

FILED

AR. REGISTER DIV.

BEFORE THE  
 ARKANSAS STATE HIGHWAY COMMISSION

MAY 12 AM 10:08

IN RE: RULES AND REGULATIONS )  
 REGARDING APPLICATIONS AND )  
 PROCEDURES FOR INTRASTATE )  
 AUTHORITY )

W. J. "BILL" MCQUEEN  
 SECRETARY OF STATE  
 CASE NO. R-144  
 SUPPLEMENTED

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that a hearing will be held by the Arkansas State Highway Commission pursuant to Section 6(a)(6) of Act 397 of 1955, the Arkansas Motor Carrier Act, as found in Ark. Code Ann. §23-13-208, to consider the adoption of and amendment to rules and regulations in the following categories:

To amend Rule 1.12 to require any party appealing an order of the Commission who subsequently dismisses the appeal to notify the Commission of the dismissal of the appeal, and to require any party appealing an order of the Commission from a circuit court decision to an appellate court to notify the Commission that the appeal is being taken and the disposition of such appeal;

To amend Rule 2.9 to allow for service of protests, interventions, and verified statements by certified mail, with all other service by regular mail;

To amend Rule 3.12 to change the deadline for filing of an intervention to twenty (20) days after the official notice of filing, rather than ten (10) days prior to the date set for the hearing;

To amend Rule 10.2 to require all applications filed with the Commission be accompanied by a list of the supporting shippers at the time of filing;

To amend Rule 11.4 to allow for the substitution of the order of the U. S. Bankruptcy Court for the joint affidavit of transferor and transferee in applications for transfer of operating rights, to conform with Act 35 of the Special Session of 1992;

To amend Rule 13.1 to raise the schedule of minimum insurance limits on carriers of property and passengers;

To amend Rule 16.6(b) to define and distinguish between charter services and special operations for passenger bus service;

To amend Rule 17.1 to clarify that the Federal Motor Carrier Safety Regulations apply to intrastate carriers and interstate carriers as they currently are adopted by the U. S. Department of Transportation, and as they will be amended by the Department of Transportation in the future;

To amend Rule 17.3 to require that truck/tractors and trucks, as well as semi-trailers, with a GVWR rating exceeding 10,000 pounds have splash guards on the rearmost wheels of the vehicle;

New Rule B-8, to require a bond or other surety to be filed by each broker for each license issued to him; and

To amend HM Rule 1.4 to set the schedule of minimum liability for transporters of hazardous materials to conform to the regulations on minimum insurance set out by the U. S. Department of Transportation.

A hearing will be held at the offices of the Arkansas State Highway Commission, 10324 Interstate 30, Little Rock, Arkansas, on

Thursday, June 4, 1992, at 1:00 P. M.

At that time and place, all parties interested in the subject matter of these proposed rule changes will be given an opportunity to be heard.

Additionally, the Arkansas State Highway Commission solicits comments on the proposed changes to the rules in writing from the date of this notice until May 29, 1992. Copies of the proposed rules may be obtained from the Legal Division at the address listed below.

Any questions regarding the proposed rule changes or the procedure to be followed by the Commission at its public hearing on the rule changes, and all written comments, should be directed to Treeca J. Dyer, Staff Attorney, Arkansas State Highway Commission, P. O. Box 2261, Little Rock, AR 72201 (501) 569-2355.

  
JOANNE MOREN, ADMINISTRATIVE AIDE V

Dated at Little Rock, Arkansas  
this 11th day of May, 1992.

cc: Arkansas Democrat-Gazette for publication  
Arkansas Register  
All attorneys practicing before the Commission  
All intrastate carriers

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PROPOSED WORDING

W. J. "BILL" MCCOEN  
SECRETARY OF STATE  
LITTLE ROCK, ARKANSAS

RULE 1.12 - Dismissal of Appeal, Notice to Commission.

Any party appealing an order of the Commission who shall subsequently dismiss such appeal shall promptly notify the Commission in writing of the dismissal of such appeal.

Any party appealing on order of the Commission from a circuit court decision to an appellate court of the State of Arkansas shall promptly notify the Commission in writing of such appeal being taken. Any party that has appealed an order of the Commission to the circuit court or to an appellate court shall notify this Commission within a reasonable time, not to exceed ten days, of the decision entered by the circuit or appellate court.

RULE 2.9 - Service; Pleadings and Papers to Show.

Every pleading, protest, intervention, or verified statement filed by any party and tendered to the Commission for filing shall include a certificate of the party or his attorney showing simultaneous service thereof upon all parties to the proceeding made by registered or certified mail with return receipt required. The return receipt or a photocopy thereof shall be filed with the Commission.

Applications, formal complaints, supplemental complaints, amended complaints, cross complaints, and letters to the Commission relating to oral arguments and subpoenas, when service is required, may be served by depositing same in the U. S. Postal Service with sufficient postage attached thereto to ensure delivery and a certification of such service signed by the applicant or his attorney.

RULE 3.12 - Interventions, Petitions.

(b) When Filed.

A petition for leave to intervene in any proceeding should be filed not less than twenty (20) days after the official date of filing, except for good cause shown. Such intervention must show service of a copy on the interested parties or their attorneys by registered or certified mail with return receipt required. The return receipt or a photocopy thereof must be filed with the Commission by said intervenor.

RULE 10.2 - Shipper Certification in Support of Applications.

(a) Every application for a certificate or permit shall indicate whether the application will be supported by shippers, or others, who will present evidence in support of the application as to their need for the service proposed. Such shipper certification shall not be substituted for the witness list required by Rule 3.14(b).

(b) Certifications by each supporting shipper shall be filed at the time the application for permanent authority is filed. Such certification shall include but not be limited to the business name of the supporting shipper, its address, and the

name and title of the person who will be testifying on behalf of that supporting shipper, and the commodities to be transported by the applicant.

In the event that the applicant secures additional supporting shippers prior to the time verified statements of supporting shippers are due, the applicant shall file a supplemental certification of supporting shipper for each supporting shipper.

(c) Non-compliance with the aforementioned requirements, absent a showing of good cause for failing in their observance, will result in the disallowance of testimony and evidence proffered by public witnesses upon whose behalf certifications or identifications (by name and location) have not been filed.

RULE 11.4 - Amended paragraph.

No transfer or lease of the certificate or permit, or any part thereof, shall be granted by the Commission unless there has been filed with the Commission a statement by the Treasurer of the State of Arkansas and/or the Commissioner of Revenues, or his authorized deputy, certifying that there are no delinquent taxes outstanding against the transferor or against the certificate or permit sought to be transferred. Notwithstanding the above provisions, the requirements of subsections (h) and (i) above shall not apply in any respect to either the vendor or vendee where the vendor has filed for protection under the federal bankruptcy laws and is transferring the authority as a part of a reorganization or liquidation under an order directing the sale entered under the federal bankruptcy laws.

RULE 13.1 - Schedule of Minimum Limits - Liability

On each motor vehicles in the transportation of property:

\$50,000.00 for bodily injuries to or death of one person.

\$100,000.00 for bodily injuries to or death of all persons injured or killed in any one accident.

\$30,000.00 for loss or damage in any one accident to property of others.

On each motor vehicle used in the transportation of passengers having a seating capacity of twelve passengers or less:

\$50,000.00 for bodily injuries to or death of one person.

\$80,000.00 for bodily injuries to or death of all persons injured or killed in any one accident.

\$30,000.00 for loss or damage in any one accident to property of others.

On each motor vehicle used in the transportation of passengers having a seating capacity of thirteen to twenty passengers inclusive:

\$50,000.00 for bodily injuries to or death of one person.

\$120,000.00 for bodily injuries to or death of all persons injured or killed in any one accident.

\$30,000.00 for loss or damage in any one accident to property of others.

On each motor vehicle used in the transportation of passengers having a seating capacity of twenty-one to thirty, inclusive:

\$50,000.00 for bodily injuries to or death of one person.

\$160,000.00 for bodily injuries to or death of all persons injured or killed in any one accident.

\$30,000.00 for loss or damage in any one accident to property of others.

On each motor vehicle used in the transportation of passengers having a seating capacity of thirty-one passengers or over:

\$50,000.00 for bodily injuries to or death of one person.

\$200,000.00 for bodily injuries to or death of all persons injured or killed in any one accident.

\$30,000.00 for loss or damage in any one accident to property of others.

#### Schedule of Minimum Limits - Cargo

All common carriers of property by motor vehicle are required to file cargo insurance with minimum liability of \$5,000.00 with cargo endorsement attached.

#### RULE 16.6

##### (b) Special or Charter Operations.

Definition - The term "charter operation" as used in this rule means the providing of transportation for a group assembled by someone other than the carrier, which contracts for the exclusive use of a bus for the duration of a particular trip or tour; this irregular call-on-demand type of service may not evolve into any regularly scheduled service over fixed routes. Such charter operation shall be provided at a fixed charge for the vehicle in accordance with the carrier's tariff lawfully on file with the Commission.

The term "special operation" shall mean the type of service generally rendered to a number of passengers in which the carrier itself has assembled a travel group through its own sales to each individual passenger of a ticket covering a particular trip or tour planned or arranged by the carrier. Such special service must be the type service that could not be provided by a passenger carrier operating under regular route authority or under the definition of charter operations found above.

The term "regular route or routes" as used in this rule means the specific highway or highways over which a motor common carrier of passengers is authorized to operate between fixed termini.

#### RULE 17.1 - General Safety Requirements.

All rules and safety regulations now or hereafter prescribed and adopted by the U. S. Department of Transportation, Federal Highway Administration, applicable to motor vehicles under the Federal Motor Carrier Safety Regulations as found in 49 C.F.R. Parts 383 through 399, not in conflict with the laws of the State of Arkansas, are hereby adopted and prescribed as the safety rules and regulations applicable to the intrastate operations of motor vehicles under the jurisdiction of this Commission.

RULE 17.3 - Splash Guard Requirements.

All trailers, trucks, truck/tractors, and/or semi-trailers with a gross vehicle weight rating (GVWR) exceeding 10,000 pounds operated over the highways of the State of Arkansas, subject to the jurisdiction of this Commission, shall have attached thereto a splash apron of flexible material directly to the rear of the rearmost wheels, hanging perpendicularly at right angles to the body of the vehicle, and parallel with the rearmost axle; said apron shall be of such size, weight, and substance as to prevent the bulk of the spray or other substance picked up from the roadway from being thrown on the windshield of a following vehicle.

NEW RULE B-8

Each broker holding a license issued by the Arkansas State Highway Commission under the provisions of Ark. Code Ann. §23-13-230 shall at all times have a bond or other security approved by and on file with the Commission in an amount not less than \$25,000, in order to ensure financial responsibility in the supplying of authorized transportation services under such broker's license.

HM RULE 1.4 - Minimum Insurance Requirement

In addition to the minimum insurance requirements set out in Rule B-1 of the General Rules of Practice and Procedure of this Commission, each motor vehicle used to transport hazardous materials must at all times comply with the following minimum insurance requirements:

- (1) For-hire and private carriage in interstate, foreign, or intrastate commerce, in vehicles with a gross vehicle weight rating of 10,000 pounds or more, transporting hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Class A or B explosives, poison gas (Poison A), liquefied compressed gas or compressed gas; or highway route controlled quantity radioactive materials as defined in 49 CFR 173.403, five million dollars (\$5,000,000.00).
- (2) For-hire and private carriage in interstate or foreign commerce in any quantity or in intrastate commerce in bulk only, in vehicles with a gross vehicle weight rating of 10,000 pounds or more, transporting oil listed in 49 CFR 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (1) above or (3) below, one million dollars (\$1,000,000.00).
- (3) For-hire and private carriage in interstate and intrastate commerce, in vehicles with a gross vehicle weight rating of less than 10,000 pounds or more, transporting any quantity of Class A or B explosives, any quantity of poison gas (Poison A) or highway route controlled quantity radioactive materials as defined in 49 CFR 173.403, five million dollars (\$5,000,000.00).

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## LEGAL NOTICE

W. J. McQUEEN  
SECRETARY OF STATE  
LITTLE ROCK, ARKANSAS

The Arkansas State Highway Commission hereby gives notice that it intends to revise its Permit Regulations for the Movement of Oversize and/or Overweight Vehicles on the Arkansas State Highway System on June 4, 1992. All sections of the current Regulations are proposed to be revised. The proposed Regulations will consist of ten Sections and an Appendix.

Section I (General Definitions) will define certain terms previously utilized but not specifically defined. Such definitions are included for a proper understanding of the Regulations.

Major changes in Section II (General Information) will include: changing the operation of the Permit Section to the hours of 6:00 a.m. until midnight; allowing permits to be issued for movements on Veterans Day; restricting oversized permitted movement through the Greater Little Rock areas during certain times of the day to include all of Interstate 630; restricting the movement of vehicles under permit during strong winds or wind gusts; and requiring a minimum speed on all permitted vehicles on the interstate highways of 40 MPH if no other minimum speed is posted.

Major changes in Section III (Overdimensional Movements) will include: permitting a maximum width of a vehicle/cargo upon the interstate highways of no greater than 16 feet; requiring the use of one escort vehicle for the movement of all vehicles/cargoes 12 feet in width, or greater, while traveling any controlled access, divided highway with 4 or more lanes; re-

quiring the use of one escort vehicle to travel in front of the permitted vehicle for the movement of all vehicles/cargoes 12 through 14 feet in width while traveling all other highways; requiring the use of two escort vehicles (one in front and one behind) for the movement of all vehicles/cargoes exceeding 14 feet while traveling all other highways; requiring all overwidth permitted vehicles/cargoes to be equipped with tail lamps and signal lamps with a minimum lens diameter of 5 inches and positioned at the outer most edges of the vehicle/cargoes no less than 60 inches and no more than 72 inches above the ground level; requiring all overwidth permitted vehicles/cargoes to be equipped with a rotating or flashing amber light positioned at a certain location and emitting a minimum of 35,000 total candlepower; requiring the use of an escort vehicle with a clearance bar which extends six inches above the permitted height to precede any permitted vehicle with an overall height exceeding 13 feet and 6 inches; requiring the use of an escort vehicle to follow any overlength trailer or semi-trailer exceeding 75 feet in length (such movement would also be restricted to daylight hours); and the regulation that no permit shall be issued for any triple saddle-mount vehicle exceeding 75 feet in length.



The major changes proposed in Section IV (Overweight Movements) include: the definition of tandem axles to conform to Act 1231 of 1991; and the maximum number of pounds that may be permitted for single axle, tandem axle, tridem axle, and quadrum axle loads.

Major changes in Section V (Vehicles of Special Design) include: requiring all permitted vehicles of special design to maintain a minimum posted speed limit if routed where a minimum speed is posted including a 40 MPH minimum speed on interstate highways; requiring one escort vehicle to travel behind such permitted vehicle 12 feet or more in width while traveling all controlled access, divided highways with four or more lanes; requiring one escort vehicle in front of the permitted special design vehicle on all other highways if the permitted vehicle is 12 feet through 14 feet in width and two escort vehicles if the permitted vehicle exceeds 14 feet in width; requiring all such permitted vehicles of special design to be equipped with certain tail lamps and signal lamps positioned at the outermost edges of the vehicle; and requiring all such permitted vehicles of special design to be equipped with a rotating or flashing amber light at a certain required position and to emit a minimum of 35,000 total candlepower.

The major changes contained in Section VI (Escorts) include: the requirement that escort vehicles utilize a clearance bar while escorting permitted vehicles exceeding the legal height; requiring a minimum and maximum distance between such escort and the escorted vehicle; requiring an escort in front of any overheight vehicle; requiring an escort behind any overlength vehicle in those cases where only one escort is required; requiring escorts in front of and behind any escorted vehicle requiring two escorts; and incorporating by reference the provisions of Ark. Code §§27-35-213 and 27-35-310 regarding traffic control.

Major changes in Section VII (Manufactured Home Units) include: with certain restrictions, the permitting of the movement of manufactured home units on Saturdays; restricting the movement of manufactured homes in excess of 10 feet in width on Sundays, holidays and nights in accordance with Act 35 of 1989; requiring one escort vehicle to accompany the movement of 12 feet wide or greater manufactured homes on any controlled access, divided highway with four or more lanes; requiring one escort vehicle on all other highways if the manufactured home is 12 feet through 14 feet in width; requiring two escort vehicles on all other highways if the manufactured home exceeds 14 feet in width; requiring all such permitted units to be equipped with certain tail lamps and signal lamps positioned at the outermost edges of the vehicle; and requiring all such permitted units be equipped with a rotating or flashing light at a certain required position and

to emit a minimum of 35,000 total candlepower; and incorporating the provisions of Ark. Code §§27-35-310 and 27-35-304 regarding traffic control.

The major changes in Section VIII (Movement of Houses) include: requiring all applications for the movement of houses be submitted to the A.H.T.D. District Engineer in the area of movement for approval prior to the issuance of a permit; and the addition of the provisions of Ark. Code §§27-35-310 and 27-35-309 regarding traffic control.

The major change in Section IX (Fee Charts) is the incorporation of the permit fee charts in accordance with Ark. Code §27-35-210.

The major change in Section X (Exemptions) is the incorporation of certain vehicles utilized to transport compacted seed cotton, under certain conditions and requirements, as exempt from obtaining overwidth or overlength permits.

The Appendix will consist of Permit Forms, the Federal Bridge Formula, and Illustrations.

A public hearing will be conducted on June 4, 1992 at 10:00 a.m. for the purpose of receiving statements or comments relative to the proposed revision of such regulations. Written statements or comments regarding the proposed revisions must be submitted to the Commission, at least five days prior to their proposed adoption on June 4, 1992. Written comments should be forwarded

to John R. Bailey, Chief of Arkansas Highway Police Division, P. O. Box 2779, Little Rock, Arkansas 72203. Copies of the proposed revised regulations may be obtained upon request from John R. Bailey, P. O. Box 2779, Little Rock, Arkansas 72203, or by calling 501-569-2421.