WEST VIRGINIA CODE: §17c-17A-12

§17C-17A-12. Designating special coal resource transportation roads, highways and bridges.

(a) From those counties and districts described in subsection (a), section three of this article, the Commissioner of the Division of Highways shall identify those public roads, highways and bridges used during the previous twelve-month period for transportation of quantities of coal in excess of fifty thousand tons or projected to be used for transporting quantities of coal in excess of fifty thousand tons during the ensuing year. The identification process shall include the following as to each discretely identifiable section of the public highway:

(1) The current condition of the public roads, highways and bridges;

(2) The estimated quantities of coal transported;

(3) Any planned or necessary maintenance or improvement;

(4) The number of truck loads of coal transported in an average day;

(5) Any anticipated increase or decrease in the quantity of coal being transported; and

(6) Other information determined by the Commissioner to be relevant.

(b) Upon completion of the identification process, but in no event later than July 1, 2003, the Commissioner shall designate by order an interim coal resource transportation road system consisting of those public roads, highways, bridges or segments thereof which may be used as special coal haulage roads consistent with the authority contained in this article. The Commissioner shall establish a process for the receipt and evaluation of public comment on the designations contained within the interim coal resource transportation road system, and designate weight limits and other conditions for use of the coal resource transportation road system as public interest so provides. The Commissioner shall publish a directory, including supporting maps and other documents, of the interim coal resource transportation road system.

(c) By no later than January 1, 2004, the Commissioner shall designate by order the coal resource transportation road system and shall publish a directory, including supporting maps and other documents, of that road system.

(d) The Commissioner shall establish a process for periodic evaluation of the designations contained in the coal resource transportation road system in order to add to or delete from the road system certain additional sections of public highways: Provided, That the evaluations and modifications of the road system shall be completed at a minimum on an annual basis.

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(e) Effective July 1, 2005, there is created the coal resource transportation designation committee, the purpose of which is to approve the designation of additional coal resource transportation roads pursuant to the provisions of this section: Provided, That the committee may only consider those applications for designation of roads, highways and bridges not located within those whole counties identified in section three of this article.

(f) The committee consists of the following members:

(1) The Commissioner of Highways, or his or her designee;

(2) The Superintendent of the State Police, or his or her designee;

(3) One member who is representative of the coal industry, to be appointed by the Governor;

(4) One citizen member from the largest citizen action group, to be appointed by the Governor; and

(5) One member of the largest organization representing coal miners, to be appointed by the Governor.

(g) The Governor shall appoint members with the advice and consent of the Senate. Appointed members shall serve for terms of three years. No member may be appointed to serve more than two consecutive terms. The committee shall annually nominate from its members a chair, who shall hold office for one year.

(h) The public members of the committee may receive compensation for attendance at official meetings, not to exceed the amount paid to members of the Legislature for their interim duties as recommended by the citizens Legislative Compensation Commission and authorized by law. Committee members may be reimbursed for actual and necessary expenses incurred for each day or portion of a day engaged in the discharge of committee duties in a manner consistent with guidelines of the travel management office of the Department of Administration.

(i) The committee shall accept applications from any person for designation or decertification of public roads, highways and bridges, or segments thereof in any county in the state, which may be used as special coal haulage roads consistent with the authority contained in this article. The committee shall establish a process for the receipt and evaluation of public comment on the designations contained in applications: Provided, That, prior to any designation the committee shall first have held a public hearing in the county wherein the public road, highway or bridge is located: Provided, however, That, where a public road, highway or bridge is located in more than one county, the hearing shall be conducted in the county containing the longest mileage under designation: Provided further, That prior to any public hearing the applicant shall cause notice of such public hearing or hearings by Class I legal advertisement.

(j) Once an application has been approved by the committee and the public road, highway or

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bridge has become part of the coal resource transportation road system, such route must be used for coal haulage pursuant to the provisions of this article within one year of its designation. In the event any public road, highway or bridge that is part of the coal resource transportation road system ceases to be used for coal haulage for a period of time exceeding one year, then such route may be decertified by the committee upon application by any person: Provided, That prior to any decertification the committee shall first have held a public hearing in the county wherein the public road, highway, or bridge is located: Provided, however, That where a public road, highway or bridge is located in more than one county, the hearing shall be conducted in the county containing the longest mileage under decertification: Provided further, That prior to any public hearing the applicant shall cause notice of such public hearing or hearings by Class I legal advertisement.

(k) Prior to rendering a final decision on any application for designation or decertification of a coal resource transportation road, the committee shall first report its findings and recommendations on each pending application to the Joint Committee on Government and Finance. The Joint Committee on Government and Finance may comment on the application which comments shall be considered by the committee. The committee may not make final any designation or decertification before thirty days after reporting its findings and recommendations on an application to the Joint Committee on Government and Finance.

(l) The coal resource transportation designation committee created in this section shall report its activities to the Secretary of Transportation who will provide the necessary staff to assist the committee in the discharge of its functions pursuant to this section.

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