

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Dept. of Transportation, Div. Highways TITLE NUMBER: 157

AMENDMENT TO AN EXISTING RULE: YES X, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 5

TITLE OF RULE BEING AMENDED: Traffic and Safety Rule

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

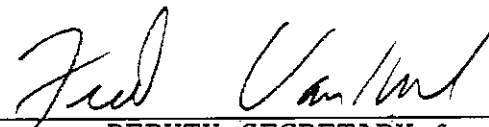
TITLE OF RULE BEING PROPOSED:

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 184

SECTION 64-8-1(m), PASSED ON March 10, 1994

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: May 1, 1994


DEPUTY SECRETARY &
STATE HIGHWAY ENGINEER/COMMISSIONER

7.60

PROMULGATION HISTORY ABSTRACT

RULE TITLE: Traffic and Safety Rule

RULE TYPE: Legislative

FILED EMERGENCY REGULATIONS: May 20, 1993

FILED NOTICE OF PUBLIC HEARING COMMENT PERIOD: May 20, 1993

FILED EMERGENCY REGULATIONS WITH LRMRC: May 24, 1993

EMERGENCY RULE DECISION BY SEC. OF STATE: May 21, 1993 - Rejected as
an Emergency
May 25, 1993 - DOH received
decision

PUBLIC HEARING HELD: June 25, 1993

FILED AGENCY APPROVED REGULATIONS: August 16, 1993

FILED AGENCY APPROVED REGULATIONS WITH LRMRC: August 16, 1993

ACTION BY LRMRC: Modified and Approved on October 19, 1993
Filed Modification on November 8, 1993

LEGISLATIVE ACTION: Amended and Passed SB 184, 64-8-1(m) on
March 10, 1994

GOVERNOR SIGNED BILL: March 25, 1994

FINAL REGULATION FILED WITH SECRETARY OF STATE: April 6, 1994

EFFECTIVE DATE: May 1, 1994

FILING OF LEGISLATIVE RULES
BY THE
DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS
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WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF TRANSPORTATION
COMMISSIONER OF DIVISION OF HIGHWAYS

TITLE 157

SERIES V

Title: Traffic and Safety Rule

Section 1. General

1.1. Scope. -- This Legislative rule establishes general rules for the control of traffic and the promotion of safety on the public highways.

1.2. Authority. -- This rule is issued under the authority of West Virginia Code §17-2A-8.

1.3. Filing Date. -- April 1, 1994

1.4. Effective Date. -- May 1, 1994

Section 2. Uniform Traffic Control Devices

2.1. Uniform Sign Manual Adopted. -- The West Virginia Department of Transportation, Division of Highways hereby adopts, insofar as practicable and feasible, as its manual and specifications for a uniform system of traffic-control devices, the manual currently approved by the American Association of State Highway Officials, entitled "Manual on Uniform Traffic Control Devices for Streets and Highways," prepared by the National Advisory Committee on Uniform Traffic Control Devices, American Association of State Highway and Transportation Officials, Institute of Transportation Engineers, National Committee on Uniform Traffic Laws and Ordinances, National Association of Counties, National League of Cities, adopted by the Federal Highway Administration as a national standard for application on all classes of highways, 1988 Edition.

2.2. Standards for Traffic Control for Street and Highway Construction and Maintenance Operations Adopted. -- The West Virginia Department of Transportation, Division of Highways hereby adopts, insofar as practicable and feasible, to supersede Part IV of the latest edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways," adopted by the preceding section, the

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"Traffic Control for Streets and Highways Construction and Maintenance Operations Manual" which was prepared by the Traffic Engineering Division of the West Virginia Department of Highways, dated July, 1980.

Section 3. Speed Controls

3.1. Commissioner's Order. -- Whenever the Commissioner of Highways has, pursuant to the provisions of WV Code §17C-6, et seq., established a speed zone or designated a maximum or minimum speed limit, the Commissioner of Highways shall enter an order to such effect in the Commissioner's Order Book, in the manner provided in Section 2, Regulations Pertaining to Particular Functions of the Commissioner of Highways, 157CSR1. Such order shall set forth the reasons for establishing such speed zone or maximum or minimum speed limit, and whether the same shall be effective at all times or during the hours of daylight or darkness, or at such other times as the Commissioner of Highways may determine. The order shall designate the highway district in which the speed zone or limit is established and shall accurately describe the intersection, highway or part of highway, or bridge approach, to which the speed zone or limit shall apply. The description and designation shall be in non-technical terms of reference insofar as possible. All references in the order to the boundary of the speed zone shall be in terms of reference which may be readily ascertained by an examination of any affected road or bridge. (WV Code §17C-6-1 & 2.)

3.2. Erection of Signs Before Speed Limit Effective. -- No speed limit is effective until appropriate signs giving notice thereof are erected at the beginning point of the speed zone designating the zone and the speed limit to be observed in that zone, and until appropriate signs are erected indicating the end of the speed zone, which signs shall also indicate such different speed limit as may then be observed. (WV Code §17C-6-5.)

Section 4. Traffic Regulation by Local Authorities

4.1. Procedure for Establishment of Local Traffic Regulations. -- Whenever local authorities desire to alter a speed zone upon a state highway or extension of a state highway in a municipality, they shall by appropriate ordinance or resolution set forth the reasons for the alteration, the speed limits to be observed, and the times the speed limits are effective, a designation and description of the state highway or extension of the state highway in the municipality to which the

speed limit or traffic regulation is to be applicable, in the same manner and to the same extent as required of the Commissioner of Highways in the establishment of speed zones and limits upon state highways. The local authority shall send a duly attested copy of the ordinance or resolution to the Commissioner of Highways and the speed zone or limit established by local authorities is not effective until approved by the Commissioner of Highways by order entered in his or her Order Book in the same manner as provided Section 3, Traffic and Safety Rule, 157CSR5. Appropriate signs giving notice of the speed zone or limit so established shall be erected in the same manner as required of the Commissioner of Highways in the establishment of a state speed zone or limit as provided in Section 3, Traffic and Safety Rule, 157CSR5. Approved signs shall be erected, altered or removed only by Department forces. (WV Code §17-6-3.)

Section 5. Signs

5.1. Specifications. -- All signs relating to traffic controls, weight limitations, civil defense, safety, and other matters pertaining to use of road rights of way, which are erected or placed upon or near any state highway, bridge, or street, by the Commissioner of Highways, or any local authority, pursuant to any requirement of law or any rule issued by the Commissioner of Highways, or pursuant to any order entered by the Commissioner of Highways, shall conform in size, shape, color, form, and specifications to those contained in the Manual on Uniform Traffic Control Devices for Streets and Highways, described in Section 2.1, Traffic and Safety Rule, 157CSR5. (WV Code §17C-3-1.)

Section 6. Lighting Devices; Safety Glass; Seat Belts

6.1. General. -- The purpose of this rule is to establish the procedure which shall be followed when any type, brand or make of lighting device, safety glass, or seat belt is submitted to the Commissioner of Highways for his or her approval; and for the issuance of a Certificate of Approval; and for the revocation of the Certificate of Approval where prescribed standards are not met. (WV Code 17C-15, et seq.)

6.2. Definitions: Lighting Device; Safety Glass; Seat Belt. --

(1) Lighting Device - The term "lighting device" means any head lamp, auxiliary or fog lamp, signal lamp, clearance lamp, reflector lamp, identification lamp, or any lighted lamp or

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illuminating device upon a motor vehicle. (WV Code §17C-15-1 thru 30.)

(2) Safety Glass - The term "safety glass" mean any product composed of glass, manufactured, fabricated, or treated to prevent shattering and flying of the glass when struck or broken, or such other or similar product as may be approved by the Commissioner. (WV Code §17C-15-38.)

(3) Seat Belt - The term "seat belt" means a restraining device bolted to the interior frame or body of an automobile which when buckled will prevent a passenger from seat ejection due to crash, collision, sudden stop, or other propulsive cause. (WV Code §17C-15-43.)

6.3. General Conditions for Issuance of Certificate of Approval. --

(1) All lighting devices shall conform to the current standards and specifications of the S.A.E. (Society of Automobile Engineers) Handbook applicable to the equipment. (WV Code §17C-13-1 thru 30.)

(2) All safety glass shall conform to the current standards and specifications of the American Standard Safety Code for "Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways". (WV Code §17C-15-38.)

(3) All seat belts shall conform to the current standards and specifications of the Society of Automotive Engineers prescribed for such equipment. (WV Code §17C-15-43.)

(4) All lighting devices, safety glass, and seat belts shall be marked for easy identification.

(5) All markings on lighting devices, safety glass, and seat belts shall be identical with the markings shown on the application for their approval.

(6) All lighting devices, safety glass, and seat belts, sold or used must conform identically with the equipment of such nature for which a Certificate of Approval has been issued.

(7) The issuance of a Certificate of Approval by the Commissioner of Highways shall not constitute an endorsement of the use of any lighting device or type of safety glass, or seat belt, in a manner contrary to the laws of the State of West Virginia. (WV Code §17C-15-29.)

6.4. Application for Certificate of Approval. --

(1) Each application for approval of a type, brand or make of lighting device, safety glass, or seat belt, shall be made in duplicate on forms furnished by the Commissioner of Highways and both copies shall be submitted to the Director of the Materials Control, Soils and Testing Division, West Virginia Department of Transportation, Division of Highways, 312 Michigan Avenue, P.O. Box 50450, Charleston, West Virginia, 25305-0450.

(2) The applicant's duly authorized representative will sign both copies of the application.

(3) The applicant will submit a separate application for each type, brand or make of lighting device, safety glass, or seat belt.

(4) The applicant will submit a report from an independent testing laboratory approved by the Society of Automotive Engineers with each application of a type, brand or make of lighting device, safety glass, or seat belt. The report must show compliance with the standards and specifications described in Section 6.3, Traffic and Safety Rule, 157CSR5. (WV Code §17C-15-29.)

6.5. Approval by West Virginia Commissioner of Highways. -- The Commissioner of Highways upon approving a type, brand or make of lighting device, safety glass, or seat belt shall issue to the applicant a Certificate of Approval, together with any instructions determined by him or her. (WV Code §17C-15-29.)

6.6. Revocation of Certificate of Approval. --

(1) When the Commissioner of Highways has reason to believe that an approved type, brand or make of lighting device, safety glass, or seat belt does not comply with the provisions of WV Code §17C-15, et seq., or meet the requirements of Traffic and Safety Rule, 157CSR5, et seq., he or she may after giving thirty (30) days' notice to the person holding the Certificate of Approval, conduct a hearing upon the question of failure of compliance. The hearing shall be conducted in accordance with the rules relating to hearings before the Commissioner, as set forth in Section 3, Regulations Pertaining to Particular Functions of the Commissioner of Highways, 157CSR1.

(2) After the hearing, the Commissioner of Highways shall make a finding as to whether a failure of compliance exists, and if it is his or her determination that a failure of compliance does exist, he or she shall promptly notify the person holding the Certificate of Approval of the failure of compliance.

(3) If at the expiration of ninety (90) days after the giving of the notice the person holding the Certificate of Approval has failed to satisfy the Commissioner of Highways that the lighting device, or type of safety glass, or seat belt, as thereafter to be commercially sold, does comply with the provisions of WV Code §17C-15, et seq., or meet the requirements of Traffic and Safety Rule, 157CSR5, et seq., the Commissioner of Highways shall suspend or revoke the Certificate of Approval issued until and unless the lighting device, safety glass, or seat belt is resubmitted to and retested by an authorized testing agency and is found to meet and satisfy the requirements of WV Code §17C-15, et seq., and the provisions of Traffic and Safety Rule, 157CSR5, et seq., and the Commissioner of Highways may in addition require that any and all lighting devices, safety glass and seat belts required by law to be installed and sold since the notification following the hearing be replaced with equipment of such kind that fully complies with the requirements of WV Code §17C-15, et seq., and Traffic and Safety Rule, 157CSR5, et seq.

(4) The Commissioner of Highways may at the time of the retest purchase in the open market and submit to a testing agency any type, brand or make of lighting device, safety glass, or seat belt, as found at the hearing not to be in compliance with provisions of WV Code §17C-15, et. seq., or the requirements of Traffic and Safety Rule, 157CSR5, et. seq., and if the test discloses that any such equipment fails to comply with the code provisions, or meet the requirements, he or she may refuse to renew the Certificate of Approval. (WV Code §17C-15-30.)

Section 7 Special Permits.

7.1. General. -- Pursuant to authority vested in him or her by law, the Commissioner of Highways may, in his or her discretion, upon application in writing and good cause being shown therefore, issue a special permit authorizing the applicant to operate or move upon, along, over, or across the highways of this state, a vehicle or combination of vehicles of a size, weight, or load exceeding the maximums specified by law. (Reference, WV Code §17C-17-11.)

7.2. Basis for Granting or Denying Special Permits. -- In considering applications for special permits, primary consideration will be given to the protection and safety of the traveling public and the probable effects the issuance of the permits will have upon the state road system. The Commissioner will not grant permits for extra dimensional vehicles which will endanger other vehicles, or are likely to cause damage to bridges, municipal facilities, utility facilities, traffic signals, signs, or devices, or roadway structures of whatsoever kind or nature, or for overweight vehicles or loads which are likely to cause damage to any roads or roadway structures.

7.3. Officials Authorized to Issue Special Permits. -- Special Permits may be issued by the Commissioner of Highways, the Enforcement Division, the District Engineers, the County Maintenance offices and such other personnel as may be authorized by the Commissioner of Highways.

(1) Permits Issued Soley by the Enforcement Division - Blanket permits, and special permits for mobile homes, and special permits for single trips which are transmitted through telecommunications, will be issued only by the Enforcement Division.

7.4. General Conditions for Issuance of Special Permits. -- Whenever a special permit is issued, the Commissioner of Highways, or his or her duly authorized representative, may impose any reasonable conditions or restrictions, which may be considered proper or necessary, such as establishing seasonal or other time limitations within which the vehicles described in the permit may be operated on or across the highways specified, requiring the trip to be made over routes other than the route applied for, or otherwise limiting or prescribing conditions of operation of the vehicle or vehicles, when necessary to insure against damage to road foundations, surface, bridges, municipal or utility facilities, traffic signals, signs, or devices, or roadway structures of any kind or nature, and may require such condition, bond or security as may be considered necessary to compensate for any injury to such foundation, surface, bridge, etc. The following conditions, however, are applicable to all special permits issued by the Commissioner of Highways.

(1) Permit must be Carried with Vehicle - Every permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be available for inspection by any police officer or authorized agent of the Commissioner of Highways granting the permit, no person shall violate any of the terms or conditions of the special permit.

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(2) Permits Nontransferable - A special permit is valid only for the vehicle or combination of vehicles described upon the face of the application and permit. No permit is transferable to another vehicle or combination of vehicles.

(3) Maximums not to be Exceeded - The maximum size limitations and the maximum axle, axle combinations and vehicle weights authorized by a permit shall not be exceeded.

(4) Excesses to be Kept to a Minimum - Property transported under a permit shall be loaded to reduce to a minimum the excess over statutory size or gross weight limitations, and an oversize vehicle used for transporting loads under a permit shall be reduced to statutory size limitations if practicable when being operated without load. The load shall be properly secured and fastened to the transporting vehicle.

(5) Fleet Permits - When special permits are issued for single trip simultaneous fleet movements of two or more identical vehicles and loads, the fleet or convoy shall have a patrol vehicle carrying a single permit with all license numbers of the vehicles listed on the permit. If the vehicles in the fleet differ as to weight or dimension, a separate permit may be required for each.

(6) Notice to Owners of Overhead Structures - When a vehicle or load under a permit is in excess of the statutory height limitation, the person granted the permit shall give adequate notice to owners of overhead wires, cables, or other facilities which may be affected by the transportation authorized by the permit

(7) Vertical Clearance; Effect of Permit - Nothing contained in Traffic and Safety Rule, 157CSR5, et. seq. shall be construed to require the state, any state agency, any utility, or any municipality, to provide sufficient vertical clearance to permit the operation of any vehicle or vehicles or to make any changes in or about existing structures now crossing the streets, roads and other public thoroughfares of the State of West Virginia.

(8) Particular Regulations; Effect of Permit - No permit shall be considered to set aside any rules limiting loads because of local conditions including bridges and highways posted for load limits, seasonal weight restrictions, or under construction.

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(9) Permit not a Guarantee - The granting of a permit shall not be considered as a guarantee of the sufficiency of any highway or structure for vehicular movement.

(10) Statutes, Ordinances, Rules and Effect of Permit - The holder of a permit shall not be relieved of compliance with the provisions of any statute, ordinance, or rule of any state agency or subdivision of the state, except to the extent that the statute, ordinance, or rule is modified by the conditions of the permit.

(11) Limitations on Movement Under Permit - As a general rule, vehicles under special permit may not be moved on Saturdays, Sundays, or legal holidays (except as otherwise provided in Section 7.13 (4)(b), Traffic and Safety Rule, 157CSR5 as it relates to movement of mobile homes), or when road surfaces are hazardous due to ice or snow, or when driving conditions are rendered dangerous by reason of fog, snow, excessive rain, etc. Overweight permits shall not, as a general rule, be issued for routes upon which temporary loading restrictions have been imposed.

(12) Police Escort - All persons moving houses or other similar structures shall make arrangements with the appropriate law enforcement agency for police escort to accompany the movement. The applicant for a special permit, as provided in Section 7.6(3), Traffic and Safety Rule, 157CSR5, shall furnish the Commissioner, or his or her duly authorized representative, a verification of the police escort arrangement with the application for the special permit.

(13) Safety Regulations - Where a special permit requires the use of an escort vehicle or vehicles, the escort vehicle shall conform to the provisions of Section 7.14, Traffic and Safety Rule, 157CSR5.

(14) False Information; Penalty - False information, or erroneous information, given in the application or the omission of information from the application, or failure to comply with the conditions of a permit, is just cause for the summary suspension of the permit, upon notice given orally or in writing, and for the suspension of the permit, upon notice in writing, of other permits held by the permittee. The length of the suspension and other matters pertaining to the suspension or revocation of a permit shall be determined by the issuing authority, which may conduct a hearing upon request of the person granted the permit subsequent to the suspension of a permit. Suspended and revoked permits shall be returned to the issuing authority.

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7.5. Excessive Loads. -- The District Engineer, after approval by the Enforcement Division, and the Structures Division of the Division of Highways, may issue a special single trip permit for the movement of exceptionally heavy equipment such as transformers or compressor station machinery which cannot be disassembled. The permit may be issued only if the following requirements are fulfilled:

(1) Bridges must be reinforced at the applicant's expense and in accordance with instructions of the District Engineer;

(2) a professional charge in order to determine the feasibility of any movement of extremely heavy equipment may be levied before an analysis is undertaken; and

(3) a bond may be required in an amount prescribed by the District Engineer, to cover the cost of repairing all possible damage to bridges and/or roads.

7.6. Procedure for Issuance of Special Permits. --

(1) Applications; Forms - An application for a special permit shall be in writing. The application shall be made on a form approved by the Commissioner of Highways and directed to any officer duly authorized by the Commissioner of Highways to issue special permits.

(2) Information Required - The application for a special permit shall specifically set forth the following information:

(a) A detailed description of the vehicle and its registration and, a detailed description of the proposed load including the manufacturer's name and model number of any equipment being transported. For cargo bearing vehicles, the application shall show the gross load and licensed gross vehicle weight; and

(b) the particular portion of the highway or the specific point of crossing of the highway for which the permit to operate is requested.

(3) Applications for House Moving - Applications for house moving shall be made at least ten days in advance of the move on the regular permit application form supplied by the Commissioner. The applicant shall furnish verification to the Commissioner of Highways, or his or her duly authorized

representative, that a law enforcement agency will provide a police escort to accompany the movement of the house, or other similar structure.

(4) Applications Made at County or District Offices - Applications made at County or District Offices for a special single trip hauling permit shall be made on the forms approved by the Commissioner and shall include all required information.

(5) Penalty for Erroneous Information - In the event of omissions or errors in submitted information, the permit may be considered invalid, thereby making the owner, lessee, or borrower of the vehicle subject to a fine for exceeding the legal size and weight limitation.

(6) Permit Cost - Special Permits for single trips will be issued at a basic fee of \$20.00 covering any oversize dimension. In addition to the basic fee, an overweight fee of \$.04 per ton mile will be assessed. Blanket Permits for continuous movement of oversized loads only will be issued at a basic fee of \$20.00 with an additional fee of \$5.00 per coupon per trip. Oversize mobile home permit fees are not included in the preceding schedule but shall be in accordance with existing West Virginia statutes.

7.7. Other Application. -- Any person who applies for and receives and accepts a permit by any telecommunication device does upon acceptance agree that he or she is familiar with all Statutes and Rules and Regulations of the State relating to excess size and weight and agrees to be bound thereby.

7.8. License Requirements. -- As a general rule a special permit for excess size and weight will not be issued to a vehicle which is not registered and licensed as required by the laws of the State of West Virginia.

(1) Vehicles not Required to be Licensed - Vehicles which are not required to be registered and licensed by the laws of the State of West Virginia shall, nevertheless, obtain a special permit for all operations where the legal limitations for size and weight will be exceeded.

(2) Licensed and Unlicensed out of State Vehicles - If the state of domicile or origin does not require a vehicle used in interstate commerce to be registered or licensed, the vehicle shall not be required to be

registered or licensed before issuance of a special permit by the Commissioner of Highways for movements through the state. Provided, however, if that special equipment (such as truck cranes, off-road trucks, well drills, etc.) is worked within the state, no permit shall be issued for the movement and removal of the same unless a license has been obtained.

7.9. Movement of Contractor's Equipment and Materials; Commercial Haulers. --

(1) Contractor's Equipment - A special permit for excess size and weight shall be obtained by a contractor who moves equipment and materials to a West Virginia Division of Highways project or from one project to another project.

(2) Commercial Haulers on Road Projects - Commercial haulers transporting materials to projects under contract for the West Virginia Division of Highways, a political subdivision of the state, or the federal government shall obtain special permits for excess size and weight.

7.10. State and Federal Government Vehicle. -- A special permit for excess size and weight shall be obtained for the movement of overweight or overdimensional vehicles where both the vehicle and the load are wholly owned by the federal government, the state, or a political subdivision of the state.

7.11. Movement Involving More Than One District. -- In the event the movement of a vehicle involves more than one District, the permit shall not be issued until the District Engineer or the delegated representative of each District involved approves in advance each permit and the advance approval is received by the District Office in which the permit is being issued.

7.12. Single Trip Permits over Routes Designated for Loading Restrictions. -- Except in case of an emergency, overweight permits shall not be issued via routes where temporary loading restrictions, or embargoes have been designated by Commissioner's Order.

7.13. Movement of Mobile Homes in Excess of Legal Dimensions. --

(1) Authority of the West Virginia Commissioner of Highways to Issue Permits for the Movement of Vehicles in Excess of the Statutory Limits - Pursuant to the provisions of WV Code §17C-17-11, as amended, the Commissioner of Highways may, in the exercise of his or her

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discretion and upon application duly made, issue a special permit authorizing the applicant to move or operate a licensed mobile home or house trailer which exceeds the length, width or height restrictions along, upon, over, and across the highways of this State.

(2) Legal Dimensions - A mobile home or house trailer, including its towing vehicle, whose overall dimensions do not exceed the statutory limits in Traffic and Safety Rule, 157CSR5, et seq. may be operated over West Virginia highways without a special permit (Reference, WV Code §17C-17-2, 4, and 11(b).)

COMBINATION LENGTH:	55 FEET
	60 FEET (DESIGNATED HIGHWAY)
MOBILE HOME LENGTH:	NO REGULATION
WIDTH:	8 FEET
	8 FEET 6 INCHES (DESIGNATED HIGHWAY)
HEIGHT	13 FEET 6 INCHES

(3) Permit Information

(a) A permit to move a mobile home over legal dimensions may be obtained at the West Virginia Division of Highways, Vehicular Permit Section, Enforcement Division, State Capitol, Building 5, Charleston, West Virginia, 25305, (Telephone 558-3736).

(b) Maximum over dimension permit limitations:

COMBINATION LENGTH:	100 FEET
MOBILE HOME LENGTH:	80 FEET
WIDTH:	16 FEET
HEIGHT:	15 FEET 0 INCHES

(c) A permit may be obtained either by letter, in person, or by telephone or telecommunication. The following information must be furnished with permit application: name, address, and telephone number of applicant; driver's name and address; a description of the mobile home, including its make, year, model, serial number, license number, overall length, width, and height; a description of the towing vehicle, including its capacity, make, year, model, and license number; the name and address of the insurance company and the expiration date of insurance; and a description of the routes to be traveled. Upon the expiration of insurance, all permits and coupons will be cancelled.

(d) The cost of all oversize mobile home permits shall be in accordance with existing West Virginia statutes.

(4) Travel Regulations

(a) Travel shall be only over routes designated in the permit. Proof of possession of a permit in the form of coupons, facsimile, original permit, or telegram, whichever is used, shall be taped to the left rear of the Mobile Home approximately five (5) feet above the ground and shall not be protected by material; provided, however, that the master permit and the copy of the coupon must be carried in the tow truck at all times and shall be available for inspection by any duly authorized person.

(b) All movements by permit must be made between sunrise and sunset. The movement of mobile homes greater than 12' wide will be restricted to travel Monday through Thursday and until 3:00 P. M. Friday. The movement of mobile homes 12' wide or less and subject to a permit will be restricted to travel Monday through Friday and until 12:00 Noon Saturday. Exceptions to the travel time restrictions may be considered on a per case basis. Approved exceptions will be noted on the permit.

(c) All other limitations and restrictions on movements of mobile homes concerning the number of trips and the establishment of seasonal or other time limitations within which the mobile homes may be operated on or across West Virginia State highways shall be prescribed by the Commissioner of Highways in accordance with the circumstances of each individual permit as authorized by the provisions of WV Code §17C-17-11(c), as amended.

(d) The movement of up to 14'-6" wide mobile homes is restricted to 24' wide pavement on two-lane or multiple-lane highways with a minimum total clear roadway width of 34' or other routes as designated by the Permit Section, Enforcement Division, West Virginia Division of Highways.

(e) Manufacturers and distribution and sales organizations of mobile homes up to 14'-6" wide shall make application to the above-mentioned Permit Section to determine a possible route for delivery of mobile homes to the point of destination.

(f) The movement of mobile homes in excess of 14'-6" is restricted to 24' wide pavement on multi-lane highways with a minimum total clear roadway width of 36' except as noted in Section 7.13(g), Traffic and Safety Rule, 157CSR5.

(g) Manufacturers and distribution and sales organizations of mobile homes in excess of 14'-6" wide shall make written application to the Permit Section to determine possible routing other than that permitted in Section 7.13(f), Traffic and Safety Rule, 157CSR5 for delivery to the point of destination. The written application shall also include a statement that the applicant will be responsible for all costs incurred by the District Engineer or his or her designee in determining the feasibility of the routing, either approved or unapproved.

(h) Permits in advance are legal for FIVE DAYS when validated.

(i) Notwithstanding the issuance of a permit, mobile homes of greater than legal dimension shall not be moved at any time when driving conditions are hazardous due to disturbance of road surfaces and/or visibility by natural phenomena such as snow, ice, fog, excessive rain, etc.

(5) Manufacturing Regulations

(a) All mobile homes shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle. The brakes shall be designed so that they can be conveniently applied by the driver of the towing vehicle, and the brake shall be designed and connected so that in case of an accidental breakaway of the towed mobile home the brakes are automatically applied.

(b) Provided that, provisions in this section shall not apply to any manufactured home built to conform to the H.U.D. Manufacturers Home Construction and Safety Standards and placarded.

(6) Safety Regulations

(a) A permit applicant shall maintain and operate all equipment covered by permit in accordance with all applicable laws of the State of West Virginia.

(b) On all two-lane highways, mobile homes up to and including 12' wide shall have an escort vehicle at the front of the towing vehicle. On expressways and/or Interstate highways, units in excess of 12' wide shall have an escort vehicle at the rear. On multi-lane highways having pavement widths of at least 24', mobile homes in excess of 14'-6" shall have one escort in front and two escorts at the rear. All other highways will require escort vehicles at the front and at the rear for mobile homes over 12' wide.

(c) The towing vehicle must be marked at the appropriate location with a sign containing the message, "OVERSIZE LOAD". The sign must be at least 18" high, at least 6' but not over 8' long; and the height of the black letters shall be 10" capital letters on yellow background. However, approved color combination or wording of other states will be permitted when the trip originates outside West Virginia. These signs shall also be placed to the rear of the mobile home and shall be mounted so that the bottom of the sign shall not be less than 6' above the roadway. The signs may be removable devices made of durable material. "OVERSIZE LOAD" signs shall be removed or covered when not required.

(d) The towing vehicle and mobile home shall be flagged both front and rear with six (6) red flags not less than 16" square and made of plastic or cloth which shall be placed as follows:

One at each end of the front bumper of the towing vehicle and one on each of the top corners of the mobile home.

(e) The towing vehicles shall be equipped with 4-way amber flashing light spaced not less than 6' above the roadway. All running lights must be burning while on the highway.

(f) Towing, and escort vehicles shall have 2-way radio communications.

(g) When one-way or narrow bridges or restrictive structures are encountered, the driver of the front escort vehicle shall, if oncoming traffic is present, act as a flagger at the end of the structure to insure the safe passage of the mobile home and traffic over or through the constricted area.

(h) The tow bar must be located in such a position that the center of the socket of the coupler shall not be less than 20" from the ground.

(i) The towing vehicle of all mobile homes must be of a capacity of at least 1-ton for mobile homes up to 12' wide and of 2-ton capacity for mobile homes 14' wide or greater and must be equipped with 4-speed transmission and dual drive wheels.

(j) The driver of the towing vehicle shall not permit a buildup of traffic to the rear exceeding five (5) vehicles if the highway will permit the pull-off of the towing vehicle or passing.

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(k) A driver of towing vehicles on 14' wide or greater mobile homes must have a minimum of two (2) years experience in towing oversize mobile homes.

(l) Movers of all mobile homes which will require parking restrictions or impede the normal flow of traffic in any way through a municipality shall notify the local authorities prior to movement. Municipalities may require police escort. The movement of any mobile home in excess of 14'-6" on any bidirectional highway shall be accompanied by any police or enforcement officer at all times while traveling upon the highway. Any cost for police or enforcement officer escort shall be borne by the permit applicant.

(m) The towing vehicle on mobile homes shall be equipped with safety chains and brake load devices of sufficient strength to hold all weights being towed.

(n) All towing vehicles moving mobile homes of greater than legal dimensions shall stop at all truck weighing stations, either platform or portable, and submit the combination of vehicles to any inspection considered to be necessary to determine if they are in compliance with this rule and applicable highway laws.

(o) The maximum speed of vehicles towing mobile homes is 40 miles per hour, provided however that on multiple-lane highways it is 45 miles per hour.

(p) When a mobile home permit requires the use of an escort vehicle, the escort vehicle or vehicles shall conform to the provisions in Section 7.14, Traffic and Safety Rule, 157CSR5.

(q) A multiple trip permit may be issued at the discretion of the Commissioner of Highways for the operation of mobile homes with widths not exceeding 16' and not exceeding the gross weight limit as set forth in WV Code §17C-17-9, as amended.

The permits shall be issued subject to the following conditions:

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A book of coupons containing no less than five or more than twenty shall be attached to each permit. Each coupon shall be issued in the following form and manner:

Date _____ Coupon No. _____
_____, Applicant
Is Hereby Granted Permit No. _____ Validation No. _____
Overall Length _____ Width _____ Height _____
Ser. _____ Lic. _____
Tow Truck _____ Ton _____ Lic. _____
From _____ To _____
Rts. _____
Dates to Travel _____

FORM MUST BE FILLED OUT IN INK. VOID IF ALTERED OR CHANGED

(r) Each coupon representing a trip must be validated by the Permit Section, Enforcement Division, of the West Virginia Division of Highways. After validation, the original or blue copy of the coupon shall be mailed to the Permit Section, Enforcement Division, within 48 hours after the completion of each trip. Failure to mail the original or blue copy of the coupon within the specified 48 hour period constitutes grounds for immediate cancellation of the permit. The yellow carbon copies shall remain in the book of coupons attached to the permit and are subject to inspection at all times by authorized personnel of the West Virginia Division of Highways or any other West Virginia Law Enforcement Agency.

(s) Multiple trip permits are issued on a cash basis only, with no refunds.

(t) Insurance: No permit will be issued unless there is submitted with the application a certificate from any reputable and solvent insurance company providing liability insurance in the amount of \$100,000 for each person, \$300,000 for each accident, and property damage insurance in the amount of \$50,000. The certificate must be signed by a West Virginia Resident Agent pursuant to WV Code §33-12-7.

(u) Exemption from Liability for Damages:
The applicant shall save harmless the Commissioner of Highways and any and all officers, agents, and employees of the Division of Highways from any and all claims for damages that may arise as a result of operations upon the highways pursuant to any permit, and shall, as well, make full restitution to the Division of Highways for any damage to its property as a result of the operations.

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(7) The Division of Highways reserves the right to place such additional restrictions and exceptions on the movement of mobile homes of greater than legal dimensions as may be considered necessary. Any restrictions imposed by the issuing agency will be recorded on the face of the permit. The Division of Highways reserves the right to deny any permit within its exercise of this discretion and in the event of violation of State laws or any provisions of this rule, the permit may be cancelled.

7.14 Escort Vehicles. -- The applicant for any special permit or any mobile home permit is responsible for the conditions and requirements for any front or rear escort vehicle as follows:

(1) The escort vehicle must weigh more than 2,000 pounds and have a manufacturer's gross weight rating less than 10,000 pounds and must be properly licensed.

(2) Identification signs or placards showing the name of the company or the owner or driver of the escort vehicle shall be displayed on the escort vehicle in a conspicuous place on both the right and left sides. The signs or placards shall be at least 8" x 12" and shall also contain the telephone number of the owner or driver plainly legible and visible to the motoring public.

(3) All escort vehicles must be equipped with either a rotating or strobe amber yellow plastic, acrylic or glass covered flashing light which:

(a) is visible from at least 500 feet; and

(b) has a horizontal placement which is visible from all directions 360 degrees;

(4) escort vehicles shall display bumper mounted or roof mounted yellow 5' x 12" signs reading "OVERSIZE LOAD" with black letters 10 inches high, 1-1/2 inch wide brush stroke, which must be visible from front or rear;

(5) two flags, red or safety orange, a minimum of 18" square in size, shall be mounted at a 40 to 70 degree angle on the escort vehicle's roof rack or flags may be mounted on all four corners of the vehicle.

(6) All for-hire escort vehicles shall contain the following miscellaneous equipment:

(a) a CB radio, or any other two way communication device with the permitted load;

(b) two 5 lbs. fire extinguishers (type A-B-C);

(c) a sign with a handle with the word "STOP" on one side and "GO" on the other of not less than 24" in diameter with 6" letters suitable for directing traffic;

(d) a safety orange vest, shirt or jacket (which must be worn by an operator directing traffic);

(e) a red hand-held flag (18" in size);

(f) 2 oversized load banners (Yellow with black lettering); and

(g) three reflecting triangles or 18" traffic cones.

(7) Nothing in this subsection prevents motor carriers of property from providing their own escort services related to their vehicle load transportation with their own drivers and equipment, provided the public safety requirements of this subsection are fulfilled relating to the escort vehicle.

Section 8. Other Safety Regulations

8.1. Increase of Weight, Height, and Length Limitations Upon State Highways by West Virginia Commissioner of Highways. -- Pursuant to the provisions of WV Code §17C-17-11a and 11b, whenever in the opinion of the Commissioner of Highways, the design, construction and safety of any highway or portion thereof are such that the gross weight limitations prescribed by WV Code §17C-17-4, can be increased without undue damage to the highway, or without undue risk of damage to the highway, or to bridges, municipal or utility facilities, traffic signs and signals, or roadway structures of other kind of nature, the Commissioner of Highways may, by order, increase the gross weight, height or length limits of vehicles which may be operated upon the highway or portion thereof and may establish the limitations which are applicable, subject, however, to the maximum limitations imposed by WV Code §17C-17-11a and 11b.

(1) Commissioner's Order for Increase of Weight, Height and Length Limitations - Whenever the Commissioner of Highways increases the limits under this subsection he or she shall enter an order to that effect in the Commissioner's Order Book, as provided in Section 2, Regulations Pertaining to Particular Functions of the Commissioner of Highways, 157CSR1. The order shall set forth the reasons for his or her decision and shall designate and accurately describe the highway or portion thereof to which the increase in weight, height or length limits is applicable.

8.2. Restrictions Upon Right to use Highways by West Virginia Commissioner of Highways. -- Pursuant to the provisions of WV Code §17C-17-12, and subject to the restrictions contained in WV Code §17C-17-12, the Commissioner of Highways may prohibit the operation of vehicles, or any class of vehicles, upon any state highway, or impose restrictions as to the weight of vehicles to be operated on the highways, whenever the state highway by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles is prohibited or the permissible weights reduced, and the Commissioner of Highways may prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight on designated state highways.

(1) Commissioner's Order - Whenever the Commissioner of Highways prohibits the operation of vehicles upon any state highway or imposes weight restrictions as provided in this subsection, the Commissioner of Highways shall enter an order to such effect in the Commissioner's Order Book, as provided in Section 2, Regulations Pertaining to Particular Functions of the Commissioner of Highways, 157CSR1. The order shall set forth the reasons for the prohibitions or limits and shall designate the road district and accurately describe the state highway or portion thereof upon which the prohibitions or limitations are applicable.

(2) Signs - The order of the Commissioner of Highways imposing prohibitions or weight restrictions is not effective until appropriate signs giving notice of the prohibitions or restrictions are erected and maintained at each end of that portion of any highway thereby affected. All signs shall comply with the specifications described in Section 2, Traffic and Safety Rule, 157CSR5.

8.3. Unsafe Bridges. -- The Commissioner of Highways shall inspect all bridges upon state roads and if any bridge is found to be unsafe, the Commissioner of Highways shall promptly condemn, close, and repair the bridge. Except in the case of emergency, the Commissioner of Highways' determination to condemn and close any unsafe bridge upon a state road shall be manifested by an order duly entered in the Commissioner's Order Book as provided in Section 2, Regulations Pertaining to Particular Functions of the Commissioner of Highways, 157CSR1. The order shall set forth the reasons for condemning and closing the bridge and shall designate and accurately describe the road district and the road upon which the bridge is located. Appropriate signs shall comply with the provisions of Section 2, Traffic and Safety Rule, 157CSR5.

(1) Emergencies - In case of an emergency, all District Engineers or any other authorized personnel of the Commissioner of Highways' office have authority to condemn and close an unsafe bridge prior to the entry of an order by the Commissioner of Highways. In such event an order shall be entered as provided in this subsection as soon as possible after the closing of the bridge. Appropriate signs must be erected by Highways personnel, as provided in this subsection.

8.4. Transportation of Explosives. -- Any person operating any vehicle transporting any explosives as cargo or part of cargo upon a highway shall at all times comply with the following regulations: (WV Code §17-2A-8-(24).)

(1) Signs on Vehicle - Any vehicle transporting explosives shall be marked on the front, both sides, and the rear with the word "EXPLOSIVES" in letters not less than 8 inches in height and colors contrasting with the background; or there shall be displayed on the rear of the vehicle in a conspicuous place a red flag not less than 24 inches square with the word "DANGER" in white letters 6 inches in height.

(2) Fire Extinguishers - Every vehicle shall be equipped with not less than two fire extinguishers filled and ready for immediate use, and placed at a convenient point on the vehicle used.

(3) Blasting Caps; Containers - Blasting caps and electric blasting caps shall not be transported in the same vehicle with other explosives, unless packed in shipping containers conforming to Interstate Commerce Commission specifications.

(4) Spark of Flame Producing Items Prohibited - No sparking metal tool or other loose piece of sparking metal, oils, matches, firearms, acids, inflammable substances, or similar material shall be carried on vehicles transporting explosives.

(5) Overloading Prohibited - Vehicles transporting explosives shall not be overloaded, and in no case shall the explosives containers be piled higher than the sides of the truck body. Any vehicle with an open body shall carry a tarpaulin to cover the explosives containers.

(6) Vehicle; Mechanical Condition - All vehicles when used for transporting explosives shall be inspected to determine that; the brakes and steering mechanism are in effective working condition; the electric wiring is well insulated and firmly secured; the body and chassis are clean and free from accumulations of oil and grease; the fuel tank and feed line are secure and have no leaks; two suitable fire extinguishers in working order are placed at a convenient point on the vehicle; and, in general, that the vehicle is in proper condition for safe transportation of explosives. The floors of all vehicles shall be tight. Any exposed metal on the inside of the body that might come into contact with any package of explosives shall be covered or protected with wood or other nonmetallic material.

(7) Trailers - No explosives shall be transported in any form of pole-type trailer, nor shall any trailer be attached to a vehicle hauling explosives.

(8) Vehicle Operator; Speed and Operating Prohibitions - Vehicles transporting explosives shall be driven only by authorized persons not addicted to the use of, or under the influence of, intoxicants or narcotics. Vehicle speed shall not exceed 35 miles per hour. Motor vehicles shall not coast or free-wheel at any time. Vehicles containing explosives shall not be taken inside a garage for repairs or other purposes. Insofar as possible, explosives shall be transported on streets or highways only during daylight hours.

(9) Avoiding Public - Motor vehicles transporting explosives shall avoid, so far as practicable, driving into or through congested thoroughfares, places where crowds are assembled, street car tracks, tunnels, viaducts and dangerous railroad crossings. So far as practicable, this shall be accomplished by prearrangement.

(10) Railroad Crossings - Vehicles transporting explosives shall come to a full stop before crossing any railroad track or main highway, and then proceed with caution, and conform to all other traffic safety measures.

(11) Passengers - Passengers or other unauthorized persons shall not ride on a vehicle transporting explosives. Smoking or carrying of matches and smokers' articles is not permitted on or around a vehicle transporting explosives.

(12) Unattended Vehicles - Vehicles transporting explosives shall not be left unattended at any time except while making actual deliveries, and then the utmost effort shall be made to prevent the vehicle from running away by carefully setting the brakes, blocking the wheels, or taking other precautions.

(13) Careful Handling - Packages or containers of explosives shall not be thrown or purposely dropped while being loaded or unloaded or otherwise handled, but they shall be carefully deposited and stored or placed in such manner as to prevent the packages or containers from sliding or falling or being otherwise displaced.

(14) Unloading at Rear of Vehicle - Explosives cases or containers shall not be left immediately back of the exhaust tailpipe of automotive equipment during loading or unloading. Motors of vehicles transporting explosives shall be stoppèd before loading or unloading the explosives.

(15) Storage of Explosives During Unloading - Motor vehicles shall not be unloaded if explosives already unloaded have not been safely stored.

Section 9. Studded Tires

9.1. General. -- This rule, relating to the design, construction and use of studded tires, is promulgated by the Commissioner of Highways pursuant to the authority specifically delegated to him or her in the premises by the terms and provisions of WV Code §17C-15-37.

9.2. Definitions. -- As used in this rule.

(1) "Stud" - means a pin type device prepared for installation in the tread design of a motor vehicle tire. It shall consist of a tungsten carbide core bonded to an outer casing or shell of plastic, aluminum or steel.

(2) "Studded tire" - means a motor vehicle tire fitted with studs in the tread design in openings moulded or drilled for that purpose.

9.3. Design and Construction Standards and Specifications. -- All studded tires sold in this State or offered for sale in this State, shall comply with the following design and construction standards and specifications.

(1) There shall be a minimum of one-eighth inch of rubber between the base of the stud and the body of the tire;

(2) the tungsten tip of the stud shall project no more than seven-sixty-fourths of an inch from the surface of the tire;

(3) the diameter of the stud, inclusive of the stud casing, shall not exceed three-eighths of an inch;

(4) the contact area of the total number of studs shall not exceed three per centum of the total contact area of the tire;

(5) in the interest of highway maintenance studs shall not be installed in tires which are operational with a recommended air pressure greater than forty pounds per square inch;

(6) The studs shall be firmly and securely seated in the tire, which may be tested by applying a tensile force to each of five studs selected at random. The load shall be applied in the direction of minimum extraction force, and the load required to remove each stud shall be in excess of thirty pounds; and

(7) failure to comply with the provisions of this subsection is a violation of the provisions of WV Code §17C-15-37, and subject to the penal sanctions imposed by WV Code §17C-18-1.

9.4. Use of Studded Tires. -- No studded tires shall be used on the highways of the State except during the period November 1st to April 15th in any calendar year.

P E N N S Y L V A N I A

M A R Y L A N D

DIVISION OF HIGHWAYS
 DISTRICTS
STATE OF VIRGINIA
WEST VIRGINIA

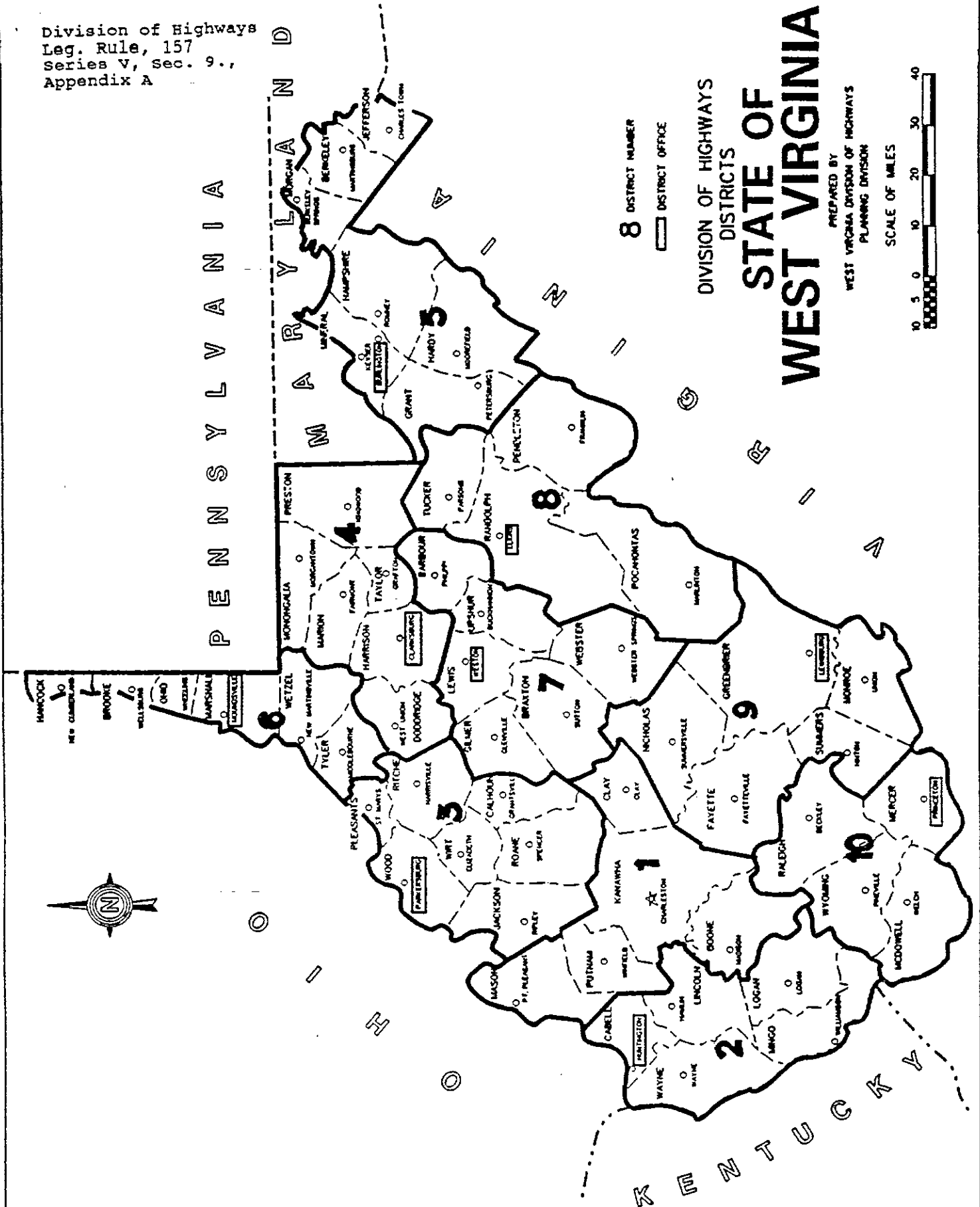
PREPARED BY
 WEST VIRGINIA DIVISION OF HIGHWAYS
 PLANNING DIVISION

SCALE OF MILES



8 DISTRICT NUMBER
 □ DISTRICT OFFICE

- MANCOCK
- NEW CLARENCE
- BROOKE
- WOLLSBURG
- OHIO
- WHEELING
- MARSHALL
- LEWISBURG



Division of Highways
Leg. Rule, 157
Series V, Sec. 9., Appendix B

WEST VIRGINIA DIVISION OF HIGHWAYS
DISTRICT ENGINEERS

DISTRICT	ADDRESS TO	LOCATION	TELEPHONE
One	District Engineer, W. VA. DOH	Charleston, West Virginia 25301	348-3001
Two	District Engineer, W. VA. DOH	Huntington, West Virginia 25721	528-5600
Three	District Engineer, W. VA. DOH	Parkersburg, West Virginia 26102	420-4595
Four	District Engineer, W. VA. DOH	Clarksburg, West Virginia 26301	842-1500
Five	District Engineer, W. VA. DOH	Burlington, West Virginia 26710	289-3521
Six	District Engineer, W. VA. DOH	Moundsville, West Virginia 26041	843-4008
Seven	District Engineer, W. VA. DOH	Weston, West Virginia 26241	269-0400
Eight	District Engineer, W. VA. DOH	Elkins, West Virginia 26452	637-0215
Nine	District Engineer, W. VA. DOH	Ronceverte, West Virginia 24970	647-7450
Ten	District Engineer, W. VA. DOH	Princeton, West Virginia 24740	425-2155

1987

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H. B. 4267

(By Delegates Gallagher, Douglas, Compton,
Huntwork, Burk and Faircloth
(Introduced January 31, 1994; referred to the
Committee on Roads and Transportation then the
Judiciary)

10 A BILL to amend and reenact section one, article eight, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 division of highways to promulgate legislative rules relating
14 to traffic and safety.

15 Be it enacted by the Legislature of West Virginia:

16 That section one, article eight, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted, to read as follows:

19 **ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANSPORTATION TO**
20 **PROMULGATE LEGISLATIVE RULES.**

21 **§64-8-1. Division of highways.**

22 (a) The legislative rules filed in the state register on the
23 twenty-first day of October, one thousand nine hundred
24 eighty-three, relating to the commissioner of highways

4267

1 (transportation of hazardous waste by highway transporters), are
2 authorized with the amendments set forth below:

3 Pages 3 and 7, after "40 CFR part 262" add the words "as
4 amended through March 8, 1986,."

5 Page 7, after "49 CFR parts 171-179" add the words "as
6 amended through March 8, 1986," and,

7 Page 11, after "49 CFR part 171.16" add the words "as amended
8 through March 8, 1986."

9 (b) The legislative rules filed in the state register on the
10 tenth day of August, one thousand nine hundred eighty-four,
11 relating to the commissioner of highways (construction and
12 reconstruction of state roads), are authorized with the
13 amendments set forth below:

14 Page 16, Sec. 8.08, line 21, (unnumbered), by inserting after
15 the word "all" the following language: "reasonable and
16 necessary" and after the word "project" inserting the following
17 language: "by the Railroad."

18 Page 16, Sec. 8.08, line 22, (unnumbered), after the word
19 "the" by striking the words "Railroad's Chief."

20 Page 19, Sec. 8.08, line 25, (unnumbered), by striking
21 "Railroad's Chief" and adding the following new language:

22 "Any approval by the Department of any activity by the
23 contractor upon the right-of-way or premises of any Railroad
24 which is provided for in this Section (8.08) (including, but not
25 limited to, approval of work, methods, or procedures of work to

1 be done, and the condition of premises after completion of work
2 by the Contractor) shall in no way create any liability by the
3 Department to the Railroad except to the extent provided
4 otherwise by law and the Contractor shall, during all periods of
5 construction and thereafter, indemnify and save harmless the
6 department from any and all liability to the Railroad or any
7 third parties for any damages as a result of the work of the
8 Contractor, the methods and procedures for performing work, the
9 failure of the Contractor to properly remove equipment, surplus
10 material and other debris upon the Railroad premises, or the
11 condition of the premises of the Railroad during construction or
12 after completion of construction by the Contractor as approved by
13 the Department or otherwise."

14 Page 18, Sec. 8.08, subdivision (a), line 22, (unnumbered),
15 by striking the words "single limit" and inserting in lieu
16 thereof the following language: "per occurrence."

17 Page 19, Sec. 8.08, subdivision (b), line 8, (unnumbered), by
18 striking the words "single limit" and inserting in lieu thereof
19 the following language: "per occurrence."

20 Page 19, Sec. 8.08, subdivision (c), line 18, (unnumbered),
21 by inserting after the word "occurrence" the following language:
22 "of"; and after the word "injury" insert a comma and strike the
23 word "or."

24 (c) The legislative rules filed in the state register on the
25 seventh day of September, one thousand nine hundred eighty-four,

1 modified by the commissioner of highways to meet the objections
2 of the legislative rule-making review committee and refiled in
3 the state register on the fifth day of October, one thousand nine
4 hundred eighty-four, relating to the commissioner of highways
5 (transportation of hazardous waste), are authorized with the
6 amendment set forth below:

7 Page 5, amend §3.01 by adding thereto a new subsection,
8 designated subsection (4), to read as follows: "(4) Before
9 accepting hazardous waste from a rail transporter, a highway
10 transporter must sign and date the manifest and provide a copy to
11 the rail transporter."

12 (d) The legislative rules filed in the state register on the
13 fourteenth day of August, one thousand nine hundred eighty-four,
14 modified by the commissioner of highways to meet the objections
15 of the legislative rule-making review committee and refiled in
16 the state register on the fifth day of October, one thousand nine
17 hundred eighty-four, relating to the commissioner of highways
18 (disqualification and suspension of prequalified contractors),
19 are authorized.

20 (e) The legislative rules filed in the state register on the
21 twelfth day of December, one thousand nine hundred eighty-five,
22 relating to the commissioner of highways (transportation of
23 hazardous wastes by vehicle upon the roads and highways of this
24 state), are authorized with the amendments set forth below:

25 On page 18, the first line of §3.03 shall read as follows:

1 "3.03. Transporters who only accept Hazardous Waste from."

2 (f) The legislative rules filed in the state register on the
3 first day of December, one thousand nine hundred eighty-seven,
4 modified by the commissioner of highways to meet the objections
5 of the legislative rule-making review committee and refiled in
6 the state register on the fourteenth day of January, one thousand
7 nine hundred eighty-eight, relating to the commissioner of
8 highways (traffic and safety rules and regulations), are
9 authorized with the amendment set forth below:

10 On page 8, section 7.2, line 9, (unnumbered), by striking
11 everything after the word "structures."

12 (g) The legislative rules filed in the state register on the
13 first day of December, one thousand nine hundred eighty-seven,
14 relating to the commissioner of highways (construction and
15 reconstruction of state roads), are authorized.

16 (h) The legislative rules filed in the state register on the
17 twenty-fifth day of February, one thousand nine hundred
18 eighty-seven, modified by the commissioner of highways to meet
19 the objections of the legislative rule-making review committee
20 and refiled in the state register on the twenty-third day of
21 November, one thousand nine hundred eighty-seven, relating to the
22 commissioner of highways (transportation of hazardous wastes upon
23 the roads and highways), are authorized.

24 (i) The legislative rules filed in the state register on the
25 fourteenth day of August, one thousand nine hundred eighty-nine,

1 modified by the division of highways to meet the objections of
2 the legislative rule-making review committee and refiled in the
3 state register on the seventh day of December, one thousand nine
4 hundred eighty-nine, relating to the division of highways (use of
5 state road rights-of-way and areas adjacent thereto), are
6 authorized with the amendments set forth below:

7 On Pages 14 and 15, Section 7.5, by deleting the following
8 language:

9 "Upon receipt of a permit application an application number
10 shall be assigned by the Division of Highways. The applicant
11 shall be notified of the temporary application number and shall
12 then be required to publish a Class II legal advertisement in the
13 newspaper(s) serving the area where the proposed outdoor
14 advertising sign, display or device is proposed to be located. A
15 copy of the certificate of publication shall be provided to the
16 Department within ten (10) days of the final publication date.

17 "As a minimum the advertisement shall include the application
18 number, the location (including ownership of the property upon
19 which the sign is to be placed) and shall notify the public that
20 comments will be received by the Division of Highways, Highway
21 Services Section, until 10 days after the final publication. The
22 advertisement shall also state that all comments must include the
23 specific application number to which they refer.

24 "Any person who claims to be affected by the proposed sign
25 may submit written comments to the Division of Highways, Highway

1 Services Section, and may request a public hearing within ten
2 days of the final publication. Within ten working days of the
3 close of the comment period the Division shall determine whether
4 to approve, deny, or hold a public hearing for said permit.

5 "When the Division determines that a public hearing is
6 required it shall notify the person(s) who requested the hearing
7 and the permit applicant. The Division shall cause notice to be
8 published and hold the hearing in accordance with Administrative
9 Regulations, Commissioner of Highways, Chapter 17-2A, Series I
10 (1982), Section 3, Hearing Procedures (hereinafter WV Adm. Reg.
11 17-2A).

12 "The Division Administrator shall assess the Division's costs
13 of the hearing against the permit applicant or against the party
14 requesting the hearing if he finds that either the application
15 for the permit or the request for hearing was filed in bad faith.

16 "Any party adversely affected by the final decision of the
17 Division Administrator may apply for judicial review through
18 application for a writ of certiorari to the Circuit Court of
19 Kanawha County in accordance with W. Va. Code §53-3-1 and W. Va.
20 Code §14-2-2.

21 "The regulations in the preceding six paragraphs relating to
22 publication of notice of an application, comments on a pending
23 application, notice of hearing, hearing on permit, assessment of
24 costs and judicial review shall not apply to an application for a
25 permit for an advertising sign, display or device to be located

1 within the boundaries of an incorporated municipality or of a
2 county-zoned commercial or industrial area."

3 (j) The legislative rules filed in the state register on the
4 tenth day of August, one thousand nine hundred eighty-nine,
5 modified by the division of highways to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the seventh day of November, one thousand nine
8 hundred eighty-nine, relating to the division of highways
9 (construction and reconstruction of state roads), are authorized.

10 (k) The legislative rules filed in the state register on the
11 fourteenth day of August, one thousand nine hundred eighty-nine,
12 modified by the division of highways to meet the objections of
13 the legislative rule-making review committee and refiled in the
14 state register on the seventh day of December, one thousand nine
15 hundred eighty-nine, relating to the division of highways
16 (acquisition, disposal, lease and management of real property and
17 appurtenant structures and relocation assistance), are
18 authorized.

19 (l) The legislative rules filed in the state register on the
20 seventh day of September, one thousand nine hundred ninety,
21 modified by the division of highways to meet the objections of
22 the legislative rule-making review committee and refiled in the
23 state register on the eighteenth day of January, one thousand
24 nine hundred ninety-one, relating to the division of highways
25 (traffic and safety rules and regulations), are authorized.

1 (m) The legislative rules filed in the state register on the
2 sixteenth day of August, one thousand nine hundred ninety-three,
3 modified by the division of highways to meet the objections of
4 the legislative rule-making review committee and refiled in the
5 state register on the eighth day of November, one thousand nine
6 hundred ninety-three, relating to the division of highways
7 (traffic and safety rules and regulations), are authorized.

8

9 NOTE: The purpose of this bill is to authorize the Division
10 of Highways to promulgate legislative rules relating to traffic
11 and safety.

12

13 Strike-throughs indicate language that would be stricken from
14 the present law, and underscoring indicates new language that
15 would be added.

SENATE BILL NO. 184

(By Senators Fenchin, Anderson, Grubb, Macneugan
and Moore)

[Introduced January 31, 1994; referred to the
Committee on

TRANSPORTATION;

Judiciary

A BILL to amend and reenact section one, article eight, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the division of highways to promulgate legislative rules relating to traffic and safety.

Be it enacted by the Legislature of West Virginia:

That section one, article eight, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANSPORTATION TO PROMULGATE LEGISLATIVE RULES.

§64-8-1. Division of highways.

(a) The legislative rules filed in the state register on the twenty-first day of October, one thousand nine hundred eighty-three, relating to the commissioner of highways

1 (transportation of hazardous waste by highway transporters), are
2 authorized with the amendments set forth below:

3 Pages 3 and 7, after "40 CFR part 262" add the words "as
4 amended through March 8, 1986,."

5 Page 7, after "49 CFR parts 171-179" add the words "as
6 amended through March 8, 1986," and,

7 Page 11, after "49 CFR part 171.16" add the words "as amended
8 through March 8, 1986."

9 (b) The legislative rules filed in the state register on the
10 tenth day of August, one thousand nine hundred eighty-four,
11 relating to the commissioner of highways (construction and
12 reconstruction of state roads), are authorized with the
13 amendments set forth below:

14 Page 16, Sec. 8.08, line 21, (unnumbered), by inserting after
15 the word "all" the following language: "reasonable and
16 necessary" and after the word "project" inserting the following
17 language: "by the Railroad."

18 Page 16, Sec. 8.08, line 22, (unnumbered), after the word
19 "the" by striking the words "Railroad's Chief."

20 Page 19, Sec. 8.08, line 25, (unnumbered), by striking
21 "Railroad's Chief" and adding the following new language:

22 "Any approval by the Department of any activity by the
23 contractor upon the right-of-way or premises of any Railroad
24 which is provided for in this Section (8.08) (including, but not
25 limited to, approval of work, methods, or procedures of work to

1 be done, and the condition of premises after completion of work
2 by the Contractor) shall in no way create any liability by the
3 Department to the Railroad except to the extent provided
4 otherwise by law and the Contractor shall, during all periods of
5 construction and thereafter, indemnify and save harmless the
6 department from any and all liability to the Railroad or any
7 third parties for any damages as a result of the work of the
8 Contractor, the methods and procedures for performing work, the
9 failure of the Contractor to properly remove equipment, surplus
10 material and other debris upon the Railroad premises, or the
11 condition of the premises of the Railroad during construction or
12 after completion of construction by the Contractor as approved by
13 the Department or otherwise."

14 Page 18, Sec. 8.08, subdivision (a), line 22, (unnumbered),
15 by striking the words "single limit" and inserting in lieu
16 thereof the following language: "per occurrence."

17 Page 19, Sec. 8.08, subdivision (b), line 8, (unnumbered), by
18 striking the words "single limit" and inserting in lieu thereof
19 the following language: "per occurrence."

20 Page 19, Sec. 8.08, subdivision (c), line 18, (unnumbered),
21 by inserting after the word "occurrence" the following language:
22 "of"; and after the word "injury" insert a comma and strike the
23 word "or."

24 (c) The legislative rules filed in the state register on the
25 seventh day of September, one thousand nine hundred eighty-four,

1 modified by the commissioner of highways to meet the objections
2 of the legislative rule-making review committee and refiled in
3 the state register on the fifth day of October, one thousand nine
4 hundred eighty-four, relating to the commissioner of highways
5 (transportation of hazardous waste), are authorized with the
6 amendment set forth below:

7 Page 5, amend §3.01 by adding thereto a new subsection,
8 designated subsection (4), to read as follows: "(4) Before
9 accepting hazardous waste from a rail transporter, a highway
10 transporter must sign and date the manifest and provide a copy to
11 the rail transporter."

12 (d) The legislative rules filed in the state register on the
13 fourteenth day of August, one thousand nine hundred eighty-four,
14 modified by the commissioner of highways to meet the objections
15 of the legislative rule-making review committee and refiled in
16 the state register on the fifth day of October, one thousand nine
17 hundred eighty-four, relating to the commissioner of highways
18 (disqualification and suspension of prequalified contractors),
19 are authorized.

20 (e) The legislative rules filed in the state register on the
21 twelfth day of December, one thousand nine hundred eighty-five,
22 relating to the commissioner of highways (transportation of
23 hazardous wastes by vehicle upon the roads and highways of this
24 state), are authorized with the amendments set forth below:

25 On page 18, the first line of §3.03 shall read as follows:

1 "3.03. Transporters who only accept Hazardous Waste from."

2 (f) The legislative rules filed in the state register on the
3 first day of December, one thousand nine hundred eighty-seven,
4 modified by the commissioner of highways to meet the objections
5 of the legislative rule-making review committee and refiled in
6 the state register on the fourteenth day of January, one thousand
7 nine hundred eighty-eight, relating to the commissioner of
8 highways (traffic and safety rules and regulations), are
9 authorized with the amendment set forth below:

10 On page 8, section 7.2, line 9, (unnumbered), by striking
11 everything after the word "structures."

12 (g) The legislative rules filed in the state register on the
13 first day of December, one thousand nine hundred eighty-seven,
14 relating to the commissioner of highways (construction and
15 reconstruction of state roads), are authorized.

16 (h) The legislative rules filed in the state register on the
17 twenty-fifth day of February, one thousand nine hundred
18 eighty-seven, modified by the commissioner of highways to meet
19 the objections of the legislative rule-making review committee
20 and refiled in the state register on the twenty-third day of
21 November, one thousand nine hundred eighty-seven, relating to the
22 commissioner of highways (transportation of hazardous wastes upon
23 the roads and highways), are authorized.

24 (i) The legislative rules filed in the state register on the
25 fourteenth day of August, one thousand nine hundred eighty-nine,

1 modified by the division of highways to meet the objections of
2 the legislative rule-making review committee and refiled in the
3 state register on the seventh day of December, one thousand nine
4 hundred eighty-nine, relating to the division of highways (use of
5 state road rights-of-way and areas adjacent thereto), are
6 authorized with the amendments set forth below:

7 On Pages 14 and 15, Section 7.5, by deleting the following
8 language:

9 "Upon receipt of a permit application an application number
10 shall be assigned by the Division of Highways. The applicant
11 shall be notified of the temporary application number and shall
12 then be required to publish a Class II legal advertisement in the
13 newspaper(s) serving the area where the proposed outdoor
14 advertising sign, display or device is proposed to be located. A
15 copy of the certificate of publication shall be provided to the
16 Department within ten (10) days of the final publication date.

17 "As a minimum the advertisement shall include the application
18 number, the location (including ownership of the property upon
19 which the sign is to be placed) and shall notify the public that
20 comments will be received by the Division of Highways, Highway
21 Services Section, until 10 days after the final publication. The
22 advertisement shall also state that all comments must include the
23 specific application number to which they refer.

24 "Any person who claims to be affected by the proposed sign
25 may submit written comments to the Division of Highways, Highway

1 Services Section, and may request a public hearing within ten
2 days of the final publication. Within ten working days of the
3 close of the comment period the Division shall determine whether
4 to approve, deny, or hold a public hearing for said permit.

5 "When the Division determines that a public hearing is
6 required it shall notify the person(s) who requested the hearing
7 and the permit applicant. The Division shall cause notice to be
8 published and hold the hearing in accordance with Administrative
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10 (1982), Section 3, Hearing Procedures (hereinafter WV Adm. Reg.
11 17-2A).

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13 of the hearing against the permit applicant or against the party
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13 the legislative rule-making review committee and refiled in the
14 state register on the seventh day of December, one thousand nine
15 hundred eighty-nine, relating to the division of highways
16 (acquisition, disposal, lease and management of real property and
17 appurtenant structures and relocation assistance), are
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19 (l) The legislative rules filed in the state register on the
20 seventh day of September, one thousand nine hundred ninety,
21 modified by the division of highways to meet the objections of
22 the legislative rule-making review committee and refiled in the
23 state register on the eighteenth day of January, one thousand
24 nine hundred ninety-one, relating to the division of highways
25 (traffic and safety rules and regulations), are authorized.

1 (m) The legislative rules filed in the state register on the
2 sixteenth day of August, one thousand nine hundred ninety-three,
3 modified by the division of highways to meet the objections of
4 the legislative rule-making review committee and refiled in the
5 state register on the eighth day of November, one thousand nine
6 hundred ninety-three, relating to the division of highways
7 (traffic and safety rules and regulations), are authorized.

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9 NOTE: The purpose of this bill is to authorize the Division
10 of Highways to promulgate legislative rules relating to traffic
11 and safety.

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13 Strike-throughs indicate language that would be stricken from
14 the present law, and underscoring indicates new language that
15 would be added.



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-8000
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DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

TO: Alan Cuervo

AGENCY: Highways

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: April 21, 1994

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 5 TITLE: 157 Highways

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Alan Cuervo

TITLE OF PERSON SIGNING: Administrative Systems Manager

DATE: 5/4/94

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

March 15, 1994

Alan Cuervo
Highways
Bldg. 5, Rm. A-215
State Capitol Complex
Charleston, WV 25305

SB 184 authorizing, **Title 157, Series 5, Traffic and Safety Rule**, passed the Legislature on **March 10, 1994**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs SB 184, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 184** section **64-8-1(m)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, YOU MUST SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division