

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

FILED

2004 JAN 12 A 9:44

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #3

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

AGENCY: Department of Transportation, Division of Highways TITLE NUMBER: 157

CITE AUTHORITY §17-2A-8 and 12 and §17C-17, et seq.

AMENDMENT TO AN EXISTING RULE: YES 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 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.



Fred VanKirk, P.E.
Secretary/Commissioner of Highways

Division of Highways, Series 5
Traffic and Safety Rule
Proposed Amendments to a Legislative Rule

SUMMARY OF PROPOSED RULE:

Series 5 provides general rules for the control of traffic and the promotion of safety on the public highways. This rule includes: references to the guidelines, manuals and standards followed by Highways for applying uniformity in traffic control devices; how speed controls are established on public highways; the rules and requirements for issuing special permits for oversize and overweight vehicles; the provisions for setting weight and size limitations by the Commissioner on roads and bridges; and the rules governing the use of studded tires.

STATEMENT OF CIRCUMSTANCES:

1. Wording in Subsection 8.13.f.10. requiring movers of mobile homes to use police escorts needs to be deleted.
2. In Subsection 8.13.c.2., the combination length and the maximum over dimension permit regulations need to be increased from the current 100' to 110'.
3. In Subsection 8.13.c.2., the maximum over dimension permit limitations relative to height need to be increased from the current 15' to 15'6".
4. In Subsection 8.13.c.3., the wording needs to be changed to allow electronic (email) application for permits, as well as any other means of applying deemed acceptable by the Commissioner of Highways.
5. In Subsection 8.13.d.7., the length of time for which permits in advance are legal should be increased from five days to ten days following validation.

Item 1, which is the justification for this change being filed as an Emergency Rule amendment, is necessary because the Division of Highways no longer has any means of providing police escorts and, therefore, cannot justify requiring that police escorts be used. Prior to the passage of Senate Bill 583, Highway's Enforcement Officers provided police escorts for the movers of oversize mobile homes. Since SB 583 was made effective (July, 2003), Enforcement Division and its Officers have been under the control of the Public Safety Commission. The Public Safety Commission has been requiring that movers use private escorts.

Item 2 is necessary because, with the weight of the homes currently being transported, larger trucks are required to transport the homes safely. Many manufacturers are using trucks that are 25' or more in length. If a truck that is 25'-30' long is attached to a home with a maximum length of 80', the combination exceeds current rule limitations.

Item 3 is necessary because many surrounding states have already developed the 15'6" height standard, resulting in many manufacturers modifying their home designs to accommodate a 15'6"

Division of Highways, Series 5
Traffic and Safety Rule
Proposed Amendments to a Legislative Rule (Page Two)

height limitation provision. The additional 6" to the height limitations would allow West Virginians access to manufactured homes that are of state-of-the-art contemporary construction.

Item 4 is necessary to coincide with actual practice because DOH does, in fact, allow application by email. Furthermore, it is recognized that the Commissioner of Highways should be free to approve other means of applying in the future.

Item 5 is necessary because, often, there are delays beyond the permit holder's control that prohibit a home being transported within the current five-day period.

FISCAL NOTE FOR PROPOSED RULES

January 9, 2003

Rule Title: Series 5, Traffic and Safety Rule

Type of Rule: Legislative Interpretive Procedural

Agency Division of Highways
 Address Building 5, 1900 Kanawha Boulevard, East,
Charleston, West Virginia 25305-0430

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Personal Services	0.00	0.00			
Current Expense	0.00	0.00			
Repairs & Alterations	0.00	0.00			
Equipment	0.00	0.00			
Other	0.00	0.00			
Estimated Total Cost	0.00	0.00	0.00	0.00	0.00

2. Explanation of above estimates:

These rule changes do not impact any annual or fiscal year costs for the Division of Highways. Prior to July, 2003, movers of mobile homes reimbursed Highways when the DOH provided escort services through its Enforcement Division. Since the passage of Senate Bill 583 (which became effective July, 2003), Enforcement Division is no longer under the control of the Division of Highways and, therefore, Highways has no means of providing police escorts for oversize loads.

Other changes (in size and time limitations) are also being effected, as a result of comments received during the Comment Period.

3. Objectives of this rule:

This amendment of an existing legislative rule is being filed to address the following:

Wording requiring movers of mobile homes to use police escorts needs to be deleted, since the Division of Highways no longer has any means of providing police escorts and, therefore, cannot justify requiring that police escorts be used.

Size and time limitations need to be amended, to keep West Virginia in line with current manufactured home standards.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government

No economic impact.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens:

The Director of Enforcement Division – now part of the Public Service Commission – stated that movers of mobile homes will pay (collectively) about \$10,400 less per year for private escort services, as opposed to escort services provided by Enforcement Officers. He estimated that Enforcement Division spent approximately \$20,000 annually to provide escort services, but was reimbursed in full by the movers of mobile homes. Based upon an average 200 oversize permits issued annually for trips of (on average) four hours, with movers paying an average of \$12 per hour for private escort services, movers will pay (collectively) about \$9,600 for escort services.

C. Economic Impact on Citizens/Public at Large.

No economic impact.

5. Contact Person and Telephone Number.

Mr. Bill Wolford
Phone - 558-3799

January 9, 2003



Fred VanKirk, P.E.
Secretary/Commissioner of Highways

EMERGENCY RULE QUESTIONNAIRE

DATE: January 7, 2004

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (*Agency Name, Address & Phone No.*) Division of Highways

1900 Kanawha Boulevard East, Building Five, Room 110

Charleston, WV 25304-0430 304/558-3505

EMERGENCY RULE TITLE: Traffic and Safety Rules

1. Date of filing January 9, 2004

2. Statutory authority for promulgating emergency rule:

§17-2A-8, and 12 and 17C-17, et seq.

3. Date of filing of proposed legislative rule: October 30, 2003

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? It amends a current legislative rule by deleting language in Sub-section

8.13.f.10., by changing dimension regulations in Sub-sections 8.13.c.2, by adding email and

"other means" to Sub-section 8.13.c.3., and by changing time limits in Sub-section 8.13.d.7.

5. Has the same or similar emergency rule previously been filed and expired?

No.

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.

Because of recently passed legislation (Senate Bill 583) which effectively moved Enforcement

Division from the Division of Highways to the Public Safety Commission, Highways can no

longer provide police escorts for movers of mobile homes. This is causing companies in that

business to be out of compliance with the law, through no fault of their own.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

Senate Bill 583 was passed into law in July of 2003. Highways has been powerless to provide
companies with police escorts since that time.

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

Highways cannot provide a way for companies to comply with the existing requirement that
oversize loads be accompanied by a police escort. The Public Service Commission, which now
controls Enforcement Division is not assigning Enforcement Officers those duties and public
companies cannot always arrange for a police escort.

Contact Person: Bill Wolford 558-3799

Division of Highways, Series 5
Traffic and Safety Rules
Agency Approval of a Proposed Rule and
Filing with the Legislative Rule-Making Review Committee
July 30, 2003

SUMMARY OF PUBLIC COMMENTS and RESPONSES:

The public comment period was advertised in the State Register, published November 7, 2003. The comment period ended at midnight on December 9, 2003.

West Virginia Manufactured Housing Association comments:

1. Sub-Section 8.13.c.2.: Increase the combination length and the maximum over dimension permit regulations from the current 100' to 110'. DOH concurred.
2. Sub-Section 8.13.c.2.: Amend maximum over dimension permit limitations to increase the allowable limits, relative to height, from the current 15' to 15'6". DOH concurred.
3. Sub-Section 8.13.d.3.: Amend to permit electronic mail (email) application for issuance of permits. The DOH recognized that the West Virginia Manufactured Housing Association intended to reference Sub-Section 8.13.c.3 and, subsequently, concurred with the comment.
4. Sub-Section 8.13.d.7.: Make permits purchased in advance legal for ten days following validation, rather than the currently allowed five days. DOH concurred.

No other comments were received.



West Virginia Manufactured Housing Association

205 First Avenue, Nitro, WV 25143 • Phone (304) 727-7431 • Fax (304) 727-1172 • e-mail: WVASOFF@newwave.net

COPY

December 9, 2003

RECEIVED PENDING

DEC 10 2003

TRAFFIC ENGINEERING DIVISION

CR
DT (Thru H)

Propose
reply
for CL signature

12/9/03

cc: AC copy of response

Fred Van Kirk, P.E.
Secretary of Transportation
Division of Highways
Room A-350
1900 Kanawha Boulevard East
Charleston, WV 25305-0430

Dear Secretary Van Kirk:

Please find enclosed our comments relative to the proposed rule change of the Division of Highways rule Title 157 Series 5 – traffic and safety rule.

Our industry respectfully submits the attached comments pursuant to your established comment concerning the proposed rule amendments.

If you or any of your staff have questions regarding our proposals and comments, please feel free to contact me.

We are grateful for your continued leadership and the efficiency of the permit and enforcement oversight efforts of the Division of Highways.

Sincerely yours,

Leff Moore
Executive Director

LM/bod

CC: Bill Wolford

Enclosure

WV Department of Transportation
Office of Secretary

DEC 08 2003

RECEIVED

DEC 09 2003

SCANNED

COMMENTS
OF THE
WEST VIRGINIA
MANUFACTURED HOUSING
ASSOCIATION

RELATIVE TO THE

PROPOSED RULE CHANGES
TITLE 157 SERIES 4

Rules of The West Virginia
Department of Transportation,
Division of Highways

Leff Moore
Executive Director

Kevin Wilfong
President

The West Virginia Manufactured Housing Association is a trade association that represents manufacturers, retailers, installing contractors, lenders, suppliers and associated business parties in the manufactured housing industry in West Virginia. Over 250 companies make up our membership and they are diversified in not only their business interests, but geographically throughout the state. Some of our members are manufacturers, retailers and installing contractors who are located in other states but ship to, or do work in, West Virginia.

Our Association members and leadership have reviewed the proposed rule change notice for public comments by the Department of Transportation, Division of Highways relative to the traffic and safety rule. On behalf of our industry and speaking for our membership, we state the following:

We support, endorse and urge the agency to amend 8.13.f.10 (page 11) of the rule as proposed. The elimination of the requirement of police or enforcement officers escorts is of general benefit to the industry, the agency, homeowners and especially the safety of the traveling public. In addition this change will eliminate a conflict that has developed in the law enforcement community wherein all enforcement agencies generally decline the escort service request by the transporting company. With the advent of the coal truck legislation and the position adopted by the transportation division of the Public Service Commission relative to the weight enforcement officials under its control, the system previously required is no longer workable.

We further support the action of the agency issuing an emergency rule prior to the proposed change in the permit rule that had allowed homeowners to continue to access West Virginia highways in a safe, reasonable and appropriate way without the necessity of police or enforcement officer escort.

ADDITIONAL COMMENTS:

The industry, our trade association, and our membership urge that the Department of Transportation, Division of Highways further amend the proposed rule to accommodate several necessary, appropriate and beneficial changes that will, when enacted, improve the safety, efficiency and public benefit, as well as, reduce costs for the state, your agency, West Virginia's homebuyers and the industry. Our recommendations are as follows:

- *We recommend that §8.13.c.2 be amended as follows:*
 - **Increase the combination length and the maximum over dimension permit regulations from the current 100 feet to 110 feet.** - *Because of the increased weight of the homes being transported, the trucking industry has found it necessary to use larger, heavier trucks in order to accommodate the weight of the homes being transported safely. Since the weights are much less than current limits, the weight of the unit is not a problem if an appropriately sized truck can be utilized to transport the load. More and more transporters are using trucks that are 25 feet or longer in length. If a truck of 25-30 feet in length is attached to a home with a maximum length of 80 feet the combination exceeds current rule limitations. Hence, we would petition and request that §8.13.c.2 be amended as requested above.*

- *We recommend and request that §8.13.c.2, Maximum over dimension permit limitations be amended to increase the allowable dimension limits relative to height from the current 15'0" to 15'6".*
 - **Many surrounding states have already developed the 15'6" height standard for manufactured homes, as well as, other over dimension loads being transported on their highways. As a result, manufacturers in many plants have modified their home designs to accommodate a 15'6" height limitation provision.** The people of West Virginia, as well as, our retailers currently can not obtain shipment of any home whose height exceeds 15 feet. – *The additional 6" to the height limitations would allow West Virginia families to purchase homes that are of state-of-the art, contemporary construction and not suffer from the limitations that the current rule imposes.*

- *We recommend that §8.13.d.3 be amended to permit electronic mail (email) application for issuance of permits.*
 - **By using modern email techniques, we are confident that the integrity of the permit system can be maintained while at the same time, reducing the state agency's cost for telephone, letter or facsimile transmission.** In addition email issuance of permits will reduce the staff time necessary for the division of highways to issue a permit, as well as, the standby or wait time that the industry must sometimes endure. *We believe that this proposal, if implemented by the Department of Transportation/Division of Highways, will modernize, improve and reduce costs for all parties concerned and at the same time, retain the same level of control over highway movement that the current permit issuance system provides.*

- *We request, recommend and pursue a change in §8.13.d.7- Permits in advance are legal for FIVE DAYS when validated.*
 - **We urge that the permits purchased in advance be legal for 10 days following validation.** - The industry frequently experiences circumstances wherein a valid permit has been issued and for reasons and events beyond the control of the permit holder, the load can not be transported within a five day period. If the transportation does not occur within the current five day timeframe, then the transporter must seek a new permit and the agency must reissue a permit with some cost and inconvenience to both parties. We believe that an extension of the validation period to 10 days does not compromise the ability of the agency to control highway movement and to assure that travel conditions are appropriate and safe. Illness, equipment breakdown, weather, delays by third parties, as well as, unique traffic conditions such as accidents by other vehicles, sudden and unusual impediments to travel such as mud slides, landslides, bridge washouts, etc., often precipitate unscheduled and unavoidable delays. *The proposed change would not only benefit the agency, but would certainly benefit the transporter and the homebuyer from paying duplicative and excessive administration cost.*

associated with the delivery of a home as a part of the public's effort to obtain shelter.

PROPOSED ACTION:

We would urge that the Department of Transportation, Division of Highways modify its proposed rule after consideration of these comments. We would urge that the rule be submitted to the legislative rule making committee by the agency with these initiatives and recommendations contained therein.

We commend the Department of Transportation, Division of Highways for its recognition of the administration proposal passed by the implementation of the new coal truck legislation recently adopted. We are further grateful for the continued proposed oversight and quality administration of the existing permit system in development. *We believe that the Department of Highways and its appropriate personnel perform exceptionally well and that the public, homebuyers, transporters, manufacturers and retailers are well served under the current rule.*

It is our hope to continue to work cooperatively with the Department of Transportation, Division of Highways to further improve the rule and cooperate fully as we jointly work to permit commerce to flow, promote home ownership, protect the traveling public and the property of West Virginia's citizens. We urge the adoption of these recommendations

Respectfully submitted.

Leff Moore
Executive Director

FILED

2004 JAN 12 A 9:44

TITLE 157
LEGISLATIVE RULE
DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 5
TRAFFIC AND SAFETY RULES

§157-5-1. 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 W. Va. Code §§17-2A-8, and 12 and 17C-17, et seq.

1.3. Filing Date. --

1.4. Effective Date. --

§157-5-2. Definitions.

2.1. "Holiday Weekend" means any weekend containing a national holiday on either Friday, Saturday, Sunday or Monday.

2.2. "Lighting Device" means any head lamp, auxiliary or fog lamp, signal lamp, clearance lamp, reflector lamp, identification lamp, or any lighted lamp or illuminating device designed or sold to be installed upon a motor vehicle.

2.3. "Safety Glass" means 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.

2.4. "Seat Belt" means a restraining device bolted to the interior frame or body of an automo-

bile which when buckled will prevent a passenger from seat ejection due to crash, collision, sudden stop, or other propulsive cause.

2.5. "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.

2.6. "Studded tire" means pneumatic tires with metal studs protruding from the tread for the purpose of providing improved traction on snow and ice covered roadways.

§157-5-3. Uniform Traffic Control Devices.

3.1. 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 and Transportation 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.

3.2. 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 VI of the latest edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways," adopted by the preceding section, the "Traffic Control for Streets and Highways Construction and Maintenance Operations Manual" which was prepared by the Traffic Engineering Division of the West Virginia Division of Highways, dated November 1994. A second "Traffic Control for Streets and Highways Construction and Maintenance Operations Manual" for projects in metric units of measure is also adopted to supersede Part VI of the latest edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways" dated September 1996.

§157-5-4. Speed Controls.

4.1. Commissioner's Order. Whenever the Commissioner of Highways has, pursuant to the provisions of W. Va. 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 county route and mileposts 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 that may be readily ascertained by an examination of any affected road or bridge.

4.2. 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.

§157-5-5. Traffic Regulation by Local Authorities.

5.1. 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 set forth the reasons for the alteration, the speed limits to be observed, and the times the speed limits are effective, and 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. The local authority shall send a written request 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 in Section 4, of this rule. Appropriate signs giving notice of the speed zone or limit so established shall be erected. Approved signs shall be erected, altered or removed only by Division forces.

§157-5-6 Signs.

6.1. 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 Subsection 3.1, of this rule.

§157-5-7. Lighting Devices; Safety Glass; Seat Belts.

7.1. 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.

7.2. General Conditions for Issuance of Certificate of Approval.

7.2.a. 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.

7.2.b. 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".

7.2.c. All seat belts shall conform to the current standards and specifications of the Society of Automotive Engineers prescribed for such equipment.

7.2.d. All lighting devices, safety glass, and seat belts shall be marked for easy identification.

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

7.2.f. 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.

7.2.g. 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.

7.3. Application for Certificate of Approval.

7.3.a. 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, 190 Dry Branch Road, Charleston, West Virginia 25306.

7.3.b. The applicant's duly authorized representative will sign both copies of the application.

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

7.3.d. 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 Subsection 7.2, of this rule.

7.4. Approval by 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.

7.5. Revocation of Certificate of Approval.

7.5.a. 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 W. Va. Code §17C-15, et seq., or meet the requirements of this rule, 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.

7.5.b. 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.

7.5.c. 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 W. Va. Code §17C-15, et seq., or meet the requirements of this rule,

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 W. Va. Code §17C-15, et seq., and the provisions of this rule, 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 W. Va. Code §17C-15, et seq., and this rule.

7.5.d. 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 W. Va. Code §17C-15, et seq., or the requirements of this rule, 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.

§157-5-8. Special Permits.

8.1. 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.

8.2. 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.

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

8.3.a. Permits Issued Solely by the Maintenance Division. Blanket permits, and special permits for mobile homes, and special permits for seagoing containerized cargo, will be issued only by the Maintenance Division.

8.4. 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.

8.4.a. 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.

8.4.b. 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.

8.4.c. 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.

8.4.d. 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.

8.4.e. 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

8.4.f. Vertical Clearance; Effect of Per-

mit. Nothing contained in this rule 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.

8.4.g. 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.

8.4.h. 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.

8.4.i. 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.

8.4.j. Limitations on Movement Under Permit.

8.4.j.1. Vehicles under special permit with loads 14 feet or less in width may not be moved on holiday weekends or legal holidays.

8.4.j.2. As a general rule, vehicles under special permit with loads wider than 14 feet may not be moved on Saturdays, Sundays, or legal holidays (except as otherwise provided in Section 8.13.d.2 of this rule relating to movement of mobile homes).

8.4.j.3. No overdimensional or overweight loads may be moved when road conditions

are hazardous due to ice or snow, or when driving conditions are rendered dangerous by reason of fog, snow, excessive rain, etc.

8.4.j.4. Overweight permits shall not, as a general rule, be issued for routes upon which temporary loading restrictions have been imposed.

8.4.k. 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 Subdivision 8.6.c. of this rule, 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.

8.4.l. Safety Regulations. Where a special permit requires the use of an escort vehicle or vehicles, the escort vehicle shall conform to the provisions of Subsection 8.14 of this rule.

8.4.m. 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.

8.5. Excessive Loads. The Maintenance Division, after approval by the District Engineer, may issue a special single trip permit for the

movement of exceptionally heavy or large equipment such as transformers or compressor station machinery which cannot be disassembled. The permit may be issued only if the following requirements are fulfilled:

8.5.a. bridges must be reinforced at the applicant's expense and in accordance with instructions of the District Engineer;

8.5.b. 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

8.5.c. 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.

8.6. Procedure for Issuance of Special Permits.

8.6.a. 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.

8.6.b. Information Required. The application for a special permit shall specifically set forth the following information:

8.6.b.1. 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

8.6.b.2. the particular portion of the highway or the specific point of crossing of the highway for which the permit to operate is

requested.

8.6.c. 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.

8.6.d. 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.

8.6.e. 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.

8.6.f. 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.

8.7. 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.

8.8. 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.

8.8.a. 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.

8.8.b. 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. If the special equipment is worked within the state, a license is required before the permit will be issued.

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

8.9.a. 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.

8.9.b. 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.

8.10. 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.

8.11. 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.

8.12. 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.

8.13. Movement of Mobile Homes in Excess of Legal Dimensions.

8.13.a. 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 W. Va. Code §17C-17-11, as amended, the Commissioner of Highways may, in the exercise of his or her 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.

8.13.b. Legal Dimensions. A mobile home or house trailer, including its towing vehicle, whose overall dimensions do not exceed the statutory limits in this rule may be operated over West Virginia highways without a special permit.

COMBINATION LENGTH: 55 FEET
60 FEET
(DESIGNATED)

MOBILE HOME LENGTH: NO REGULATION

WIDTH: 8 FEET
8 FEET 6 INCHES

HIGHWAY)

HEIGHT 13 FEET 6 INCHES

8.13.c. Permit Information.

8.13.c.1. A permit to move a mobile home over legal dimensions may be obtained at the West Virginia Division of Highways, Central Vehicular Permit Section, Maintenance Division, State Capitol, Building 5, Charleston, West Virginia, 25305, (Telephone (304) 558-3736).

8.13.c.2. Maximum over dimension permit limitations:

COMBINATION LENGTH: 400 110 FEET
MOBILE HOME LENGTH: 80 FEET
WIDTH: 16 FEET
HEIGHT: 15 FEET 0 6 INCHES

8.13.c.3. A permit may be obtained ~~either by letter,~~ in person or by letter, telephone or / telecommunication, electronic means (email), or by any other means acceptable to the Commissioner of Highways. 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 canceled.

8.13.c.4. The cost of all oversize mobile home permits shall be in accordance with existing West Virginia statutes.

8.13.d. Travel Regulations.

8.13.d.1. 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.

8.13.d.2. All movements by permit must be made between sunrise and sunset. The movement of mobile homes greater than 14' wide will be restricted to travel Monday through Thursday and until 3:00 P. M. Friday. The movement of mobile homes 14' 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.

8.13.d.3. 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 W. Va. Code §17C-17-11(c), as amended.

8.13.d.4. 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.

8.13.d.5. 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 28' except as noted in Section 8.13.d.6 of this rule.

8.13.d.6. 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 8.13.d.5 of this rule 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.

8.13.d.7. Permits in advance are legal for FIVE TENDAYS when validated.

8.13.d.8. 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.

8.13.e. Manufacturing Regulations.

8.13.e.1. 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.

8.13.e.2. 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.

8.13.f. Safety Regulations.

8.13.f.1. A permit applicant shall maintain and operate all equipment covered by permit in accordance with all applicable laws of the State of West Virginia.

8.13.f.2. 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.

8.13.f.3. 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.

8.13.f.4. 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:

8.13.f.4.A. One at each end of the front bumper of the towing vehicle and one on each corner of the mobile home roof at the ends, both towing and trailing.

8.13.f.5. The towing vehicle 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.

8.13.f.6. Towing, and escort vehicles shall have 2-way radio communications.

8.13.f.7. 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.

8.13.f.8. 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.

8.13.f.9. The towing vehicle of all mobile homes must be of a capacity of at least 1-ton or greater and must be equipped with dual drive wheels.

8.13.f.10. Movers of all mobile homes that 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.~~

8.13.f.11. 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.

8.13.f.12. 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.

8.13.f.13. The maximum speed of vehicles towing mobile homes is the posted speed limit, but not to exceed 50 miles per hour. Regardless, the driver of the vehicle towing the mobile home must operate the vehicle at a safe, reasonable speed for the conditions.

8.13.f.14. When a mobile home permit requires the use of an escort vehicle, the escort vehicle or vehicles shall conform to the provisions in Subsection 8.14, of this rule.

8.13.f.15. 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 W. Va. Code §17C-17-9, as amended.

8.13.f.15.A. The permits shall be issued subject to the following conditions:

8.13.f.15.A.1. 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

8.13.f.16. Each coupon representing a trip must be validated by the Permit Section, Maintenance Division, of the West Virginia Division of Highways. 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.

8.13.f.17. Multiple trip permits are issued on a cash basis only, with no refunds.

8.13.f.18. 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 W. Va. Code §33-12-7.

8.13.f.19. 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.

8.13.g. Additional Restrictions. 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.

8.14. 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:

8.14.a. The escort vehicle must weigh more than 2,000 pounds and have a manufacturer's gross weight rating less than 26,001 pounds and must be properly licensed.

8.14.b. 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.

8.14.c. All escort vehicles must be equipped with either a rotating or strobe amber yellow plastic, acrylic or glass covered flashing light which:

8.14.c.1. is visible from at least 500 feet; and

8.14.c.2. has a horizontal placement which is visible from all directions 360 degrees;

8.14.d. 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;

8.14.e. 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.

8.14.f. All for-hire escort vehicles shall contain the following miscellaneous equipment:

8.14.f.1. a CB radio, or any other two way communication device with the permitted load;

8.14.f.2. two 5 lbs. fire extinguishers (type A-B-C);

8.14.f.3. a sign with a handle with the word "STOP" on one side and "SLOW" on the other of not less than "18" in diameter with 6" letters suitable for directing traffic;

8.14.f.4. a safety orange vest, shirt or jacket (which must be worn by an operator directing traffic);

8.14.f.5. a red hand-held flag (18" in size);

8.14.f.6. 2 oversized load banners (Yellow with black lettering); and

8.14.f.7. three reflecting triangles or 24" traffic cones.

8.14.g. 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.

§157-5-9. Other Safety Regulations.

9.1. Increase of Weight, Height, and Length Limitations Upon State Highways by Commissioner of Highways. Pursuant to the provisions of W. Va. 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 W. Va. 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 W. Va. Code §17C-17-11a and 11b.

9.1.a. 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.

9.2. Restrictions Upon Right to use Highways by Commissioner of Highways. Pursuant to the provisions of W. Va. Code §17C-

17-12, and subject to the restrictions contained in W. Va. 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.

9.2.a. 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.

9.2.b. 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 3 of this rule.

9.3. Structurally Unsafe Bridges. The Commissioner of Highways shall inspect all bridges upon state roads and if any bridge is found to be structurally 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 structurally 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 county route and milepost upon which the bridge is located. Appropriate signs shall comply with the provisions of Section 3 of this rule.

9.3.a. 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.

9.4. 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:

9.4.a. 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.

9.4.b. 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.

9.4.c. **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.

9.4.d. **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.

9.4.e. **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.

9.4.f. **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.

9.4.g. **Trailers.** No explosives shall be transported in any form of pole-type trailer, nor shall any trailer be attached to a vehicle hauling explosives.

9.4.h. **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.

9.4.i. **Avoiding Public.** Motor vehicles transporting explosives shall avoid, so far as practicable, driving into or through congested thoroughfares, places where crowds are assembled, streetcar tracks, tunnels, viaducts and dangerous railroad crossings. So far as practicable, this shall be accomplished by prearrangement.

9.4.j. **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.

9.4.k. **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.

9.4.l. **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.

9.4.m. **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.

9.4.n. 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 stopped before loading or unloading the explosives.

9.4.o. Storage of Explosives During Unloading. Motor vehicles shall not be unloaded if explosives already unloaded have not been safely stored.

9.5. Transportation of Compressed Gas Containers. No person shall operate an open motor vehicle upon a highway while transporting, as a cargo or part of a cargo, any container of compressed gas designed to receive a valve protection cap, where such container is unsecured, uncapped, or has a gauge attached.

9.5.a. The following are exempt from this requirement as long as the container is safely secured and as long as this exemption does not conflict with any other local, state or federal requirements:

9.5.a.1. propane gas containers for household use;

9.5.a.2. personal oxygen containers for medical use, and;

9.5.a.3. any compressed gas containers in a fully enclosed part of the motor vehicle.

§157-5-10. Studded Tires.

10.1. 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 W. Va. Code §17C-15-37.

10.2. 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.

10.2.a. There shall be a minimum of one-eighth inch of rubber between the base of the stud and the body of the tire;

10.2.b. the tungsten tip of the stud shall project no more than seven-sixty-fourths of an inch from the surface of the tire;

10.2.c. the diameter of the stud, inclusive of the stud casing, shall not exceed three-eighths of an inch;

10.2.d. the contact area of the total number of studs shall not exceed three per centum of the total contact area of the tire;

10.2.e. 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;

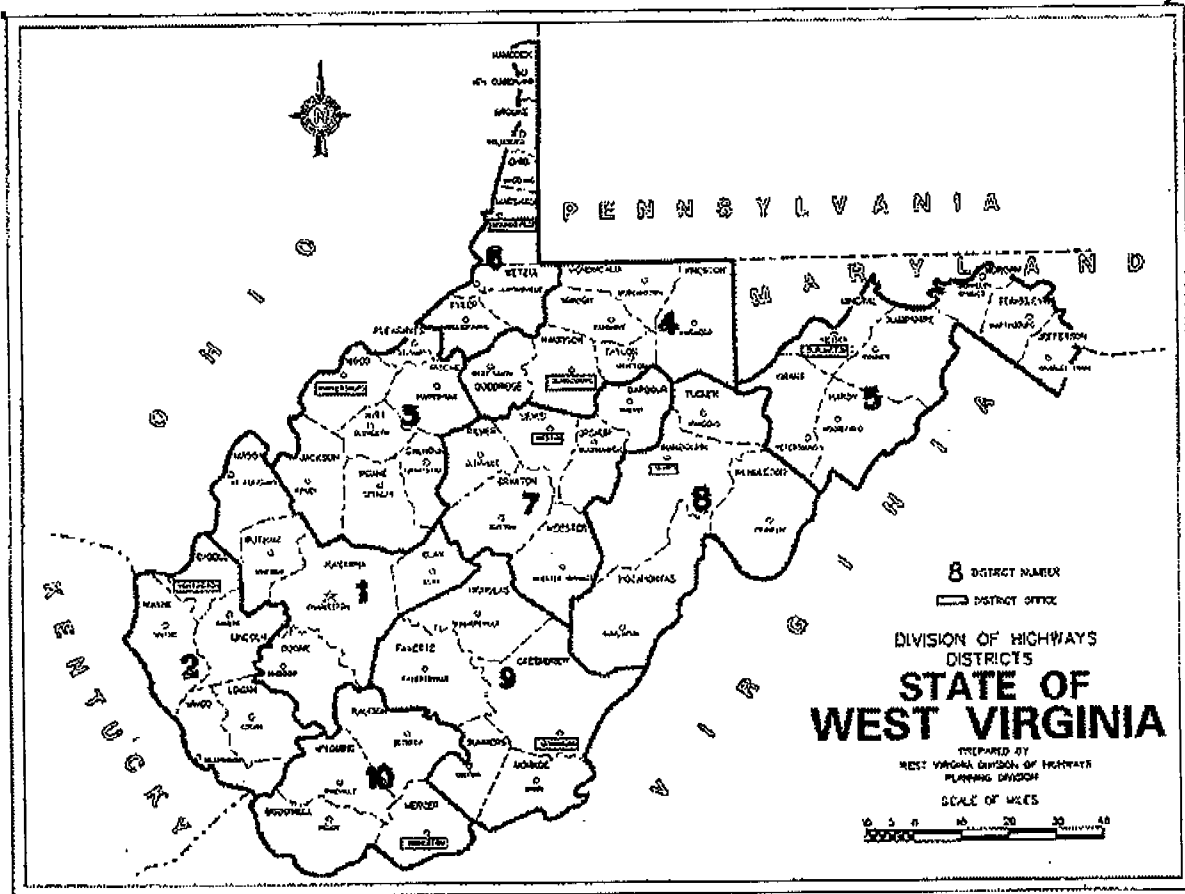
10.2.f. The studs shall be firmly and securely seated in the tire, which may be tested by applying a tensile force to each of five studs selected at random. The load shall be applied in the direction of minimum extraction force, and the load required to remove each stud shall be in excess of thirty pounds;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

10.2.g. failure to comply with the provisions of this subsection is a violation of the provisions of W. Va. Code §17C-15-37, and subject to the penal sanctions imposed by W. Va. Code

§17C-18-1.

10.3. 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.

Appendix A



Appendix B

WEST VIRGINIA DIVISION OF HIGHWAYS DISTRICT ENGINEERS

DISTRICT	ADDRESS TO	LOCATION	TELEPHONE
One	District Engineer, W. VA. DOH	Charleston, West Virginia 25301	558-3001
Two	District Engineer, W. VA. DOH	Huntington, West Virginia 25704	528-5625
Three	District Engineer, W. VA. DOH	Parkersburg, West Virginia 26102	420-4645
Four	District Engineer, W. VA. DOH	Clarksburg, West Virginia 26302	842-1550
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 26452	269-0414
Eight	District Engineer, W. VA. DOH	Elkins, West Virginia 26241	637-0220
Nine	District Engineer, W. VA. DOH	Lewisburg, West Virginia 24901	647-7450
Ten	District Engineer, W. VA. DOH	Princeton, West Virginia 24740	487-5228