WEST VIRGINIA CODE: §17c-17A-3

§17C-17A-3. Authority of the Division of Highways and Public Service Commission generally.

(a) The Division of Highways shall establish all legal vehicle weight limits for all public highways including roads within the coal resource transportation road system. Public highways shall be designated as coal resource transportation roads by the Commissioner of the Division of Highways pursuant to this article. Only state-maintained roads and public highways found in the following areas: Boone, Fayette, Lincoln, Logan, McDowell, Mercer, Mingo, Raleigh, Wayne and Wyoming counties; in Braxton county, Braxton county route 19/29 from Mine 5 haulroad to intersection of county route 36/1, county route 36/1 to intersection of county route 36 and county route 36 to the Webster County line (Webster County route 9); in Ohio County, county route 1 from the intersection of county route 7 to intersection of Riley Delaplaine Road; in Greenbrier County, routes west of Sam Black Church and southwest to the Summers County line; in Clay County, routes 4 and 16; in Nicholas County, routes 1/11, 16, 19, 19/2, 19/40, 20, 39, 41, 55 and 82; in Webster County, routes 9, 9/1, 9/2, 20, 32 and 82; and all state-maintained roads and public highways found in Washington, Malden, Louden and Cabin Creek districts, Kanawha County, are eligible to qualify as part of the coal resource transportation road system. The division shall post signs on roads informing the public of the designation and shall also list a toll-free telephone line for public reporting of poor driving or law violations by special permit operators. The division shall provide periodic reports to the commercial motor vehicle weight and safety enforcement advisory committee as established in section two, article one-a, chapter twenty-four-a of this code relating to the study of coal resource transportation roads. The periodic reports shall include the following at a minimum: (1) Citations issued for violations of this chapter; (2) disposition of the violations; (3) road conditions and maintenance; and (4) the amount of undue road damage attributable to coal resource transportation road system permit use.

(b) The Public Service Commission shall administer the coal resource transportation road permitting program and otherwise enforce the provisions of this article. The commission shall establish requirements for vehicle operators holding coal resource transportation road permits pursuant to section five of this article consistent with federal statutory and regulatory requirements.

(1) The commission may, during normal business hours, conduct inspections of all trucking-related records of shippers, vehicle operators, vehicle owners and receivers engaged in the transportation of coal. Copies of records shall be provided to commission employees upon request. This provision may not be construed to authorize the commission to reveal trade secrets or other confidential financial information of those persons inspected; however the commission may use any weight measurement records as evidence of a violation of this article.

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(2) The commission shall establish and maintain a toll-free telephone line for public reporting of poor driving or law violations by special permit operators. In addition, the commission shall require all vehicles operating under a permit issued pursuant to the provisions of this article to clearly display on the vehicle the toll-free telephone number.

(3) The commission shall implement a study of commercial vehicle safety-related issues, including using higher education institutions and other research organizations. The commission shall provide periodic reports to the commercial motor vehicle weight and safety enforcement advisory committee as established in section two, article one-a, chapter twenty-four-a of this code relating to the study of motor vehicle weight and safety enforcement.

(4) The commission shall establish procedures to use electronic real time reporting of coal vehicle weights on coal resource transportation roads by shippers and receivers. The commission may require daily certified reports from shippers or receivers if electronic reporting methods are not used. The commission may authorize alternative measures of reporting that require same-day reporting of weight measurements by shippers and receivers.

(5) The commission shall impose and collect from shippers of coal on the coal resource transportation road system through the use of the special permit, issued pursuant to section five of this article, for the privilege of loading coal in excess of eighty-eight thousand pounds for transport on a coal resource transportation road. The fee shall be assessed in the amount of 5¢ per ton of coal hauled over the road. Revenue from the fees shall be deposited in the coal resource transportation fund created in said section.

(c) Notwithstanding the provisions of section three, article one, chapter twenty-nine-a of this code, the commission and the division shall each propose legislative rules for promulgation in accordance with the provisions of article three of said chapter to carry out their duties and responsibilities pursuant to the provisions of this article.

(d) Notwithstanding any provisions of this code to the contrary, the division may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code which would provide a process for approval by the commissioner of the division of a special crossing permit and renewals thereof. Special crossing permits authorized by this subsection would authorize the holder of the permit to operate or move a vehicle or combination of vehicles which exceed the maximum weight allowance specified in this chapter or are otherwise not in conformity with the provisions of this chapter on limited sections of public highways under specific circumstances specified in the permit: Provided, That no special crossing permit may allow the operation or movement of any vehicle or combination of vehicles on a public highway for more than one-half of a mile: Provided, however, That no special crossing permit may allow the operation or movement of any vehicle or combination of vehicles on a public highway if the Commissioner of the Division of Highways determines there is an existing alternate off-road route available. Each special crossing permit shall contain the specific section or mileage of the public highway where operation is authorized. Special crossing permits may not exceed a three-year period and

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may be renewed upon approval by the Commissioner of the Division of Highways as specified in legislative rule. The Commissioner of the Division may provide for fees for the processing of applications for special crossing permits. As a condition of approval of a special crossing permit, an applicant shall agree to pay for all actual expenditures incurred by the Department of Transportation for the upgrading or repair of the public highway, including traffic control devices, for which the applicant seeks the special crossing permit. In addition, all holders of special crossing permits shall pay for the restoration of the public highway to its original condition after the permit has expired. The initial rule filed by the Division pursuant to this subsection shall be filed as an emergency rule.

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