organization. No subcontracts, or transfer of contract, shall in any case release the Contractor of his liability under the Contract and Bonds.

9.2. Notice to Proceed. -- The "Notice to Proceed" will stipulate the date on which it is expected the Contractor shall begin the construction and from which date contract time will be charged. Commencement of work by the Contractor may be deemed and taken as a waiver on his part of this notice.

9.3. Prosecution of the Work. --

(1) General - The Contractor shall provide sufficient materials, equipment, and labor to guarantee the completion of the project in accordance with the Plans and Specifications within the time set forth in the Proposal. Should the prosecution of the work for any reason be discontinued, the Contractor shall notify the Engineer at least 24 hours in advance of resuming operations.

The Contractor shall furnish a schedule showing how he proposes to prosecute the work to complete the project by the date set for completion. The schedule shall be either a bar-graph type conforming to the requirements of Section 9.3(2) or a network schedule conforming to the requirements of Section 9.3(3). Progress schedules will not be required for the following types of projects, unless requested by the Engineer, on which the major portion of the work is resurfacing, landscaping, signing, lighting, installing signals, guardrail or bridge painting or on which the contract amount is \$300,000 or less.

2/ Projects for which the time for completion is 30 working days or less or for which the date set for completion is 30 calendar days or less.

Department of Highways  
Leg. Rule, 17-2A  
Series III, Sec. 8.21

man-made channels leading thereto. The quality of the surface waters affected by construction shall meet the requirements of the West Virginia Administrative Regulations - State Water Resources Board, developed in accordance with the West Virginia Code, Chapters 20-5 and 20-5A.

(3) Basis of Payment - Except when pay items are specifically described and furnished as pay items in 642, Temporary Project Water Pollution Control, (West Virginia Department of Highways Standard Specifications Road and Bridges, Adopted 1982), the water pollution and erosion and siltation control requirements set forth herein shall be at the expense of the Contractor.

8.22. Plant Pest Regulations. -- The indiscriminate movement of nursery stock, hay or straw mulch, equipment and soil samples into and out of West Virginia constitutes a potential hazard to State and National Agriculture. Therefore, it shall be the responsibility of the prime Contractor to comply with all applicable State and Federal Plant Pest Regulations in the fulfillment of this contract.

Information regarding these regulations may be obtained from Plant Pest Control Division, West Virginia Department of Agriculture, Charleston, West Virginia 25305, or United States Department of Agriculture, Agriculture Research Service, Plant Pest Control Division, P. O. Box 1257, Roanoke, Virginia, 24001.

8.23. Air Pollution Control. -- The Contractor shall exercise every reasonable precaution throughout the life of the project to keep air pollution to a minimum. The Contractor shall also comply with the applicable regulations of the West Virginia Air Pollution Control Commission. During times of limited dispersion, construction operations may be suspended.

All plants in West Virginia producing bituminous concrete for the Department shall obtain a permit or certification from the West Virginia Air Pollution Control Commission.

## Section 9. Prosecution and Progress

9.1. Subletting of Contract. -- The Contractor shall not sublet, sell, transfer, assign, or otherwise dispose of the

The Contractor shall arrange his work and shall place and dispose of the materials being used so as not to interfere with the operations of the other contractors within the limits of the same project. He shall join his work with that of the others in an acceptable manner and shall perform it in proper sequence to that of the others.

In the event the Engineer finds that further coordination effort is necessary, he shall call a meeting of the contractors involved. After the meeting has been held, he may notify the Contractors of the action required of each and his decision shall be final.

6.8. Construction Stakes, Lines and Grades. -- Except when Item 639-1, "Construction Layout Stakes" (West Virginia Department of Highways Standard Specifications Roads and Bridges, Adopted 1982), is included in the Contract, the Engineer will set construction stakes establishing lines, slopes and continuous profile-grade, together with necessary reference stakes and bench marks. The Engineer will set sufficient right-of-way stakes to define right-of-way limits. The Engineer will set stakes to mark center line and establish bench marks for bridges and special structures as may be considered necessary.

The stakes and marks in the paragraph above shall constitute field control by and in accordance with which the Contractor shall establish all additional stakes and marks necessary to secure a correct layout of all the work. All stakes, except those set by the Engineer, shall be furnished by the Contractor. The Contractor shall not engage the services of any person or persons in the employ of the Department for the performance of any of the Contractor's layout work.

The Contractor shall be responsible for having the finished work in reasonably close conformity with the lines, grades elevations, and dimensions called for on the Plans or established by the Engineer. The Contractor shall be held responsible for the preservation of stakes, marks and references, and shall have them reset at his expense when they are damaged, lost, displaced, or removed.

6.9. Authority and Duties of the Project Engineer or Project Supervisor. -- The Project Engineer or Supervisor has immediate charge of the engineering details of each construction project. He is responsible for the administration and satisfactory completion of the project.