

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4168

IN THE MATTER OF:

Served September 16, 1993

Proposed Rulemaking Amending)
APPENDIX TO RULES OF PRACTICE AND)
PROCEDURE AND REGULATIONS,)
CERTIFICATE OF INSURANCE)

Case No. MP-93-41

Pursuant to the Compact, Title II, Article XIII, Section 3, and Commission Rule No. 9-02, the Commission hereby initiates a proposed rulemaking for the purpose of amending its certificate of insurance, which is printed in the appendix to the Rules of Practice and Procedure and Regulations.

The Commission's certificate of insurance acts as an endorsement to the underlying policy, extending it "to cover any motor vehicle owned or operated by the named insured in the transportation of passengers for compensation pursuant to operating authority issued or required pursuant to the Washington Metropolitan Area Transit Regulation Compact" When properly filed, it provides evidence of a carrier's compliance with our insurance requirements. Those requirements emanate from the Compact, Title II, Article XI, Section 7(f), which states:

A person applying for or holding a Certificate of Authority shall comply with Commission regulations regarding maintenance of a surety bond, insurance policy, self-insurance qualification, or other security or agreement in an amount that the Commission may require to pay any final judgment against a carrier for bodily injury or death of a person, or for loss or damage to property of another, resulting from the operation, maintenance, or use of a motor vehicle or other equipment in performing transportation subject to this Act.

The current form has served its purpose well since promulgation and revision in 1991, but the phrase "owned or operated" may be causing some confusion. It is not clear from the face of the form whose insurance applies when one WMATC carrier leases a vehicle from another, that is, one owns the vehicle while the other operates it. In addition, although the Commission has prescribed insurance requirements consistent with those of the Interstate Commerce Commission (ICC),¹ the current WMATC form contains material deviations from its ICC counterparts. These considerations have prompted us to propose this rulemaking.

¹ In re United Mgmt. Corp., No. MP-92-31, Order No. 3995 (Sept. 3, 1992); In re Security for the Protection of the Public, No. MP-85-02, Order No. 2721 (June 19, 1985).

The proposed revised insurance certificate attached to this order adheres more closely to the terminology used in the Compact. We anticipate this will help clarify the scope of coverage while ensuring compliance with minimum requirements. The proposed form also incorporates appropriate language from ICC insurance forms. Such language should be familiar to most insurance companies.

Interested parties will be given 45 days from the date of this order to submit comments on the proposed amendments.

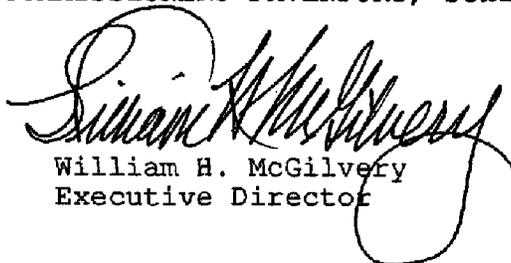
THEREFORE, IT IS ORDERED:

1. That a rulemaking is hereby proposed for the purpose of amending the Appendix to the Commission's Rules of Practice and Procedure and Regulations, Certificate of Insurance, as herein described.

2. That the Commission staff shall publish once in a newspaper of general circulation in the Metropolitan District, no later than Monday, September 27, 1993, notice of this proposed rulemaking.

3. That any person desiring to comment on the rulemaking proposed herein shall file an original and four copies of such comment at the office of the Commission, 1828 L Street, N.W., Suite 703, Washington, DC 20036-5104, no later than Monday, November 1, 1993.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS DAVENPORT, SCHIFTER, AND SHANNON:



William H. McGilvery
Executive Director