

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

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FILED

1990 APR -3 PM 3:29

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

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

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: VI

TITLE OF RULE BEING AMENDED: Regulations Relating to Use of
State Road Rights of Way and Areas Adjacent Thereto

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill No. 243

SECTION 64-8-1, PASSED ON March 10, 1990

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: April 3, 1990



Fred VanKirk
Acting Commissioner-
State Highway Engineer



KEN HECHLER
Secretary of State

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Deputy Secretary of State

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Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

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

TO: Alan Cuervo

AGENCY: Dept. of Highways

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: July 6, 1992

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

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

SERIES: 6 TITLE: 157 Dept. of Highways

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

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

SIGNED: Alan Cuervo

TITLE OF PERSON SIGNING: Administrative Systems Manager

DATE: 7/13/92

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

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

ENROLLED

SENATE BILL NO. 243

(By Senator Jackson)

PASSED March 10, 1990

In Effect from Passage

NO. 243

91 "3.03. Transporters who only accept Hazardous
92 Waste from".

93 (f) The legislative rules filed in the state register on
94 the first day of December, one thousand nine hundred
95 eighty-seven, modified by the commissioner of high-
96 ways to meet the objections of the legislative rule-
97 making review committee and refiled in the state
98 register on the fourteenth day of January, one thou-
99 sand nine hundred eighty-eight, relating to the com-
100 missioner of highways (traffic and safety rules and
101 regulations), are authorized with the amendment set
102 forth below:

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

105 (g) The legislative rules filed in the state register on
106 the first day of December, one thousand nine hundred
107 eighty-seven, relating to the commissioner of high-
108 ways (construction and reconstruction of state roads),
109 are authorized.

110 (h) The legislative rules filed in the state register on
111 the twenty-fifth day of February, one thousand nine
112 hundred eighty-seven, modified by the commissioner
113 of highways to meet the objections of the legislative
114 rule-making review committee and refiled in the state
115 register on the twenty-third day of November, one
116 thousand nine hundred eighty-seven, relating to the
117 commissioner of highways (transportation of hazard-
118 ous wastes upon the roads and highways), are
119 authorized.

120 (i) The legislative rules filed in the state register on
121 the fourteenth day of August, one thousand nine
122 hundred eighty-nine, modified by the division of
123 highways to meet the objections of the legislative rule-
124 making review committee and refiled in the state
125 register on the seventh day of December, one thou-
126 sand nine hundred eighty-nine, relating to the division
127 of highways (use of state road rights-of-way and areas
128 adjacent thereto), are authorized with the amend-
129 ments set forth below:

130 On Pages 14 and 15, Section 7.5, by deleting the
131 following language:

132 "Upon receipt of a permit application an application
133 number shall be assigned by the Division of Highways.
134 The applicant shall be notified of the temporary
135 application number and shall then be required to
136 publish a Class II legal advertisement in the newspap-
137 er(s) serving the area where the proposed outdoor
138 advertising sign, display or device is proposed to be
139 located. A copy of the certificate of publication shall be
140 provided to the Department within ten (10) days of the
141 final publication date.

142 "As a minimum the advertisement shall include the
143 application number, the location (including ownership
144 of the property upon which the sign is to be placed)
145 and shall notify the public that comments will be
146 received by the Division of Highways, Highway
147 Services Section, until 10 days after the final publica-
148 tion. The advertisement shall also state that all
149 comments must include the specific application num-
150 ber to which they refer.

151 "Any person who claims to be affected by the
152 proposed sign may submit written comments to the
153 Division of Highways, Highways Services Section, and
154 may request a public hearing within ten days of the
155 final publication. Within ten working days of the close
156 of the comment period the Division shall determine
157 whether to approve, deny, or hold a public hearing for
158 said permit.

159 "When the Division determines that a public hearing
160 is required it shall notify the person(s) who requested
161 the hearing and the permit applicant. The Division
162 shall cause notice to be published and hold the hearing
163 in accordance with Administrative Regulations, Com-
164 missioner of Highways, Chapter 17-2A, Series I (1982),
165 Section 3, Hearing Procedures (hereinafter WV Adm.
166 Reg. 17-2A).

167 "The Division Administrator shall assess the Div-
168 ision's costs of the hearing against the permit applicant
169 or against the party requesting the hearing if he finds

170 that either the application for the permit or the
171 request for hearing was filed in bad faith.

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

177 "The regulations in the preceding six paragraphs
178 relating to publication of notice of an application,
179 comments on a pending application, notice of hearing,
180 hearing on permit, assessment of costs and judicial
181 review shall not apply to an application for a permit
182 for an advertising sign, display or device to be located
183 within the boundaries of an incorporated municipality
184 or of a county-zoned commercial or industrial area."

185 (j) The legislative rules filed in the state register on
186 the tenth day of August, one thousand nine hundred
187 eighty-nine, modified by the division of highways to
188 meet the objections of the legislative rule-making
189 review committee and refiled in the state register on
190 the seventh day of November, one thousand nine
191 hundred eighty-nine, relating to the division of high-
192 ways (construction and reconstruction of state roads),
193 are authorized.

194 (k) The legislative rules filed in the state register on
195 the fourteenth day of August, one thousand nine
196 hundred eighty-nine, modified by the division of
197 highways to meet the objections of the legislative rule-
198 making review committee and refiled in the state
199 register on the seventh day of December, one thou-
200 sand nine hundred eighty-nine, relating to the division
201 of highways (acquisition, disposal, lease and manage-
202 ment of real property and appurtenant structures and
203 relocation assistance), are authorized.

§64-8-2. Division of motor vehicles.

1 (a) The legislative rules filed in the state register on
2 the second day of December, one thousand nine
3 hundred eighty-two, relating to the commissioner of
4 motor vehicles (denial of driving privileges), are
5 authorized with the amendments set forth below:

RECEIVED

JUL 08 1992

SYSTEM SERVICES DIVISION