

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #7

Do Not Mark In this Box

FILED

1990 APR 25 11 0 31

DEPARTMENT OF STATE
STATE OF WEST VIRGINIA

NOTICE OF AN EMERGENCY RULE

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

CITE AUTHORITY: WV Code §17C-2, 3, 6, 7, 12, 13, 15, 17 and §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 UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

This Emergency Rule is being filed in order to comply with United States Code, Title 23, Sections 109(b), 109(d), 402(a), 23 CFR and 1204.4, wherein the revised 1988 edition of the Manual on Uniform Traffic Control Devices, is identified as the approved National Standard for all highways open to public travel. The Department of Transportation, Division of Highways has adopted this latest edition, except Part VI, as its official manual by Commissioner's Order dated November 12, 1989.

Use Additional Sheets If Necessary.


Fred Van Kirk
Acting Commissioner-
State Highway Engineer



WEST VIRGINIA
DEPARTMENT OF TRANSPORTATION

GASTON CAPERTON
Governor

State Capitol Complex · Building Five · Charleston, West Virginia 25305 · 348-0444

Arthur L. Gleason, Jr.
Secretary

April 25, 1990

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

Dear Secretary Hechler:

Legislative Rules
Secretary of Transportation
Filing of an Emergency Rule and
Notice of Comment Period.
Series V

FILED
1990 MAY 21 AM 9:17
OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

The attached Notice of an Emergency Rule and Notice of Comment Period on Proposed Rule are hereby submitted by the Acting Commissioner of the Division of Highways with my consent and agreement in accordance with the provisions of Chapter 5F of the State Code. These changes in the Division of Highways' Rules and Regulations are being filed in order to comply with changes to Federal Code by adopting the revised 1988 edition of the Manual on Uniform Traffic Control Devices.

Sincerely,

Arthur L. Gleason, Jr.
Arthur L. Gleason, Jr.
Secretary

ALG:Vc

Attachment



WEST VIRGINIA DEPARTMENT OF HIGHWAYS

State Capitol Complex
Building Five
Charleston, West Virginia 25305

GASTON CAPERTON
GOVERNOR

FRED VANKIRK
ACTING COMMISSIONER
STATE HIGHWAY ENGINEER

April 24, 1990

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

Dear Secretary Hechler:

Legislative Rules
Highways Commissioner
Filing of an Emergency Rule and
Notice of Comment Period
Series V

The attached Notice of an Emergency Rule and Notice of Comment Period on Proposed Rule are being submitted in order to comply with changes to Federal code. The revised 1988 edition of the Manual on Uniform Traffic Control Devices is identified in United States Code, Title 23, Sections 109(b), 109(d), 402(a), 23 CFR and 1204.4, as the approved National Standard for all highways open to public travel. This 1988 edition supersedes the 1978 edition which was previously the referenced "standard". The Department of Transportation, Division of Highways has adopted this latest edition, except Part VI, as its official manual by Commissioner's Order dated November 12, 1989 and submits these emergency rules accordingly.

Very truly yours,

Fred VanKirk
Acting Commissioner-
State Highway Engineer

FV:c
Attachment

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Series 5, Traffic and Safety Rules and Regulations

Type of Rule: X Legislative Interpretive Procedural

Agency Division of Highways Address Building Five, State Capitol
Complex, Charleston, WV 25305

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			

2. Explanation of above estimates:

This Emergency Rule adopts, with the exception of Part VI, the current (1988) edition of the Manual on Uniform Traffic Control Devices. Adoption of this manual is mandated by U.S. Code and by the Federal Highway Administration. The systems and procedures for compliance with this manual have been in place; therefore, no change in costs will be realized.

3. Objectives of this rule:

This Emergency Rule brings the West Virginia Department of Transportation, Division of Highways and other affected parties into compliance with 23 USC, Part 109(b), Part 109(d) and Part 402 as well as WV Code 17C-3-1 and 17C-3-3 by establishing the 1988 Edition of the Manual on Uniform Traffic Control Devices as the standard.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

There will be no foreseeable economic impact.

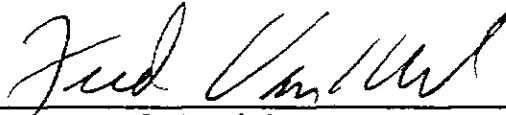
B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

There will be no foreseeable economic impact.

C. Economic Impact on Citizens/Public at Large.

There will be no foreseeable economic impact.

Date April 24, 1990



Fred VanKirk
Acting Commissioner-
State Highway Engineer

DATE: April 25, 1990

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS

PROPOSED RULE TITLE: Traffic and Safety Rules and Regulations,
Series V

SUMMARY OF RULE CONTENT - This series of regulations 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. These regulations establish general rules for the control of traffic and the promotion of safety on the public highways.

STATEMENT OF CIRCUMSTANCES REQUIRING CHANGES TO THE RULE - This Emergency Rule is being filed in order to comply with United States Code, Title 23, Sections 109(b), 109(d), 402(a), 23 CFR and 1204.4, wherein the revised 1988 edition of the Manual on Uniform Traffic Control Devices, is identified as the approved National Standard for all highways open to public travel. This 1988 edition supersedes the 1978 edition which was previously the referenced "standard". The Department of Transportation, Division of Highways has adopted this latest edition, except Part VI, as its official manual by Commissioner's Order dated November 12, 1989.

DATE: April 25, 1990
TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
FROM: WEST VIRGINIA DEPARTMENT OF HIGHWAYS
EMERGENCY RULE TITLE: Traffic and Safety Rules and Regulations

1. Date of filing: April 25, 1990
(As Emergency Rule with Sec. State)

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

3. Date of filing of proposed legislative rule: (following comments)

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?
The emergency rule amends the current Division of Highways
Legislative 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.

United States Code, Title 23, Sections 109(b), 109(d), 402(a),
23 CFR and 1204.4.

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

Not Applicable.

EMERGENCY

FILING OF LEGISLATIVE RULES

BY THE

DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS

INDEX TO

SERIES V

Subject: Traffic and Safety Rules and Regulations

Section 1. General

- 1.1. Scope
- 1.2. Authority
- 1.3. Filing Date
- 1.4. Effective Date
- 1.5. Repeal of Former Rule

Section 2. Uniform Traffic Control Devices

- 2.1. Uniform Sign Manual Adopted
- 2.2. Standards for Traffic Control for Street and Highway Construction and Maintenance Operations Adopted

Section 3. Speed Controls

- 3.1. Commissioner's Order
- 3.2. Erection of Signs Before Speed Limit Effective

Section 4. Traffic Regulation by Local Authorities

- 4.1. Procedure for Establishment of Local Traffic Regulations

Section 5. Signs

- 5.1. Specifications

Section 6. Lighting Devices; Safety Glass; Seat Belts

- 6.1. General
- 6.2. Definitions: Lighting Device; Safety Glass; Seat Belt
 - (1) Lighting Device
 - (2) Safety Glass
 - (3) Seat Belt
- 6.3. General Conditions for Issuance of Certificate of Approval
- 6.4. Application for Certificate of Approval
- 6.5. Approved by West Virginia Commissioner of Highways
- 6.6. Revocation of Certificate of Approval

Section 7. Special Permits

- 7.1. General
- 7.2. Basis for Granting or Denying Special Permits
- 7.3. Officials Authorized to Issue Special Permits
 - (1) Permits Issued Soley by the Maintenance Division
- 7.4. General Conditions for Issuance of Special Permits
 - (1) Permit must be Carried with Vehicle
 - (2) Permits Nontransferable
 - (3) Maximums not be Exceeded
 - (4) Excesses to be Kept to a Minimum
 - (5) Fleet Permits
 - (6) Notice to Owners of Overhead Structures
 - (7) Vertical Clearance; Effect of Permit
 - (8) Particular Regulations; Effect of Permit
 - (9) Permit not a Guarantee
 - (10) Statutes, Ordinances, Rules and Regulations; Effect of Permit
 - (11) Limitations on Movement Under Permit
 - (12) Police Escort
 - (13) False Information; Penalty
- 7.5. Excessive Loads

- 7.6. Procedure for Issuance of Special Permits
 - (1) Applications; Forms
 - (2) Information Required
 - (3) Applications for House Moving
 - (4) Applications Made at County or District Offices
 - (5) Penalty for Erroneous Information
 - (6) Permit Cost
- 7.7. Other Application
- 7.8. License Requirements
 - (1) Vehicles not Required to be Licensed
 - (2) Licensed and Unlicensed Out of State Vehicles
- 7.9. Movement of Contractor's Equipment and Materials; Commercial Haulers
 - (1) Contractor's Equipment
 - (2) Commercial Haulers on Road Projects
- 7.10. State and Federal Government Vehicle
- 7.11. Movement Involving more than One District
- 7.12. Single Trip Permits over Routes Designated for Loading Restrictions
- 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
 - (2) Legal Dimensions
 - (3) Permit Information
 - (4) Travel Regulations
 - (5) Manufacturing Regulations
 - (6) Safety Regulations

Section 8. Other Safety Regulations

- 8.1. Increase of Weight, Height and Length Limitations Upon State Highways by West Virginia Department of Highways Commissioner
 - (1) Commissioner's Order for Increase of Weight, Height and Length Limitations

- 8.2. Restrictions Upon Right to use Highways by West Virginia Highways Commissioner
 - (1) Commissioner's Order
 - (2) Signs
- 8.3. Unsafe Bridges
 - (1) Emergencies
- 8.4. Transportation of Explosives
 - (1) Signs on Vehicle
 - (2) Fire Extinguishers
 - (3) Blasting Caps; Containers
 - (4) Spark of Flame Producing Items Prohibited
 - (5) Overloading Prohibited
 - (6) Vehicle; Mechanical Condition
 - (7) Trailers
 - (8) Vehicle Operator; Speed and Operating Prohibitions
 - (9) Avoiding Public
 - (10) Railroad Crossings
 - (11) Passengers
 - (12) Unattended Vehicles
 - (13) Careful Handling
 - (14) Unloading at Rear of Vehicle
 - (15) Storage of Explosives During Unloading

Section 9. Studded Tires

- 9.1. General
- 9.2. Definitions
 - (1) Stud
 - (2) Studded Tire
- 9.3. Design and Construction Standards and Specifications
- 9.4. Use of Studded Tires

Appendix A District/County Map
Appendix B Addresses of District Engineers

EMERGENCY

WEST VIRGINIA LEGISLATIVE RULES

DEPARTMENT OF TRANSPORTATION
COMMISSIONER 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. -- April 25, 1990

1.4. Effective Date. -- April 25, 1990

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

EMERGENCY

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---19788 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 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 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 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)

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 3.2

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 West Virginia 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 West Virginia Commissioner of Highways and such speed zone or limit so established by local authorities shall not be effective until approved by the West Virginia 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 West Virginia 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

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 5.1

street, by the West Virginia Commissioner of Highways, or any local authority, pursuant to any requirement of law or any rule or regulation issued by the Commissioner, or pursuant to any order entered by the West Virginia 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 West Virginia 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.)

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 6.3

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 West Virginia 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 West Virginia

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 6.4

Commissioner of Highways and both copies shall be submitted to the Director of the Safety//Claims/and/Weight/Enforcement Highway Services Section Division, West Virginia Department of Transportation, Division of Highways, 1900/Washington Street//East 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 West Virginia 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 West Virginia 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 West Virginia Commissioner of Highways shall make a finding as to whether a failure of compliance exists, and if it is his determination

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 6.6

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 West Virginia 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 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 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 West Virginia 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 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

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 7.2

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 the Department Division of Highways, the Maintenance Division Section, the District Engineers, the County Maintenance offices and such other personnel as may be authorized by the Commissioner.

(1) Permits Issued Soley by the Maintenance Division - Blanket permits, and special permits for house trailers and modular homes, and a special permits for single trip to be transmitted through telecommunications, will be issued only by the Maintenance Division Section.

7.4. General Conditions for Issuance of Special Permits. -- Whenever a special permit is issued, the Commissioner of the/Department/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 the/Department/of Highways.

EMERGENCY

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

(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 ~~the~~ ~~Department~~ of 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 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.

EMERGENCY

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

(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) 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, 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

EMERGENCY

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

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 Division, and the Structures Division of the Department 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 the Department of Highways may require and directed to any officer duly authorized by the Commissioner 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.

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

EMERGENCY...

Division of Highways
Leg. Rule, 17C
Series V, Sec. 7.6

(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 ~~the Department 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.

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 7.8

(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 ~~the~~/~~Department~~/~~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 ~~Department~~ 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 ~~Department~~ 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.

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 7.13

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 West Virginia 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 ~~Department~~ Division of Highways, Vehicular Permit Section Unit, Maintenance Division Section, 1900/Washington/Street/ East State Capitol, Building 5, Charleston, West Virginia, 25305, (Telephone 348-3736).

(b) Maximum over dimension permit limitations:

COMBINATION LENGTH:	91 FEET
MOBILE HOME LENGTH:	76 FEET
WIDTH:	14 FEET
HEIGHT:	13 FEET 6 INCHES

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 7.13

(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' 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

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 7.13

WV Code, Chapter 17C, Article 17, Section 11(c), as amended.

(d) The movement of 14' 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 Unit, Maintenance Division Section, West Virginia Department Division of Highways.

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

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

(g) 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.

(c) 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.

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 7.13

(d) 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 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. All other highways will require a pilot vehicle at the front and 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.

(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) 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.

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 7.13

(f) Pilot, 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 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 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.

(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.

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 7.13

(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) A multiple trip permit may be issued at the discretion of the Commissioner for the operation of mobile homes with widths not exceeding 14' 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

(q) Each coupon representing a trip must be validated by the Permit ~~Section~~ Unit, Maintenance ~~Division~~ Section, of the West Virginia ~~Department~~ Division of Highways. After validation, the original or blue copy of the coupon shall be mailed to the Permit ~~Section~~ Unit, Maintenance ~~Division~~ Section, 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 ~~Department~~ Division of Highways or any other West Virginia Law Enforcement Agency.

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 7.13

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

(s) 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.

(t) Exemption from Liability for Damages: The applicant shall save harmless the Commissioner and any and all officers, agents, and employees of the West Virginia ~~Department~~ 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 West Virginia ~~Department~~ Division of Highways for any damage to its property as a result of such operations.

(7) The West Virginia ~~Department~~ 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 ~~Department~~ 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.

Section 8. Other Safety Regulations

8.1. Increase of Weight, Height, and Length Limitations Upon State Highways by West Virginia ~~Department~~ Division of Highways Commissioner --

Pursuant to the provisions of WV Code, Chapter 17C, Article 17, Sections 11a and 11b, whenever in the opinion of the West Virginia Highways Commissioner, 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

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 8.1

Commissioner 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 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 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 Highways Commissioner. -- Pursuant to the provisions of WV Code, Chapter 17C, Article 17, Section 12, and subject to the restrictions therein contained, the Highways Commissioner 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 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 West Virginia Highways Commissioner shall prohibit the operation of vehicles upon any state highway or impose weight restrictions thereon as above provided, the Commissioner 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 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

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 8.2

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 shall inspect all bridges upon state roads and if any bridge is found to be unsafe, the Commissioner shall promptly condemn, close, and repair such bridge. Except in the case of emergency, the Commissioner's determination to condemn and close any unsafe bridge upon a state road shall be manifested by an order duly entered in the Commissioner's Order Book as provided in Section 2, 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's office shall have authority to condemn and close an unsafe bridge prior to the entry of an order by the Commissioner 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.

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 8.4

(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.

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 8.4

(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 if 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

EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 9.1

promulgated by the West Virginia 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

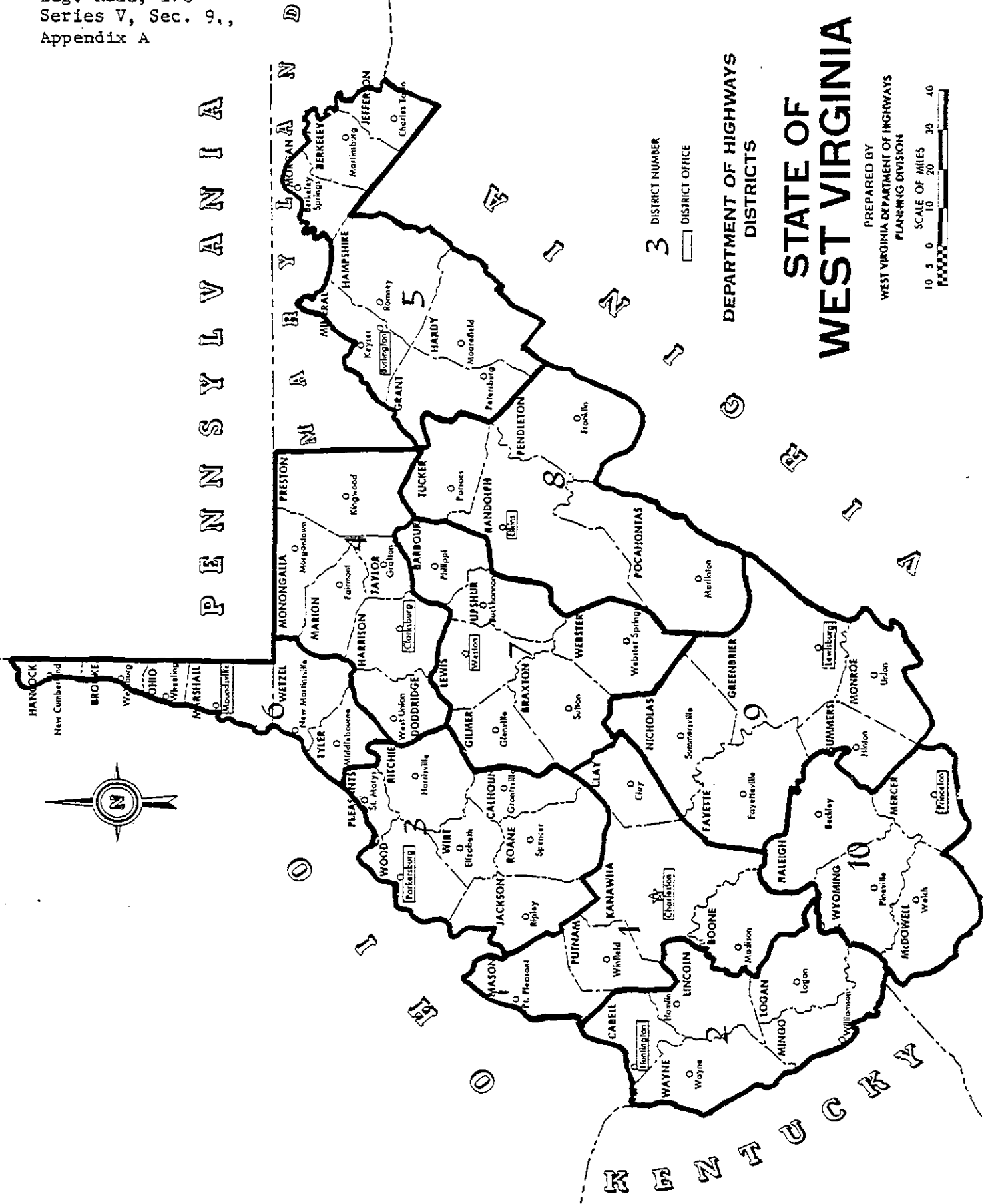
EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 9.3

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.

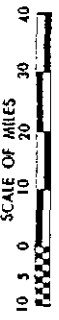
9.4. Use of Studded Tires. -- No studded tires shall be used on the highways of the State except during the period November 1st to April 15th in any calendar year.



DEPARTMENT OF HIGHWAYS
 DISTRICTS

STATE OF WEST VIRGINIA

PREPARED BY
 WEST VIRGINIA DEPARTMENT OF HIGHWAYS
 PLANNING DIVISION



EMERGENCY

Division of Highways
Leg. Rule, 17C
Series V, Sec. 9., Appendix B

WEST VIRGINIA DEPARTMENT OF HIGHWAYS
DISTRICT ENGINEERS

DISTRICT	ADDRESS TO	LOCATION	TELEPHONE
One	District Engineer, W. VA. DOH	Charleston, West Virginia 25301	348-3001
Two	District Engineer, W. VA. DOH	Huntington, West Virginia 25721	528-5600
Three	District Engineer, W. VA. DOH	Parkersburg, West Virginia 26102	420-4595
Four	District Engineer, W. VA. DOH	Clarksburg, West Virginia 26301	627-2260
Five	District Engineer, W. VA. DOH	Burlington, West Virginia 26710	289-3521
Six	District Engineer, W. VA. DOH	Moundsville, West Virginia 26041	238-1120
Seven	District Engineer, W. VA. DOH	Weston, West Virginia 26241	627-2353
Eight	District Engineer, W. VA. DOH	Elkins, West Virginia 26452	627-2245
Nine	District Engineer, W. VA. DOH	Ronceverte, West Virginia 24970	647-7458
Ten	District Engineer, W. VA. DOH	Princeton, West Virginia 24740	425-2155

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 345-4000
Corporations: 342-8000



WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

DECISION EMERGENCY RULE DECISION (ERD 6-90)

AGENCY: Division of Highways
RULE: Amendments, Series 5, Traffic and Safety
FILED AS AN EMERGENCY RULE: April 25, 1990

- par. 1 The Divisions of Highways has filed emergency amendments to the above rule.
- par. 2 West Virginia Code 29A-3-15A 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-3-15a(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 Fire Commission (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the ERD is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Division of Highways has filed this emergency rule with supporting documents with the Secretary of State on April 25, 1990 and with the LRMRC on April 25, 1990.

par. 7 It is the determination of the Secretary of State that the Division of Highways 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-12 reads:

§17-2A-12. *Traffic control factors; parking regulations.*

In the interest of safety and the convenience, coordination and control of pedestrian and vehicular traffic, the commission may from time to time cause surveys and findings to be made as to the necessity and propriety of setback lines, traffic islands, curb separations, entrance approaches, sidewalks and other traffic control factors. The commission may, pursuant to such surveys and findings, promulgate and enforce reasonable rules and regulations relating to and controlling the location, construction and maintenance of all such traffic control factors, but shall not in any case unduly interfere with any abutting property owner's entrance or access rights or approaches to any road or highway unless with the consent and voluntary action of such abutting property owner or through appropriate proceedings in court in the exercise of the right of eminent domain for determination of the lawful rights of the respective parties and the damages, if any, to be assessed. The limitations of this section of the commission's authority to regulate entrance and access to roads and highways shall not apply to freeways as defined in section thirty-nine of article four of this chapter.

The commission may regulate and, when the safety and convenience of the traveling public so require, may prohibit parking of vehicles on and along roads and highways and the rights-of-way thereof.

par. 9 It is the determination of the Secretary of State that the Division of Highways 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.

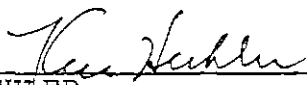
par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the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

par. 12 The facts and circumstances as presented by the Division of Highways are as follows:

This Emergency Rule is being filed in order to comply with United States Code, Title 23, Sections 109(b), 109(d), 402(a), 23 CFR and 1204.4, wherein the revised 1988 edition of the Manual on Uniform Traffic Control Devices, is identified as the approved National Standard for all highways open to public travel. The Department of Transportation, Division of Highways has adopted this latest edition, except Part VI, as its official manual by Commissioner's Order dated November 12, 1989.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency.

par. 14 This decision shall be cited as Emergency Rule Decision 6-90 or ERD 6-90 and may be cited as precedent. This decision is available from the Secretary of State's office and has been filed with the Division of Highways, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
SECRETARY OF STATE

Entered May 23, 1990

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE May 23, 1990
ADMINISTRATIVE LAW DIVISION