

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

FORM #7

Do Not Mark In This Box
Filing Date

FILED

MAY 20 9 55 AM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Effective Date

Denied 5/21/93

ERD 6-93

NOTICE OF AN EMERGENCY RULE

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

CITE AUTHORITY: \$17C-2, 3, 6, 7, 12, 13, 15, 17 & \$17-2A-12

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: V

TITLE OF RULE BEING AMENDED Traffic and Safety Rules
and Regulations

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: _____

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 35TH DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

The mobile home manufacturers and dealers of West Virginia are presently unable to offer West Virginia buyers a complete line of available mobile homes. This limitation on mobile homes is a result of Highways' Legislative Rules pertaining to the issuance of Special Permits for the "Movement of Mobile Homes in Excess of Legal Dimensions" (Series V, Section 7.13). These rules limit the issuance of Special Permits for transporting mobile homes no larger than 14 feet wide and 76 feet long.

In the interest of the public and in the interest of commerce for the mobile home industry, the attached amendments to an existing rule are filed as an Emergency. These amendments raise the transportable mobile home size limits to 16 feet wide and 80 feet long. These amendments will afford the public and the industry the full range of size options currently available.

Use Additional Sheets If Necessary.

Signature



**WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION**

1900 Kanawha Boulevard East • Building Five • Room 109
Charleston, West Virginia 25305-0440 • 304/558-0444

Gaston Caperton
Governor

Charles L. Miller, P.E.
Secretary

May 12, 1993

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

Dear Secretary Hechler:

Emergency Amendment to an
Existing Legislative Rule and
Notice of Public Hearing and Comment Period
Division of Highways, Series V

The attached information is being submitted by the Commissioner of Highways with my consent and agreement in accordance with the provisions of Chapter 5G, Article 1 of the State Code. These proposed amendments grant the Commissioner of Highways the authority to issue permits for the movement of mobile homes up to 16 feet wide and up to 80 feet long upon the State's highways.

Very truly yours,

Charles L. Miller, P.E.
Secretary

CLM:c
Attachment

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

MAY 20 9 55 AM '93

FILED



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Highways

1900 Kanawha Boulevard East • Building Five • Room 109
Charleston, West Virginia 25305-0430 • 304/558-3505

Gaston Caperton
Governor

Charles L. Miller, P.E.
Secretary

May 12, 1993

Fred VanKirk, P.E.
Commissioner
State Highway Engineer
MAY 10 9 55 AM '93
FILED
SECRETARY OF STATE
WEST VIRGINIA

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

Dear Secretary Hechler:

Emergency Amendment to an
Existing Legislative Rule and
Notice of Public Hearing and Comment Period
Series V

The purpose of this filing is to grant authority to the Highways' Commissioner to issue special permits for the movement of mobile homes up to sixteen feet wide and up to 80 feet long upon the State's highways. Included with the proposed increase in maximum size are specific requirements for escort vehicles.

The proposed Emergency Amendments are submitted in the public interest and in the interest of the manufactured housing dealers and manufacturers. The amendments will permit the full range of mobile home size options to be sold and transported on the State's highways. No increase in operational costs to the State are expected from these proposed amendments.

Very truly yours,

Fred VanKirk
Commissioner
State Highway Engineer

FV:c
Attachment

FILED

MAY 20 9 55 AM '93

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Series V, Traffic and Safety Rules and Regulations WEST VIRGINIA
 SECRETARY OF STATE

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
<u>ESTIMATED TOTAL COST</u>	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

The established operational and administrative costs of Highways' Special Permits program for the transport of overweight and oversized vehicles will not be effected by the proposed amendments.

3. Objectives of this rule:

To grant the Commissioner of Highways the authority to issue permits for the movement of up to 16 feet wide and up to 80 feet long mobile homes upon the State's highways. The proposed amendments also describe the requirements for any escort vehicle used in the movement of any permitted oversize vehicle.

Rule Title: Traffic and Safety Rules and Regulations

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government:

None.

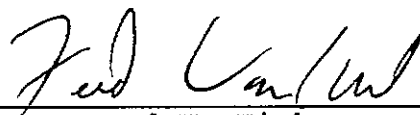
B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens:

The proposed amendments should increase the selection and sales of mobile homes throughout the state.

C. Economic Impact on Citizens/Public at Large.

The proposed amendments should increase the selection and style of manufactured housing available to the general public.

May 12, 1993



Fred VanKirk
Commissioner
State Highway Engineer

FILED

MAY 20 9 55 AM '93

DATE: MAY 12, 1993

TO: LEGISLATIVE RULE MAKING REVIEW COMMITTEE

FROM: WEST VIRGINIA DEPT. OF TRANSPORTATION, DIVISION OF HIGHWAYS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

EMERGENCY RULE TITLE: TRAFFIC AND SAFETY RULES AND REGULATIONS

1. Date of Filing May 15, 1993

2. Statutory authority for promulgating emergency rule:
§17C-2, 3, 6, 7, 12, 13, 15, 17 & §17-2A-12

3. Date of filing of proposed legislative rule: _____

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?

This emergency rule amends the current rule, Series V,
Traffic and Safety Rules and Regulations.

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.

Not applicable.

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.

Not applicable.

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

Manufactured housing (mobile homes) is currently available
at greater lengths and widths than what may be legally
transported by Special Permit over the State's highways.

In order to remove this restriction to commerce in the
mobile home industry and in order to satisfy public demand
for the larger sized mobile homes, the proposed amendments
to the subject legislative rules must be enacted.

FILED

MAY 20 9 55 AM '93

DATE: MAY 12, 1993

TO: LEGISLATIVE RULE MAKING REVIEW COMMITTEE

FROM: WEST VIRGINIA DEPT. OF TRANSPORTATION, DIVISION OF HIGHWAYS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

RULE TITLE: TRAFFIC AND SAFETY RULES AND REGULATIONS, SERIES V

SUMMARY OF RULE CONTENT - This series was promulgated under the authority of Chapter 17C, Articles 2, 3, 6, 7, 12, 13, 15, 17 and Chapter 17, Article 2A, Section 12 of the Code of West Virginia. This series establishes general rules for the control of traffic and the promotion of safety on the public highways.

STATEMENT OF CIRCUMSTANCES REQUIRING CHANGES TO THE RULE - The mobile home manufacturers and dealers of West Virginia are presently unable to offer West Virginia buyers a complete line of available mobile homes. This limitation on mobile homes is a result of Highways' Legislative Rules pertaining to the issuance of Special Permits for the "Movement of Mobile Homes in Excess of Legal Dimensions" (Series V, Section 7.13). These rules limit the issuance of Special Permits for transporting mobile homes no larger than 14 feet wide and 76 feet long.

Therefore, the purpose of this filing is to grant authority to the Highways' Commissioner to issue special permits for the movement of mobile homes up to sixteen feet wide and up to 80 feet long upon the State's highways.

The proposed Emergency Amendments are submitted in the public interest and in the interest of the manufactured housing dealers and manufacturers. The amendments will permit the full range of mobile home size options to be sold and transported on the State's highways. No increase in operational costs to the State are expected from these proposed amendments.

In addition to the proposed increase in maximum size are specific requirements for escort vehicles. The proposed requirements for escort vehicles are considered necessary for the preservation of the public safety when mobile homes are being transported over the State's highways.

FILING OF LEGISLATIVE RULES
BY THE
DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS
INDEX TO
SERIES V

FILED
MAY 20 9 55 AM '93
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF TRANSPORTATION
COMMISSIONER OF DIVISION OF HIGHWAYS

CHAPTER 17C

SERIES V

Title: Traffic and Safety Rules and Regulations

Section 1. General

1.1. Scope. -- These Legislative regulations establish general rules for the control of traffic and the promotion of safety on the public highways.

1.2. Authority. -- These rules and regulations are issued under the authority of West Virginia Code Chapter 17C, Articles 2, 3, 6, 7, 12, 13, 15, 17, and Chapter 17, Article 2A, Section 12.

1.3. Filing Date. --

1.4. Effective Date. --

~~1.5. Repeal of Former Rule. -- This legislative rule repeals West Virginia Legislative Rule "Commissioner of Highways, Chapter 17C, Series V, Traffic and Safety Rules and Regulations in the Secretary of State's Office", filed April 22, 1988.~~

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

Division of Highways
Leg. Rule, 17C
Series V, Sec. 2.1

the Federal Highway Administration as a national standard for application on all classes of highways---1988 Edition---together with any revisions, supplements, substitutions or editions hereinafter promulgated and set forth. (WV Code, Chapter 17, Article 3, Section 1.)

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 "Traffic Control for Streets and Highways Construction and Maintenance Operations Manual" which were prepared by the Traffic Engineering Division of the West Virginia Department of Highways, dated July, 1980. (WV Code, Chapter 17, Article 3, Section 1) together with any revisions thereto hereinafter promulgated and set forth.

Section 3. Speed Controls

3.1. Commissioner's Order. -- Whenever the Commissioner of Highways has, pursuant to the provisions of Chapter 17C, Article 6, Code, 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 Series I, Section 2.02 of these rules and regulations. 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 such speed zone or limit is established and shall accurately describe the intersection, highway or part of highway, or bridge approach, to which such speed zone or limit shall apply. Such description and designation shall be in non-technical terms of reference insofar as possible. All references in said 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, Chapter 17C, Article 6, Sections 1-2)

3.2. Erection of Signs Before Speed Limit Effective. -- No speed limit shall be effective until appropriate signs giving notice thereof are erected at the beginning point of such speed zone designating the zone and the speed limit to be observed therein, and until appropriate signs are erected indicating the end of such speed zone, which said signs shall also indicate such different speed limit as may then be observed. (WV Code, Chapter 17C, Article 6, Section 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 thereof in a municipality, they shall by appropriate ordinance or resolution set forth the reasons therefor, the speed limits to be observed, and the times such speed limits shall be effective, a designation and description of the state highway or extension thereof in such municipality to which such speed limit or traffic regulation is to be applicable, in the same manner and to the same extent as herein required of the Commissioner of Highways in the establishment of speed zones and limits upon state highways. A duly attested copy of such ordinance or resolution shall be sent to the Commissioner of Highways and such speed zone or limit so established by local authorities shall not be effective until approved by the Commissioner of Highways by order entered in his Order Book in the same manner as provided herein. Appropriate signs giving notice of the speed zone or limit so established shall be erected in the same manner as herein required of the Commissioner of Highways in the establishment of a state speed zone or limit, which such signs shall be erected, altered or removed only by Department forces. (WV Code, Chapter 17, Article 6, Section 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 or regulation 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 hereof. (WV Code, Chapter 17C, Article 3, Section 1.)

Section 6. Lighting Devices; Safety Glass; Seat Belts

6.1. General. -- The purpose of these rules and regulations 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 approval; and for the issuance of a Certificate of Approval; and for the revocation of such Certificate of Approval where prescribed standards are not met. (WV Code, Chapter 17C, Article 15.)

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

(1) Lighting Device - The term "lighting device" shall mean any head lamp, auxiliary or fog lamp, signal lamp, clearance lamp, reflector lamp, identification lamp, or any lighted lamp or illuminating device upon a motor vehicle. (WV Code, Chapter 17C, Article 15, Sections 1 thru 30.)

(2) Safety Glass - The term "safety glass" shall mean any product composed of glass, so manufactured, fabricated, or treated as substantially 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, Chapter 17C, Article 15, Section 38.)

(3) Seat Belt - The term "seat belt" shall mean 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, Chapter 17C, Article 15, Section 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 such equipment. (WV Code, Chapter 17C, Article 13, Sections 1-30.)

(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, Chapter 17C, Article 15, Section 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, Chapter 17C, Article 15, Section 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 approval of the same.

(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, Chapter 17C, Article 15, Section 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 Enforcement Division, West Virginia Department of Transportation, Division of Highways, State Capitol, Building 5, Charleston, West Virginia, 25305.

(2) Both copies of each application shall be signed by a duly authorized representative of the applicant.

(3) Separate application shall be made for each type, brand or make of lighting device, safety glass, or seat belt, for which approval is desired.

(4) Each application for approval of a type, brand or make of lighting device, safety glass, or seat belt shall be accompanied by a report from an independent testing laboratory, approved by the Society of Automotive Engineers, showing compliance with the standards and specifications set forth and described in Section 6.3 hereof. (WV Code, Chapter 17C, Article 15, Section 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. (WV Code, Chapter 17C, Article 15, Section 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, Chapter 17C, Article 15, or meet the requirements of these rules and regulations, he 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. Such a hearing shall be conducted in accordance with the rules and regulations relating to hearings before the Commissioner, as set forth in Section 3, Series I, of these rules and regulations.

(2) After such hearing, the Commissioner of Highways shall make a finding as to whether a failure of compliance exists, and if it is his determination that a failure of compliance does exist, he shall give prompt notification thereof to the person holding the Certificate of Approval.

(3) If at the expiration of ninety (90) days after the giving of such 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, Chapter 17C, Article 15, or meet the requirements of these rules and regulations, the Commissioner of Highways shall suspend or revoke the Certificate of Approval issued therefor, until and unless such 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 said WV Code, Chapter 17C, Article 15, and the provisions hereof, 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 said WV Code, Chapter 17C, Article 15, and the provisions hereof.

(4) The Commissioner of Highways may at the time of the retest purchase in the open market and submit to a testing agency any such type, brand or make of lighting device, safety glass, or seat belt, as found at said hearing not to be in compliance with provisions of WV Code, Chapter 17C, Article 15, or the requirements of these rules and regulations, and if such test discloses that any such equipment fails to comply with said provisions, or meet said requirements, he may refuse to renew the Certificate of Approval therefor. (WV Code, Chapter 17C, Article 15, Section 30.)

Section 7 Special Permits.

7.1. General. -- Pursuant to authority vested in him by law, the Commissioner of Highways may, in his 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, Chapter 17C, Article 17, Section 11.)

7.2. Basis for Granting or Denying Special Permits. -- In considering applications for such special permits, primary consideration will be given to the protection and safety of the traveling public and the probable effects of the issuance of such

permits will have upon the state road system. Permits will not be granted 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 Maintenance 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 Maintenance Enforcement Division - Blanket permits, and special permits for house trailers and modular homes, and a special permit for single trip to be transmitted through telecommunications, will be issued only by the Maintenance Enforcement Division.

7.4. General Conditions for Issuance of Special Permits. -- Whenever a special permit is issued, the Commissioner of Highways, or his duly authorized representative, may impose any reasonable conditions or restrictions, which may be deemed 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 such 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 whatsoever kind or nature, and may require such condition, bond or security as may be deemed necessary to compensate for any injury to such foundation, surface, bridge, etc. The following conditions, however, shall be applicable to all special permits issued by the Commissioner of Highways.

(1) Permit must be Carried with Vehicle - Every such 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

Division of Highways
Leg. Rule, 17C
Series V, Sec. 7.4

Highways granting such permit, no person shall violate any of the terms or conditions of such special permit.

(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 thereon. 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 article under a permit is in excess of the statutory height limitation, the person granted such 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 these rules and regulations shall be construed to require the state, any agency thereof, 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 regulations limiting loads because of local conditions including bridges and highways posted for load limits, seasonal weight restrictions, or under construction.

(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 thereupon.

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

(11) Limitations on Movement Under Permit - As a general rule no movement of vehicles under special permit shall be allowed on Saturdays, Sundays, or legal holidays (except as otherwise herein provided in Section 7.13(4) (b), Series V, of these rules and regulations as they relate 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 such movement and verification thereof shall be furnished the Commissioner, or his duly authorized representative, when application is made for a special permit for such movement, as provided in Section 7.6(3), Series V, of these rules and regulations.

(13) Safety Regulations - Every such special permit which requires the use of an escort vehicle or vehicles, the escort vehicle shall conform to the provisions of Section 7.14, Series V, of these rules and regulations.

~~(13)~~ (14) False Information; Penalty - False information, or erroneous information, given in the application or the omission of information from the application, or failure to

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comply with the conditions of a permit, shall be 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.

7.5. Excessive Loads. - The District Engineer, after approval by the Maintenance 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. Such permit may be issued only if the following requirements are fulfilled:

(1) Bridges must be reinforced at 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 analysis is undertaken.

(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. Such application shall be made on such form as the Commissioner of Highways may require 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, a detailed description of the proposed load including the manufacturer's name and model number of any equipment being transported. For cargo bearing vehicles, permits shall show gross load and licensed gross vehicle weight.

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(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 on the regular permit application form supplied by the Commissioner. Verification must be furnished to the Commissioner of Highways, or his duly authorized representative, that a law enforcement agency will provide a police escort to accompany the movement of the house, or other similar structure, by the applicant.

(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 above denoted forms, setting forth the information therein required.

(5) Penalty for Erroneous Information - In the event of omissions or errors in the above described information, the permit may be considered invalid, thereby making the owner, lessee, or borrower 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 they are 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 wherein 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, 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 such 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 Chapter 17C, Article 17, Section 11, Code of West Virginia, 1931, as amended, the Commissioner of Highways may, in the exercise of his 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 is overlength, overwidth, or overheight 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 given below may be operated over West Virginia highways without a special permit (Reference, WV Code, Chapter 17C, Article 17, Sections 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, Maintenance Enforcement Division, State Capitol, Building 5, Charleston, West Virginia, 25305, (Telephone ~~348~~558-3736).

(b) Maximum over dimension permit limitations:

COMBINATION LENGTH:	91 95 FEET
MOBILE HOME LENGTH:	76 80 FEET
WIDTH:	14 16 FEET
HEIGHT:	13 FEET 6 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; description of mobile home, including make, year, model, serial number, license number, overall length, width, and height; description of towing vehicle, including capacity, make, year, model, and license number; name and address of insurance company and expiration date of insurance; description of routes to be traveled. Upon 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 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 14' 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 said vehicles concerning the number of trips; the establishment of seasonal or other time limitations within which the vehicles 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, Chapter 17C, Article 17, Section 11(c), as amended.

(d) The movement of 14' or 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, Maintenance Enforcement Division, West Virginia Division of Highways.

(e) Manufacturers and distribution and sales organizations of 14' or 14'-6" wide mobile homes 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 (g) below.

(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 defined in (f) for delivery to the point of destination. The written application shall also include that the applicant will be responsible for all costs incurred by the District Engineer or his or her designee in determining the feasibility of such movement, either approved or unapproved.

~~(f)~~ (h) Permits in advance are legal for FIVE DAYS when valid.

~~(g)~~ (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) 14' wide mobile homes will not be permitted except those which are manufactured with a 33" minimum overhang which extends from the outside of the wheels to the extreme outer limits of the mobile home. This will reduce the use of pavement width by extending the overhanging portion of the mobile home over the shoulder area.~~

~~(b) 14' wide mobile homes shall be constructed with a 3-axle undercarriage equipped with three (3) complete sets of brakes. 10-ply tires 8-14.5 minimum size are required. A spare wheel and tire must be carried at all times.~~

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

~~(d)~~ (b) Provided however, the regulations heretofore stated in this section shall not apply to any manufactured home so built as to conform to the H.U.D. Manufacturers Home Construction and Safety Standards and so placarded.

(6) Safety Regulations

(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 a ~~pilot~~ 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 a ~~pilot~~ escort vehicles at the front and rear for an ~~escort vehicle at the rear of~~ mobile homes over 12' wide.

(c) The ~~pilot, towing, and escort~~ vehicles 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; 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 so mounted 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.

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(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 front bumper of towing vehicle and one on each of the top corners of the mobile home.

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

(f) ~~Pilot, t~~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 pilot and/or escort vehicle shall, if oncoming traffic is present, act as a flagger at the end of the structure to insure the safe passage of mobile homes 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 roadway will permit pull-off of towing vehicle or passing.

(k) 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.

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(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 deemed to be necessary to determine if they are in compliance with these regulations and applicable highway laws.

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

(p) Every such mobile home permit which requires the use of an escort vehicle, the escort vehicle or vehicles shall conform to the provisions in Section 7.14, Series V, of these rules and regulations.

~~(p)~~ (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 14' 16' and not exceeding the gross weight limit as set forth in WV Code, Chapter 17C, Article 17, Section 9, as amended.

Said permits shall be issued subject to the following conditions:

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

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~~(g)~~ (r) Each coupon representing a trip must be validated by the Permit Section, Maintenance 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, Maintenance 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 will constitute grounds for immediate cancellation of this permit. The yellow carbon copies shall remain in the book of coupons attached to the permit and shall be subject to inspection at all times by authorized personnel of the West Virginia Division of Highways or any other West Virginia Law Enforcement Agency.

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

~~(s)~~ (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 and further, the certificate must be signed by a West Virginia Resident Agent pursuant to West Virginia Code Section §33-12-7.

~~(t)~~ (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 such operations.

(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 deemed necessary. Any such 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 their exercise of this discretion and in the event of violation of State laws or any provisions of these regulations, 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 be either a truck of not more than 8,600 pound GVWR or an automobile of not less than 2,000 pounds.

(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 shall be visible from all directions three hundred sixty (360) degrees.

(4) Escort vehicles shall display bumper mounted or roof mounted yellow 5' x 12" signs reading "OVERSIZE LOAD" with black letters eight (8) inches high, one and one-half (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) CB radio, or any other two way communication device with the permitted load

(b) 2-5 lbs. fire extinguishers (type A-B-C)

(c) STOP and GO paddle (24" with 6" letters)

(d) Safety orange vest, shirt or jacket
(which must be worn by operator directing traffic)

(e) Red hand-held flag (18" in size)

(f) Two oversized load banners (Yellow with
black lettering)

(g) Three reflecting triangles or 18" traffic
cones

(7) Nothing in these standards shall prevent motor
carriers of property from providing their own escort services
related to their vehicle load transportation with their own
drivers and equipment, provided the above public safety
requirements 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, Chapter 17C, Article 17, Sections 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, Chapter 17C, Article 17, Section 4, can be increased without undue damage to any such highway, or without undue risk of damage to any such 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 said gross

weight, height or length limits of vehicles which may be operated upon such highway or portion thereof and may establish the limitations which shall be applicable thereto, subject, however, to the maximum limitations imposed by said WV Code, Chapter 17C, Article 17, Sections 11a and 11b.

(1) Commissioner's Order for Increase of Weight,
Height and Length Limitations - Whenever the
Commissioner of Highways increases the said limits as above
provided he shall enter an order to such effect in the
Commissioner's Order Book, as provided in Section 2, Series I,
of these rules and regulations. Such order shall set forth the

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reasons for his decision and shall designate and accurately describe the highway or portion thereof to which such 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, Chapter 17C, Article 17, Section 12, and subject to the restrictions therein contained, 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 such highways, whenever any such state highway by reason of deterioration, rain, snow or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereon reduced, and the Commissioner of Highways may prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight thereof, on designated state highways.

(1) Commissioner's Order - Whenever the Commissioner of Highways shall prohibit the operation of vehicles upon any state highway or impose weight restrictions thereon as above provided, the Commissioner of Highways shall enter an order to such effect in the Commissioner's Order Book, as provided in Section 2, Series I, of these rules and regulations. Such order shall set forth the reasons therefor and shall designate the road district and accurately describe the state highway or portion thereof upon which such prohibitions or limitations are to be applicable.

(2) Signs - The order of the Commissioner of Highways imposing such prohibitions or weight restrictions shall not be effective until appropriate signs giving notice thereof are erected and maintained at each end of that portion of any highway thereby affected. All such signs shall comply with the specifications described in Section 2, Series V, of these rules and regulations.

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 such 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

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manifested by an order duly entered in the Commissioner's Order Book as provided in Section 2, Series I, of these rules and regulations. Such order shall set forth the reasons for condemning and closing said bridge and shall designate and accurately describe the road district and the road upon which said bridge is located. Appropriate signs shall comply with the provisions of Section 2, Series V, of these rules and regulations.

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

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, Chapter 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 such 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 such 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 so 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, transporting explosives on streets or highways shall be done 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 of routes.

(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 shall not be 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 the same 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 stopped 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. -- These rules and regulations, relating to the design, construction and use of studded tires, are promulgated by the Commissioner of Highways pursuant to the authority specifically delegated to him in the premises by the terms and provisions of WV Code, Chapter 17C, Article 15, Section 37.

9.2. Definitions. -- As used in these rules and regulations.

(1) "Stud" - shall mean 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" - shall mean 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, 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.

(7) Failure of compliance in any of the above areas ([1], [2], [3], [4], [5], and [6]) shall be deemed a violation of the provisions of WV Code, Chapter 17C, Article 15, Section 37, and subject to the penal sanctions imposed by WV Code, Chapter 17C, Article 18, Section 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.

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WEST VIRGINIA DIVISION OF HIGHWAYS

DISTRICT ENGINEERS

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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



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Building 1, Suite 157-K
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May 21, 1993

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Division of Highways

RULE: Amendments, Series 5, Traffic and Safety Rules and Regulations

DATE FILED AS AN EMERGENCY RULE: May 20, 1993

DECISION NO. 6-93

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be disapproved. A copy of the complete decision with required findings is available from this office.


KEN HECHLER
Secretary of State

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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DECISION

EMERGENCY RULE DECISION (ERD 6-93)

AGENCY: Division of Highways
RULE: Amendments, Series 5, Traffic and Safety Rules and Regulations
FILED AS AN EMERGENCY RULE: May 20, 1993

- par. 1 The Division of Highways (DOH) has filed the above amendments to an existing rule as an emergency rule.
- par. 2 West Virginia Code 29A-3-a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [(29A-3-a(a))].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the thirty-five day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

par. 6 The DOH filed this emergency rule with supporting documents with the Secretary of State May 20, 1993 and with the LRMRC May 20, 1993.

par. 7 It is the determination of the Secretary of State that the DOH has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code 17-2A-8(24) reads:

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

par. 9 It is the determination of the Secretary of State that the DOH has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency -- WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

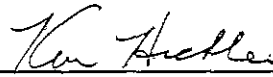
par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the DOH are as follows:

The mobile home manufacturers and dealers of West Virginia are presently unable to offer West Virginia buyers a complete line of available mobile homes. This limitation on mobile homes is a result of Highways' Legislative Rules pertaining to the issuance of Special Permits for the "Movement of Mobile Homes in Excess of Legal Dimensions" (Series 5, Section 7.13). These rules limit the issuance of Special Permits for transporting mobile homes no larger than 14 feet wide and 76 feet long.

In the interest of the Public and in the interest of commerce for the mobile home industry, the attached amendments to an existing rule are filed as an Emergency. These amendments raise the transportable mobile home size limits to 16 feet wide and 80 feet long. These amendments will afford the public and the industry the full range of size options currently available.

- par. 13 It is the determination of the Secretary of State that the DOH has failed to produce any evidence to qualify this rule as an emergency under the definition of an emergency as defined in §29A-3-15(g).
- par. 14 This decision shall be cited as Emergency Rule Decision 6-93 or ERD 6-93 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Division of Highways, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
Secretary of State

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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