

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

2013 JUN 19 PM 1:04

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia State Fire Commission TITLE NUMBER: 87

CITE AUTHORITY: W.Va. Code 29-3-5

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 87-01

TITLE OF RULE BEING AMENDED: Fire Code

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Robert B. Sullivan

Authorized Signature

FISCAL NOTE FOR PROPOSED RULES

Fire Code, 87 CSR 01

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia State Fire Commission

Address: 1207 Quarrier Street, 2nd Floor
Charleston, WV 25301

Phone Number: 304-558-2191 Email: anthony.w.carrico@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

Proposed Rule should not have a fiscal impact on State Government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Fire Code, 87 CSR 01

Rule Title: _____

Rule Title: _____

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

No increases or decreases anticipated in agency total revenues.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Proposed Rule would not have a fiscal impact due to the fact that the Rule establishes and updates the current Fire Code statewide. There are no fees associated with this Rule.

Date: June 19 2013

Signature of Agency Head or Authorized Representative

Robert S Sullivan

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Anthony W. Carrico
Acting State Fire Marshal
1207 Quarrier Street, 2nd Floor
Charleston, WV 25301
(304)558-2191 phone
(304)558-2537 fax
anthony.w.carrico@wv.gov

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Stacy L. Nowicki, Esq.
Assistant Attorney General
1900 Kanawha Blvd., East
Building 1, Room E-26
Charleston, WV 25305
(304)558-2021

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

Statement of Facts and Circumstances for Promulgation of 87-1 Fire Code

The changes proposed to 87-1 reorganize the Fire Code into a more “user-friendly” format.

The Commission, instead of adopting a myriad of codes that had nothing to do with Fire Code enforcement, only adopted the sections of NFPA that were pertinent to Fire Code enforcement. Further, the Commission updated the editions of the NFPA codes adopted to the 2012 edition.

NFPA 1 has been adopted in full, with a few sections specifically excluded. Then the Commission has adopted certain additions to sections of NFPA 1.

Essentially, very few substantive changes to the existing Fire Code have been made.

The substantive changes include:

- 1) Clarifying where smoke detectors need to be placed
- 2) Clarifying that fire alarms are required in mercantile occupancies with sales areas of over 3000 square feet.
- 3) Clarifying that not only is selling fireworks to a West Virginia resident unlawful, fireworks shall not be sold to any person not holding a wholesale license.
- 4) Hotels and motels over 2 stories in heights without direct outside exits from the guest rooms must have a fire alarm system with 24 hour supervision.
- 5) A complete re-write of the explosives section.
- 6) Bringing the fire incident reporting in line with statute.

BACKGROUND

The Fire Commission is proposing a completely revised format for the Fire Code. The old code was confusing, and at times, misleading. The new format simply adopts NFPA 1, with exceptions and additions, instead of adopting every single individual NFPA code. This eliminates any standard which is not directly effecting buildings, and the operation of buildings.

Most of the Fire Code stayed exactly the same, with an update to the most recent edition. There is a completely new explosives section, and other areas were simplified and clarified.

Following the comment period, the Commission held "stakeholders" meetings and arrived at an agreed to format for the explosives section, and now the Commission responds to the written public comments received as follows:

CARBON MONOXIDE DETECTORS

A comment was received asking the Commisison to consider allowing carbon monoxide detectors to be connected to a single station fire alarm system. The Commission believes that this is a reasonable request, and has added section 2.2.d.16. In response to that comment.

NOTIFICATION OF SPRINKLER SYSTEM

A comment was received asking that tenants and potential tenents of buildings be notified of the existence of a sprinkler system in buildings, or windows that cannot be broken. The Commission has responded to this comment by adding section 2.2.a.1

EXPLOSIVES REGULATION

Several comments were received regarding the changes in the explosives section to what had appeared in the previous fire code. The Commission has adopted all comments as proposed

by the West Virginia Department of Environmental Protection. Further, the comments submitted by the Contractors Association of West Virginia, and John Zimnox, were considered, a meeting was held to discuss the comments, and all changes to the explosives sections to this rule are compromise language which is agreed to by all parties.

ASSISTED LIVING FACILITIES

A comment was received regarding assisted living facilities being required to be tied into a fire department of 24 hour supervision center before July 1, 2016 for purposes of fire alarms. The Commission has responded to this comment by adding language to section 2.2.d.2.

OTHER COMMENTS

A comment was received asking that family members be allowed to enter burning buildings to rescue their own family members. This comment is outside the scope of this rule.

A comment was received comparing the past fire code to this proposed fire code. It did not suggest any change, only outlined the changes proposed. As the comment did not ask for any changes, the Commission received it, but did noting in response.

Technical clean up was done to the rule.

This fairly summarizes the major topics upon which comments were made to the West Virginia State Fire Commission on the Fire Code, 87 W. Va. C.S.R. 1. The Commission considered and weighed all comments received. Moreover, the Commission appreciates all of those individuals and organizations who took the time and made the effort to comment on its Fire Code.

Racine, Leslie A

From: Oliver, John D
Sent: Thursday, March 28, 2013 9:24 PM
To: WV Fire Commissioner
Subject: Carbon Monoxide Detectors

Commissioners,

Fire alarm installers have ask if they can install carbon monoxide detectors connected to the fire alarm system.

In accordance with Chapter 29 Article 3 Section 16a (g) states Effective January 1, 2013, all single station carbon monoxide detectors with a suitable alarm or a combination smoke detector and carbon monoxide detectors shall be hardwired into an alternating current (AC) electrical source, with battery backup, when installed in all newly constructed apartment buildings, boarding houses, dormitories, hospitals, long-term care facilities, adult or child care facilities, assisted living facilities, one- and two family dwellings intended to be rented or leased, hotels and motels.

If the carbon monoxide detector or combination carbon monoxide/smoke detector is connected to the fire alarm system (low voltage) it would sound in the room and send a supervisory signal to the fire alarm control panel.

I would like to have the following added to the State Fire Code:

11.1.t. Carbon monoxide detectors shall be permitted to be connected to an approved fire alarm system. Activation of the carbon monoxide detector shall signal a supervisory alarm on the fire alarm control panel.

Thank You,

*John D. Oliver CFI-II CFPE
Assistant State Fire Marshal III
WV State Fire Marshal's Office*



Phone: (304) 558-2191 ext. 53214
Fax: (304) 558-2537
Arson Hotline: 1-800-233-FIRE
Website: <http://www.firemarshal.wv.gov>
Email: john.d.oliver@wv.gov

**John Oliver
Assistant State Fire Marshal III
CFI-II,CFPE**

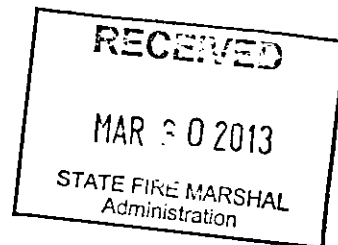
West Virginia State Fire Commission
1207 Quarrier Street, 2nd Floor
Charleston, WV 25301

"Prevent Fires--Save Lives"



Carrico, Tony

From: Ron Gregory <ronjgregory@gmail.com>
Sent: Saturday, March 30, 2013 7:37 PM
To: Carrico, Tony
Cc: 3bravelights@gmail.com
Subject: Building Code 87-4 comments



Thank you for meeting with Mrs. Lucas and me regarding her concerns regarding fire regulations. I am providing her comments and we also understood that you may be able to provide an opportunity for her to address the committee in person. Please advise me of when and where that can be done.

Please contact me if you need additional information or have questions. My cell is 304-533-5185. Thanks again, Ron Gregory

As the mother of three children who perished in the Emmons Apartment fire in Huntington six years ago, I am suggesting some changes that I believe need to be made in fire-related regulations for the State of West Virginia.

First, I feel that a parent has a right to attempt to save her children if they are in a fire situation. Further, I believe every relative should have the inherent right to do all that is possible to protect and save the lives of those he or she loves.

In my case, representatives of the City of Huntington steadfastly refused and even prevented me from entering the apartment building where my children perished from smoke inhalation. I believe fire regulations should be changed so that a relative can enter such a building, once the fire department has cleared the building. The relative should be required to sign a waiver of liability so that the fire representatives take no obligation for the actions of the relative.

If I, as a family member, had been permitted to enter the apartment fire in Huntington, I believe the lives of my three precious children would have been saved, The fire department was confused as to where specifically the children were located and they never did make it to their apartment. I KNEW where they were and would have gone directly to them.

In addition, I believe apartment buildings should be required to notify potential tenants if they do not have adequate sprinkler systems in place and/or if they have windows that cannot be opened or broken. Again, in my situation, the building did not a sprinkler system and the window in my childrens' room could not be opened. Efforts to break the window out were unsuccessful since the windows were made of plexiglass.

I feel that fire regulations should require an adequate, visible public notice so that any potential tenant knows the sprinkler situation and the window conditions. Such information could be posted on a sign erected in the lobby or other prominent place in such buildings.

In memory of my beloved children, I wish to see that the type of situation that cost them their young lives does not ever occur again. I request an opportunity to address my concerns in person to the committee. I will appreciate your attention and concern.

Marsha Lucas





RECEIVED

MAR 22 2013

STATE FIRE MARSHAL
Administration

west virginia department of environmental protection

Office of Explosives and Blasting
601 57th Street SE
Charleston, West Virginia 25304
Phone (304) 926-0464

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

March 22, 2013

Anthony W. Carrico
Chief Deputy Fire Marshal
West Virginia State Fire Marshal's Office
1207 Quarrier Street, 2nd Floor
Charleston, WV 25301

RE: Changes to Fire Code, 87CSR1, WV State Fire Commission (WVSFC)

Dear Mr. Carrico;

The comments below are submitted by the Office of Explosives and Blasting (OEB) on behalf of the West Virginia Department of Environmental Protection (WVDEP), Division of Mining and Reclamation (DMR) concerning the proposed changes to the Fire Code, WV Legislative Rule Title 87, Series 1. Our comments are restricted to only subsection 2.2.q-u of your rule.

Our general concern is that surface blasting done at both quarries and coal mines are already regulated by DMR and OEB and unless both are exempted from these proposed rule changes there will be a duplication of effort by the state. The regulated community will have two different state agencies regulating the same events, at the same site, with different requirements of the operator for the same thing.

The proposed rule does addresses exempting the surface blasting at coal mines, but does not exempt quarries in the same manner. It is our understanding this legislation would clarify what sub-sections of the WVSFC rules would apply to those coal mine sites permitted by DMR, but it is not clear which ones do. Furthermore it appears that the entire proposed rule applies to quarries permitted by DMR even though quarries and surface coal mines have similar blasting rules. It should be made clear to the public and the regulated community exactly what section and subsections apply to each site. Please clarify which sections, or subsections, are not applicable to those sites regulated under Legislative Rule Title 38, Series 2 (38CSR2) DMR's coal mining rules, Legislative Rule Title 199, Series 1 (199CSR1) OEB's surface coal mining blasting rules, and Legislative Rule Title 38, Series 3 (38CSR3) DMR's quarry blasting rules.

Below are comments on more specific sections and sub-sections of your proposed rule.

Promoting a healthy environment.

1. **Subsection 2.2.q.6.C:** The subsection requires blasters to conform to the protections in NFPA 495, Section 11.1.2.1(a) for the listed structures without the ability to obtain a waiver of limits from the owner. OEB recommends adding language which allows WVSFC to approve waivers/modifications of these limits upon request by the permittee/blaster. There can be times when waiver/modification of the limits makes sense and still provide adequate protection of the public and structure. Should the structure owner and permittee/blaster come to an agreement, with proper safety precautions being taken, then why would the state not allow it? Building in the ability does not mean the requested waiver/modification need be approved by WVSFC, but allows it if warranted.

It is our understanding that the word "Section", in our codes and rules, has a legal meaning. Based on the meaning of "Section", it is not clear if the exemption of surface coal extraction sites regulated by OSM and OEB in this subsection is meant to apply to all of 87CSR1, Section 2 or just Subsection 2.2.q.6.C. It is our understanding that certain parts of 87CSR1, Section 2 are to still apply to the OSM and OEB exempted sites. If the intent in Subsection 2.2.q.6.C is to exempt the OSM and OEB regulated sites from all of 87CSR1, Section 2, then things such as magazine fees (subsection 2.2.q.4) etc. would not apply to those exempt sites. If the intent is to not duplicate/overlap rules then subsection 2.2.q should clearly state that Subsection 2.2.q does not apply to those facilities regulated under 38CSR2, and 199CSR1, surface blasting on coal mines (and possibly 38CSR3 quarry blasting). If not then replace "in this section shall" with "in **subsection 2.2.q.6.C** shall" for just this subsection to be exempt.

DMR regulates the blasting on quarries through 38CSR3. DMR feels WVSFC should also exempt quarries permitted under 38CSR3 in this subsection to keep the regulated community from conflicting and confusing system of dual rules.

The exemption section also has the name of our agency incorrect. It is the **Department** of Environmental Protection, not Division. Also if agencies are listed instead of rules the Division of Mining and Reclamation should be specifically listed as is OEB.

2. **Second Subsection 2.2.q.4???:** This subsection appears to be improperly numbered. It is now shown as the second 2.2.q.4 and most probably should be shown as **2.2.q.6.D**. It appears to be the same wording as the July 25, 2012 draft subsection 14.14.f.4.
3. **Second Subsection 2.2.q.5???:** This subsection appears to be improperly numbered. It is now shown as the second 2.2.q.6 and most probably should be shown as **2.2.q.6.E**. It appears to be very similar to the wording as the July 25, 2012 draft subsection 14.14.f.5, but has improper references to the structures being addressed here. Where "(A) (3)" is used it should be replaced with "2.2.q.6.C" and also where "(A) (4)" is used it should be replaced with "2.2.q.6.D".

Possibly consider changing the words "dwelling or building" to "structure" in this subsection. With the current wording it could be implied that if the nearest structure was a "dam" or "earthen impoundment" that monitoring by seismograph would not be required at that structure, but at the next closest structure that is a dwelling or building.

4. **Second Subsection 2.2.q.6???:** This subsection appears to be improperly numbered. It is now shown as the second 2.2.q.6 and most probably should be shown as **2.2.q.6.F**. It appears to be very similar to the wording as the July 25, 2012 draft subsection 14.14.f.6, but has improper references to the structures being addressed here. Where "(A) (3)" is used it should be replaced with "2.2.q.6.C".

The July 25, 2012 draft had that ability to obtain a waiver in subsection 14.14.f.6. The ability to obtain a waiver from the limits established in this subsection should be allowed.

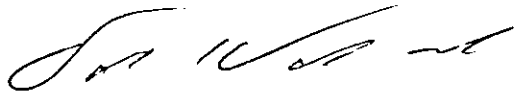
There are circumstances where these limits can be exceeded without harm to the environment, public or property. OEB recommends adding language which allows WVSFC to approve waivers/modifications of these limits upon request by the permittee/blaster. There can be times when waiver/modification of the limits makes sense and still provide adequate protection of the public and structure. Should the structure owner and permittee/blaster come to an agreement, with proper safety precautions being taken, then why would the state want to not allow it. Building in the ability does not mean the requested waiver/modification be approved by WVSFC, but allows it if warranted.

The second reference to "(A) (3)" (actually 2.2.q.6.C) is incorrect if the intent is to protect the structures not listed in 2.2.q.6.C by the scaled distance formula $W=(D/40)^2$. The way it currently reads you would measure from the structure listed in 2.2.q.6.C to the nearest blast hole and not from the nearest structure not listed. If that is the intent then you should replace "to the nearest dwelling or building listed in section (A) (3) of this" with "to the nearest structure not listed in section 2.2.q.6.C of this". Otherwise the structure listed in 2.2.q.6.C may be thousands of feet further away from the blast than the one not listed and would allow a much larger detonation of explosives per 8ms delay period.

5. **Subsection 2.2.t.2:** OEB would suggest exempting the quarries permitted under 38CSR3 by DMR also since both surface coal extraction and quarries are regulated by DMR and/or OEB. Those facilities are required to obtain a permit through DMR which includes a proposed blast plan to protect the environment, structures and the public. The exemption section also has the name of our agency incorrect. It is the **Department** of Environmental Protection, not Division. Also if agencies are listed instead of rules the Division of Mining and Reclamation should be specifically listed as is OEB.

Should you have any questions concerning our comments please contact me at the above address or call my office at (304) 926-0464.

Sincerely;



David L. Vande Linde, Chief
Office of Explosives and Blasting



Contractors Association of West Virginia

2114 Kanawha Boulevard, East • Charleston, West Virginia 25311 • (304) 342-1166 FAX (304) 342-1074
www.cawv.org • cawv@cawv.org



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Alice H. George

***Executive Committee**

April 1, 2013

Mr. Anthony W. Carrico, Chief Deputy
West Virginia State Fire Marshal's Office
1207 Quarrier Street, 2nd Floor
Charleston, West Virginia 25301

Re: Comments of the Contractors Association of West Virginia on Proposed Amendment to Existing Rule 87-1

VIA - HAND DELIVERY

Dear Mr. Carrico:

The Contractors Association of West Virginia (CAWV) is pleased to provide comments on the proposed rule changes regarding blasting activity. The CAWV is a non-profit, trade organization representing nearly 475 firms that are involved directly and indirectly in the construction industry in West Virginia and surrounding states. The CAWV is vitally interested in governmental regulatory programs that may impact its members.

The CAWV understands that updating of rules are necessary to keep up with regulatory changes and safety concerns however we believe that several of the proposed rules will put undue burden on the construction industry and can affect the ongoing progress of a project. The CAWV respectfully request that you consider the following changes to the proposed rules for blasting activity on construction sites.

A. 2.2.q.2.

This section prohibits pre-loading of blast holes. While this is not a common practice on highway related construction, it is very common in the oil and gas industry where many of our members do work. In certain instances it can take months to load a shot at an oil and gas well site depending on factors ranging from depth to the density of material. This industry has operated in this manner for several years and is common practice. The CAWV asks that the rule be changed to read: Pre-loading of blast holes (shots) to be fired at a later time are prohibited, with the exception of mining operations. A variance can be applied for at the State Fire Marshal for any other operations expecting loading times longer than a single day. In an emergency situation, this prohibition may be waived by the State Fire Marshal.



B. 2.2.q.5

This rule, dealing with seismograph use, requires as an alternate to seismographic monitoring a scaled distance equation of $W=(D/90)$. The West Virginia Office of Surface Mining and the West Virginia Department of Environmental protection both allow 1"/sec, and construction is allowed to have 2"/sec. The CAWV believes the limit of 90 is too restrictive and therefore asks that number be changed to $W=(D/40)$ to keep in guidance with other West Virginia regulatory bodies.

C. 2.2.q.6.B

The CAWV supports this this section but would like to see the term "operational boundary" defined as the total project area.

D. 2.2.t.2.

This section requires the submittal of an agency approved form for any and all blasting activity, excluding surface coal extraction activities, to the State Fire Marshal no less than 14 days prior to the blasting activity commencing. The CAWV agrees that the State Fire Marshal's office should be notified but ask that the phrase "no less than 14 days" be removed from the requirement. On many projects there are unknown factors that do not show up when core samples are taken. In these instances, a project may have to be shut down for the 14 day waiting period costing contractors, and possibly taxpayers thousands of dollars.

The following comments all pertain to section 2.2.u.2. and contain suggested changes to several subsections to either make the section more clearly defined or help eliminate project delays and additional cost without sacrificing safety.

E. 2.2.u.2.E

The requirement to find the owner's name of the nearest building location not owned by the blasting activity applicant or customer may in some cases cause significant project delays, particularly in the case of an abandoned property. The CAWV believes that a distance and description of the structure should be all the required information in cases that the owner's information is not readily available.

F. 2.2.u.2.K

The CAWV suggest this section be changed to: The weather conditions including temperature, estimated wind direction and speed, cloud cover.

G. 2.2.u.2.L.

Suggest this section be changed to: The total number of holes, burden and spacing, diameter and depth of holes, stemming and decking heights, and weights of explosives used per hole. This would delete cubic yards or tons per hole.

H. 2.2.u.2.M

Suggest this section be changed to: Explosive product densities and detonating cord type and estimated total cord length. The reason for this change is redundancy of the weight of the explosives as this is already covered.

I. 2.2.u.2.O

Suggest this section be deleted since it should be included in 2.2.u.2.M.

J. 2.2.u.2.P

Suggest this section to be changed to "Type of detonator used".

K. 2.2.u.2.Q

Suggest this section be deleted since it would be redundant with the information being included in 2.2.u.2.P.

L. 2.2.u.2.T

Suggest this section be deleted. This information can be figured by already provided information and will add needless additional paperwork.

M. 2.2.u.2.U

Suggest this section be changed to: The monitoring records, if required, shall be made a part of the blast report within 24 hours of the blast;

N. 2.2.u.2.V

Suggest this section be changed to: A technical illustration (sketch) showing north arrow, the direction to the nearest structure and or utility, the arrangement of the blast hole burdens and spacing, delay hookup for each blast, point of initiation, and free faces;

The CAWV supports responsible activities that minimize the potential to adversely impact a safe working environment. Our association appreciates the opportunity to present its comments on this important issue. Should you have any questions or need further information, please contact me at (304) 342-1166.

Sincerely,

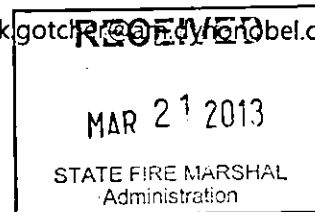


Patrick McDonald

Director of Member Services

Carrico, Tony

From: john.zimnox@am.dynonobel.com
Sent: Thursday, March 21, 2013 11:53 PM
To: Carrico, Tony
Cc: Frank Vance; joe.nawrocki@am.dynonobel.com; dick.gotcher@am.dynonobel.com; Jimbo Calain
Subject: Proposed blasting Rules



Please find my suggestions for the proposed rules:

✓ 2.2.q.2 Preloading Boreholes

We have various industries that preload boreholes to be fired at a later date. The coal industry can take 2-3 weeks to load a casting shot, and the oil and gas industry can take months to load a seismic shot. The seismic industry has always performed this way.

~~Suggested rule:~~ Pre-loading blast holes (Shots) to be fired at a later time are prohibited, with the exception of mining operations. A variance can be applied for at the State Fire Marshal for any other operations expecting loading times longer than a single day. In an emergency situation, this prohibition may be waived by the State Fire Marshal.

✗ 2.2.q.6.B "Operational boundary" to vague.

2.2.q.5 Seismograph Use

✗ Would like to see the scale distance factor reduced to 40. The 90 limit is too restrictive. OSM and WV DEP accept 50 for 1"/sec, construction is allowed to have 2"/sec.

2.2.q.5 Structures not listed

✗ No proven evidence is out there that blasting can cause any damage to the structures listed, unless ground movement or flyrock. At which time the contractor responsible always paid for the repair of the affected utility. Also, we do get variances from utilities for 4"/sec. Recommend striking whole paragraph.

✗ 2.2.s.1 Monitoring Records

Delete last sentence on annual refresher.

✗ 2.2.s.3 Question of Validity

Some seismograph firms do not have the software or ability to access stored seismograph data in various machines. A printed record does not supply proper information. Delete "an independent, qualified consultant who is not related to the blasting activity permittee or its customer." and replace with "the seismograph company supplying and or calibrating the seismograph."

✓ 12.2.t.2 Blasting activity permit

Fourteen (14) days is too restrictive. delete "no less than 14 days"

✗ 2.2.s.2.F Signature of person taking seismograph reading not required.

✗ 2.2.u.1 Requirements for keeping blasting logs should be two years, not five. Should be kept by company performing blasting activities.

✗ 2.2.u.2.B Storage permit number should not be required, redundancy.

✗ 2.2.u.2.E Owner may not be known, also may not be allowed on property. Too restrictive, delete entire section.

✗ 2.2.u.2.K Rewrite to say "Weather conditions, including estimated wind direction and speed."

~~2.2.u.2.L~~ Rewrite to say " The total number of holes, burden and spacing, diameter and depth of holes, stemming and decking heights, weight of explosives used per hole." ~~Delete cubic yards or tons per hole.~~

~~2.2.u.2.M~~ Should only say "Explosive product densities" the rest is redundant. Should include detonating cord, type, not length

~~2.2.u.2.O~~ Delete section, of no possible help, detonating cord should be listed under 2.2.u.2.M

~~2.2.u.2.P~~ Should only say "Type of delay detonator"

~~2.2.u.2.Q~~ Delete section

~~2.2.u.2.T~~ Can be figured out by information provided, too much paperwork to produce numbers.

~~2.2.u.2.U~~ After monitoring records, insert, "if required"

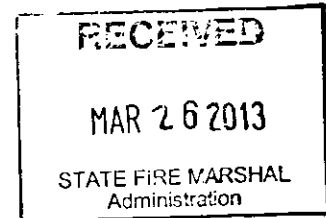
~~2.2.u.2.V~~ Delete firing times of each hole. Some construction shots are very large and do not use many pounds per delay. We are not trying to show that the blaster can use the addition button on the calculator, we need to know the delay hookup. Replace "firing time(s) for each blast charge" with delay hookup for each blast,

APRIL 27, 2013

TO: STATE FIRE COMMISSION
CODE COMMITTEE

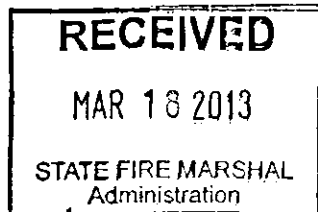
FROM: JOE LEAKE *jl*

RE: COMMENT TO PROPOSED STATE FIRE CODE



2.2.d.2. All Health Care, Assisted Living facilities licensed by the Health Department, and Detention and Correction Occupancies shall be tied into a fire department or a communication center with 24-hour supervision which is responsible for receiving emergency calls.

Existing Assisted Living facilities licensed by the Health Department shall be in compliance with this requirement by July 1, 2016.



**Public Comments on Fire Code Amendments
Brian Wingfield (3/22/2013)**

1) The adoption of NFPA 495 Explosive Materials Code - 2013 Edition

2) Changes to current proposed Fire Code amendments:

Section	Current Reading	Comment on Change
2.2.q.6.C	Strike	NFPA 495 2013 Edition Section 11.2.1
2.2.q.4	Strike	NFPA 495 2013 Edition Section 11.3.1
2.2.q.6	Strike	NFPA 495 2013 Edition Section 11.2.3
2.2.r	Strike	NFPA 495 2013 Edition Section 11.1.4
2.2.s.2	Strike	NFPA 495 2013 Edition Section 11.1.3
2.2.t.2	"Office of Surface Mining and or the Division of Environmental Protection"	"federal Office of Surface Mining Reclamation and Enforcement (OSMRE) and/or the Department of Environmental Protection"
2.2.t.2.B	"A contact person's name title and telephone number"	"A contact person's name, title and telephone number"
2.2.t.2.D	"The type of explosive to be used"	"The type of explosives and initiation systems to be used"
2.2.u.1	"for a period of five years by anyone conducting blasting activities"	"for a period of five years by the contractor conducting blasting activities"
2.2.u.2.E	"The owner name, address"	"The owner or resident name, address"
2.2.u.2.G	"The direction and distance to the closest utility not owned"	"The direction and distance to the closest non-dwelling not owned"
2.2.w.2.F	"The direction and distance in feet from the blast site to the nearest structure"	"The direction and distance, in feet, from the nearest blasthole to the nearest structure"
2.2.u.2.R	"The maximum weight in pounds of explosives detonated per delay period of less than 8 milliseconds"	"The maximum weight, in pounds, of explosives detonated within any delay period of less than 8 milliseconds"
2.2.u.2.U	"The monitoring records required shall be made"	"The seismographic records required shall be made"

10.5.3.1 Only those persons needed to do such work shall remain at the blast site.

10.5.4 No attempt shall be made to extract explosive materials from a misfired hole.

10.5.4.1 A new primer shall be inserted, and the hole re-blasted.

10.5.4.2 Where reblasting presents a hazard, the explosive materials shall be permitted to be washed out with water, or, where the misfire is under water, blown out with air.

10.5.5 Whenever there is a misfire, all personnel shall remain at a safe distance for at least 15 minutes (30 minutes if electronic or cap and fuse initiation is used).

10.5.6 Misfires shall be the responsibility of the person in charge of the blasting operation.

10.5.7 Where a misfire is suspected, all initiating circuits (electric or nonelectric) shall be traced carefully and a search made for unexploded charges.

10.5.8 No drilling, digging, or picking shall be permitted until all misfires have been detonated or until the authority having jurisdiction approves the resumption of work.

10.6 Disposal of Explosive Materials.

10.6.1 Empty containers and paper and fiber packing materials that previously contained explosive materials shall be disposed of or reused in an approved manner.

10.6.2 All personnel shall remain at a safe distance from the disposal area.

10.6.3 Deteriorated or Damaged Materials.

10.6.3.1 All explosive materials that are obviously deteriorated or damaged shall not be used.

10.6.3.2 Deteriorated or damaged explosive materials shall be destroyed in accordance with the requirements of 9.7.17 and 9.7.18.

10.6.4* Destroying Explosives.

10.6.4.1 In the event that it becomes necessary to destroy any explosives, because of damage to containers, deterioration, or any other reason, all handling of explosives shall cease and the manufacturer contacted for assistance immediately.

10.6.4.2 The manufacturer's advice shall be followed without deviation.

Chapter 11 Ground Vibration, Air Overpressure, Flyrock, and Gases

11.1* Basic Requirements.

11.1.1* This chapter shall apply to buildings and other structures.

11.1.2 This chapter shall not apply to buildings or other structures owned, leased, or contracted by the blasting company or on property for which the owner has provided a written waiver to the blasting company.

11.1.3* Blasting seismographs used to monitor ground and air vibrations shall comply with ISEE "Performance Specifications for Blasting Seismographs."

11.1.4* Where used, blasting seismographs shall be deployed in the field according to the ISEE "Field Practice Guidelines for Blasting Seismographs."

11.2* Ground Vibration.

11.2.1 At all blasting operations, the ground vibration on any axis (particle velocity) shall not exceed the limitations specified in Figure 11.2.1 at the location of any building or structure.

11.2.2* When blasting is not monitored with a blasting seismograph, the operation shall comply with the scaled distance factors at the nearest building or structure as shown in Table 11.2.2.

11.2.3 Ground vibration limits for buildings and other structures or for structures not defined in 11.1.1, such as public utilities, shall be permitted to be independently established based on technical justifications by engineers or qualified personnel familiar with blasting-related projects, subject to the approval of the AHJ.

11.3* Air Overpressure.

11.3.1* Air overpressure due to blasting operations shall not exceed the maximum limit of 133 dB(L) (0.013 psi) at the location of any building or structure.

11.3.2 Air overpressure limits for buildings and other structures or for structures not defined in 11.1.1, such as public utilities, shall be permitted to be independently established based on technical justifications by engineers or qualified personnel familiar with blasting related projects, subject to the approval of the AHJ.

11.4 Flyrock.

11.4.1 Flyrock traveling in the air or along the ground shall not be cast from the blast site in an uncontrolled manner that could result in personal injury or property damage.

11.4.2 Flyrock shall not be propelled from the blast site onto property not contracted by the blasting operation or onto property for which the owner has not provided a written waiver to the blasting operation.

11.4.3 Where blasting operations do not conform to 11.4.1 and 11.4.2, the AHJ shall require that special precautions be employed to reduce or control flyrock.

11.5 Gases. To minimize hazardous exposure from the gases produced by outdoor blasting, blasters shall do the following:

- (1) Be aware that lack of ground displacement can prevent venting of the blasted material and result in the entrapment of gases
- (2) Excavate blasted material as soon as possible after blasting
- (3) Be aware of and look for geologic pathways for gases such as old trenches, horizontal partings, faults, joints, hillseams, unconsolidated material, water, and voids that would allow movement of gas towards underground enclosed spaces
- (4) Be aware that when blasting very close to underground enclosed spaces, fractures caused by the detonation can create a pathway for the gases to enter the enclosed space
- (5) Conduct a preblast survey to determine any possible problem areas when blasting near inhabited buildings or underground facilities (tunnels, manholes, etc.)
- (6) Monitor possible problem areas to determine if any gases have migrated from the blasting operation

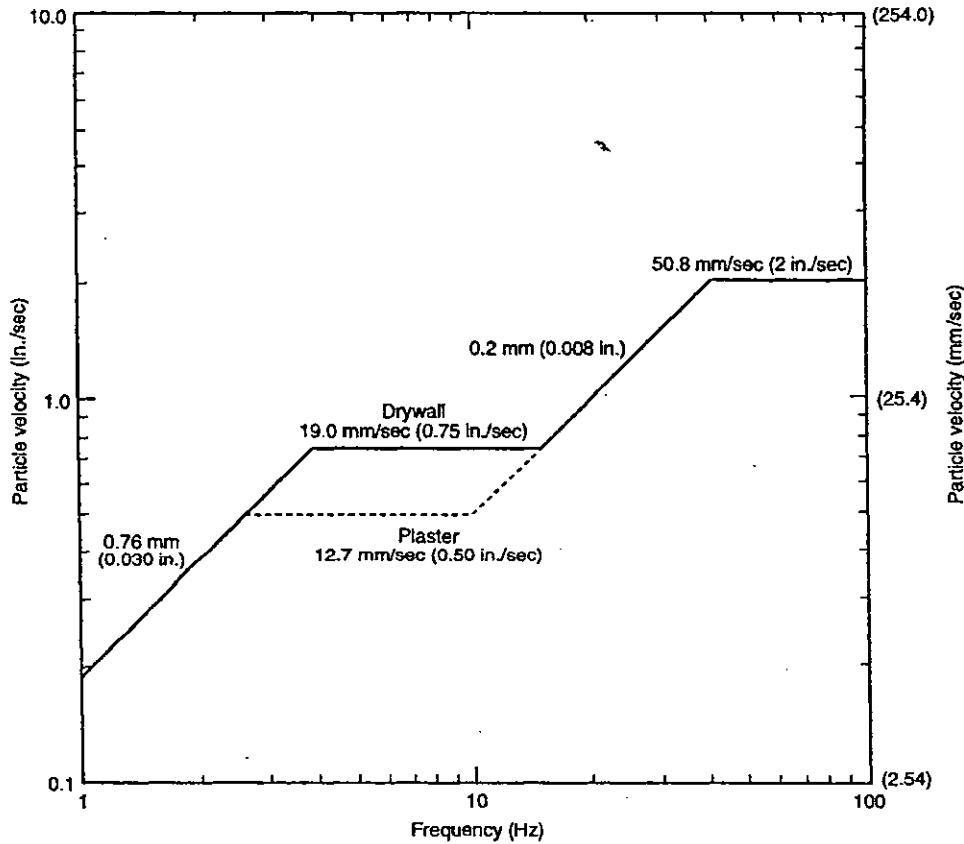


FIGURE 11.2.1 Frequency vs. Particle Velocity Graph.

Table 11.2.2 Scaled Distance Equations

Distance from Blasting Site		Scaled Distance Equation*	
ft	m	lb	kg
0-300	0-91.4	$W (lb) = [D (ft)/50]^2$	$W (kg) = [D (m)/22.6]^2$
301-1000	91.7-304.8	$W (lb) = [D (ft)/55]^2$	$W (kg) = [D (m)/24.9]^2$
≥1001	≥305.1	$W (lb) = [D (ft)/65]^2$	$W (kg) = [D (m)/29.4]^2$

(1) *W* equals the maximum weight of explosives in pounds (or kilograms) that can be detonated per delay interval of 8 milliseconds or longer.

(2) *D* equals the distance in feet (or meters) from the blast to the nearest building, not owned, leased, or contracted by the blasting operation, or on property for which the owner has not provided a written waiver to the blasting operation.

*To convert U.S. units of scaled distances (ft/lb^{1/2}) to metric units (m/kg^{1/2}), divide by a factor of 2.21.

(7) If gases are detected, use positive ventilation (open windows and exhaust fans) to limit the accumulation of gases at inhabited buildings or other facilities from the blasting operation until the gas is removed from the ground

Chapter 12 Explosive Materials at Piers and Railway, Truck, and Air Terminals

12.1 Basic Requirements. This chapter shall not apply to the transportation of small arms ammunition and components. (See Chapter 14.)

12.1.1 Railway Cars.

12.1.1.1 Explosive materials shall not be kept in a railway car unless the car, its contents, and methods of loading comply with the regulations of the U.S. DOT.

12.1.1.2 The requirement in 12.1.1.1 shall be permitted to be waived in an emergency with the approval of the AHJ.

12.1.2 Explosive materials shall not be delivered to any carrier unless the explosives comply in all respects, including marking and packing, with the regulations of the U.S. DOT.

12.1.3 Every railway car containing explosive materials that has reached its destination, or has stopped in transit so it no longer is considered in interstate commerce, shall remain placarded in accordance with U.S. DOT regulations.

12.1.4 Any explosive materials at a railway facility, truck terminal, pier, wharf, harbor facility, or airport terminal, whether for delivery to a consignee or forwarded to some other destination, shall be kept in a safe place and isolated as far as practicable and in such a manner that they can be removed easily and quickly.

departments, and inspection and regulatory officials, as well as to users of explosives. The manufacturer, if known, should be consulted for assistance. If the manufacturer is not known, a member company of the Institute of Makers of Explosives can provide advice or assistance.

A.11.1 This chapter provides a high level of non-damage probability concerning damage of any sort, including small, hairline cosmetic cracks in weak wall coverings, even in those structures that are old and distressed. Engineered structures and utilities, including those constructed of masonry and concrete, can withstand higher levels of excitation (vibration). Wherever the term *damage* is used in this document, it can be construed to apply to threshold cosmetic cracking.

A.11.1.1 This chapter applies to dwellings, public buildings, schools, churches, and commercial or institutional buildings. Other structures can be included as required by the AHJ.

A.11.1.3 For information on ISEE documents, go to www.isee.org.

A.11.1.4 See A.11.1.3.

A.11.2 The ground vibration requirements of this chapter are based upon scientific visual observations of cosmetic cracking as documented in U.S. Bureau of Mines RI 8507 and 8896, and any change requires similar documented technical justification.

A.11.2.2 *Scaled distance* is defined as the distance to the building or structure in feet divided by the square root of the maximum charge weight in pounds detonated within any 8 millisecond interval. The use of the scaled distance factors provides a high level of confidence for the prevention of damage. However, seismograph monitoring provides the best data for gauging the effect of vibrations. Thus, monitoring with a blasting seismograph supersedes the necessity of designing blasts with the ultraconservative scaled distance factors.

A.11.3 The air overpressure requirements of this chapter are based upon scientific visual observations of window damage as documented in U.S. Bureau of Mines RI 8485, and any change requires similar documented technical justification.

A.11.3.1 The limit of 133 dB(L) (0.013 psi) is primarily based on perception and has no substantiated potential to cause damage to buildings.

A.12.3(3) The specific requirement is provided in the U.S. Department of Transportation, 49 CFR 174.16.

A.13.1 Phosphoric materials, or phosphors, also are known as two-component or binary explosives.

A.14.2.5 A bulletin on this subject is available from the Sporting Arms and Ammunition Manufacturer's Institute, Inc., Flintlock Ridge Office Center, 11 Mile Hill Road, Newtown, CT 06470-2359.

Annex B Sample Ordinance Adopting NFPA 495

This annex is not a part of the requirements of this NFPA document but is included for informational purposes only.

B.1 The following sample ordinance is provided to assist a jurisdiction in the adoption of this code and is not part of this code.

ORDINANCE NO. _____

An ordinance of the [jurisdiction] adopting the [year] edition of NFPA [document number], [complete document title], and documents listed in Chapter 2 of that [code, standard]; prescribing regulations governing conditions hazardous to life and property from fire or explosion; providing for the issuance of permits and collection of fees; repealing Ordinance No. _____ of the [jurisdiction] and all other ordinances and parts of ordinances in conflict therewith; providing a penalty; providing a severability clause; and providing for publication; and providing an effective date.

BE IT ORDAINED BY THE [governing body] OF THE [jurisdiction]:

SECTION 1 That the [complete document title] and documents adopted by Chapter 2, three (3) copies of which are on file and are open to inspection by the public in the office of the [jurisdiction's keeper of records] of the [jurisdiction], are hereby adopted and incorporated into this ordinance as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the [jurisdiction]. The same are hereby adopted as the [code, standard] of the [jurisdiction] for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion and providing for issuance of permits and collection of fees.

SECTION 2 Any person who shall violate any provision of this code or standard hereby adopted or fail to comply therewith; or who shall violate or fail to comply with any order made thereunder; or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder; or fail to operate in accordance with any certificate or permit issued thereunder; and from which no appeal has been taken; or who shall fail to comply with such an order as affirmed or modified by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not less than \$ _____ nor more than \$ _____ or by imprisonment for not less than _____ days nor more than _____ days or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. Each day that prohibited conditions are maintained shall constitute a separate offense.

SECTION 3 Additions, insertions, and changes — that the [year] edition of NFPA [document number], [complete document title] is amended and changed in the following respects:

List Amendments

SECTION 4 That ordinance No. _____ of [jurisdiction] entitled [fill in the title of the ordinance or ordinances in effect at the present time] and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5 That if any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The [governing body] hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

ORIGINAL

IN RE: STATE FIRE COMMISSION MEETING

FIRE CODE AMENDMENT

MARCH 22, 2013
10:01 A.M.

1207 QUARRIER STREET
CHARLESTON, WEST VIRGINIA

Deborah R. Booth
Certified Court Reporter

HARRIS REPORTING, LLC

304-345-4742

APPEARANCES

On Behalf of the State Fire Commission of West Virginia:

STACY NOWILKI, ESQUIRE
Assistant Attorney General
Capitol Complex Building, Room E-26
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

State Fire Commission Board Members:

ROBERT SULLIVAN, CHAIRMAN
TED A. SHRIVER

CONTENTSSPEAKER

John Zimnox

REPORTER'S CERTIFICATE - 20

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P R O C E E D I N G S

CHAIRMAN SULLIVAN: I would like to call this special meeting --

MS. NOWILKI: Public hearing.

CHAIRMAN SULLIVAN: -- public hearing to order, West Virginia State Fire Commission, for the purpose of public comment on Rule 87-1, West Virginia State Fire Code, and at this point in time I am going to turn it over to Commissioner Shriver so he can bring the Commissioners up to speed on what we're going to be doing.

COMMISSIONER SHRIVER: Thank you, Chairman Sullivan. Before you we have the Series 1 Fire Code 87-1, as the Chairman stated. The purpose of today's hearing is to listen to anyone that wishes to speak in favor or against the current Fire Code that is out for public comment. We have one speaker -- or one person that has signed in that wishes to speak, John Zimmel --

MR. ZIMNOX: Zimnox.

CHAIRMAN SULLIVAN: Zimnox.

COMMISSIONER SHRIVER: -- Zimnox, Z-i---m -- or Z-i---o---x, representing industry. So we'll give you the floor.

1 MR. ZIMNOX: Okay. I'll just sit here so
2 I can spread out.

3 CHAIRMAN SULLIVAN: Sure.

4 MS. NOWILKI: Sir, I would just ask that
5 you speak somewhat slowly because we do have a court
6 reporter taking down what you're saying. She may
7 interrupt you sometimes and say, "Whoa, stop.", something
8 along those lines. If you could just please keep that in
9 mind when you're presenting your comments.

10 MR. ZIMNOX: I work for Dyno Nobel. I
11 have been in the blasting industry since 1980. Started
12 with Hercules Explosives, which became Ireco, which is
13 now Dyno. Worked for a distributor for a while here in
14 West Virginia, Mountain State Bit Service out of
15 Morgantown. So I have been involved with the industry
16 many, many years. I have looked at the rules, looked at
17 how they have gotten better, but also wanting to make
18 sure we aren't restricted out of doing the proper job
19 efficiently, safely, and all that.

20 Going through the rules that are in front
21 of us I'll quote which section, basically, on the rules
22 and talk about the comments about each section. The
23 first one is 2.2.q.2, pre-loading bore holes. There are
24 various industries in the state that pre-load bore holes.

1 Coal mines pre-load bore holes because it takes so long
2 to load a casting shot. There have been some shots takes
3 two weeks to load. Seismic guys for exploration, they
4 will take maybe a month to two months to load their bore
5 holes. Every charge, when they did a seismic charge, has
6 to be in the exact same strata location as the next hole.
7 So they just sometimes take a day to two days to load a
8 hole. And they will pre-load everything and then they
9 will shoot and get their seismic readings. So that would
10 have to be clarified or deleted in order to protect some
11 of our other industries on that issue.

12 MS. NOWILKI: Sir, so that you are aware,
13 the Fire Commission has absolutely no jurisdiction over
14 coal mines.

15 MR. ZIMNOX: Right.

16 MS. NOWILKI: So just so you are aware of
17 that.

18 MR. ZIMNOX: 2.2.q.6.B, operational
19 boundary. That's too vague. For construction we could
20 be doing the Clay Center here and dumping dirt over
21 there. Well, that's the boundary. That's just a vague
22 interpretation that is going to leave you guys open
23 for -- too many gray areas.

24 2.2.q.5, seismograph use. In there you

1 stated a scale distance calculation of 90. That is too
2 restrictive. Right now the surface miners use 50 and
3 that's for a one inch per second reading. To calculate a
4 safe one inch per second reading, in industry we go to a
5 two inch per second for construction. So going to 90
6 would be giving it like a .3, .4, really, really
7 restrictive, and we don't need to do that.

8 2.2.q.6, structures not listed. When we
9 do construction in this state we are producing mall
10 sites, school sites, hospitals, churches, the Bible
11 Center out Southridge. We are right next to the
12 doppler -- 911 Emergency Center, the doppler tower. To
13 call utilities, power lines, gas lines, water lines,
14 which sometimes in utility line construction we are
15 putting a new gas line, we are five to ten feet from that
16 line. So to put a restriction in there that you have to
17 maintain a seismic limit at that of two inches per second
18 is restrictive to that industry. We will get variances
19 from gas companies for four inches per second. So
20 putting it at two, when I get a variance for four from
21 the owner, that's kind of, you know, getting more
22 restrictive.

23 2.2.s.1, monitoring records. Requiring a
24 two hour annual refresher, I think there should be a

1 refresher, but an annual refresher is maybe too much.

2 That was 2.2.s.1, and it's the last sentence.

3 2.2.s.3, basically if there's a question
4 on a shot, whether the shot has gone well, whether the
5 vibration records have been done right, the Fire
6 Marshal's office wants to have an independent firm
7 analyze those reports. Each seismograph company has
8 different software to run their reports and run their
9 analyzation, so if that seismograph company, whether it
10 be Sauls, Vibra--Tech, whoever, had been hired by me,
11 they have the software to analyze my results. So in a
12 sense they're not independent, they're working for me.
13 So that would -- I don't know how the State could get
14 them analyzed then sometimes. So if you want to re-write
15 that and say the blasting company can't analyze them that
16 would probably be okay.

17 2.2.t.2, blasting activity permit, 14
18 days. That's restrictive. There's a lot of sites all of
19 a sudden they go in there and they hit rock. They have
20 all their equipment setting there. They didn't -- and a
21 lot of these small sites we're talking about are Go-
22 Marts, Rite Aids, gas stations, stuff like that, and they
23 go in there, they didn't do any core samples, they don't
24 have the geological results of that site. They go in

1 there and start excavating and they hit rock. Well, they
2 need to shoot. They have got all their equipment setting
3 there. And now holding off everything for 14 days is
4 going to shut down that project and cost those industries
5 a lot of money. And that's not something we want to do
6 in this state.

7 2.2.s.2.F, signature of person taking
8 seismograph reading. The blaster signs the shot report.
9 He is stating everything is correct on that shot report,
10 including the person that took the seismograph reading.
11 Having another signature on there saying, "Yes, I took
12 the reading.", is just redundancy, you know, in a sense.
13 You already have the name that we printed on there. He
14 shouldn't have to sign it.

15 2.2.u.1, I would like to see that at two
16 years. You're probably going to accept three. Five
17 years is restrictive. Surface miners require me to have
18 three.

19 MS. NOWILKI: What is it?

20 COMMISSIONER SHRIVER: Keeping your
21 records.

22 MS. NOWILKI: Oh, that's because that's
23 the statute of limitations, sir.

24 MR. ZIMNOX: For ATF regulations. For

1 keeping my books --

2 MS. NOWILKI: It's the statute of
3 limitations for lawsuits in contract actions in the State
4 of West Virginia.

5 MR. ZIMNOX: Okay.

6 MS. NOWILKI: And also NFPA-495 requires
7 it, as well.

8 MR. ZIMNOX: Requires it, as well. We
9 keep them and my -- We keep them forever, guys.

10 CHAIRMAN SULLIVAN: Good idea.

11 MR. ZIMNOX: My concern is we need to
12 really look at this in some aspects, because we do have
13 contractors that shoot, that come into the state, outside
14 of the state, they come in there and shoot. They produce
15 their Walmart pad and they're gone. Where do those
16 records go? Who keeps them? I don't want to ask Tony's
17 office to start keeping records for every blast done in
18 the state, he doesn't have enough file room. Okay. So
19 if that's in there already, so I will delete that.

20 2.2.u.2.B, storage permit number on the
21 shot report. If I am being investigated he is already
22 going to look to see if I had a storage permit for that
23 site. So I'm not sure why I need to put that on there.

24 2.2.u.2.E, that has to deal with listing

1 the closest owner of a structure. There are a lot of
2 times when we are shooting gas wells, gas lines. The
3 closest owner could be two miles away. We don't know who
4 that owner is. We may not be allowed on his property to
5 go find out.

6 MS. NOWILKI: You can find that out at a
7 courthouse.

8 MR. ZIMNOX: Yes, we can. But why would
9 you want that?

10 MS. NOWILKI: So we know that they know
11 that it's going on, number one. Number two, if they
12 report property damage we know which blast is the one
13 that most likely caused it. This is required for oil and
14 gas drilling. This is required for, you know, anything
15 dealing with mines. It's required for all of that.

16 MR. ZIMNOX: At a certain distance.

17 MS. NOWILKI: Uh-huh.

18 MR. ZIMNOX: To just arbitrarily say the
19 closest structure, it could be three miles away. In coal
20 that's not required. Seven-tenths of a mile. So you
21 need to put something in there stating a certain
22 distance, not having an arbitrary closest structure.

23 MS. NOWILKI: Uh-huh.

24 MR. ZIMNOX: And the other thing in

1 construction that we're talking about, we're not talking
2 coal companies putting off 45,000 pounds at a time.
3 We're talking construction companies putting off 4,000
4 pounds. Maybe on a big site construction for a big mall
5 you're talking maybe 10,000. But that's it. Because
6 they're only moving about 10,000 yards a day, so they're
7 going to shoot about 10,000 pounds a day maximum. So
8 it's smaller shooting, smaller holes, smaller shots.
9 Over my history what I get concerned about, for the
10 little guys that are doing the three and a half inch
11 holes shooting four pounds of powder, we put these
12 restrictions on them like they're this super coal company
13 and have to do pre-blast surveys that cost them tens and
14 hundreds of thousands of dollars. Each pre-blast survey
15 is about 250 to 300 hundred dollars, depending on the
16 hole. Now if you're talking about a gas line going
17 through or a water line going to Pratt you could be
18 talking half a million dollars in pre-blast surveys. And
19 the product that we're shooting, vibration limits is
20 probably only going to go about a hundred feet as far as
21 damage to structure that I would have to be concerned
22 about.

23 COMMISSIONER SHRIVER: Probably.

24 MR. ZIMNOX: Yeah, probably. Anything

1 more than that, shooting four pounds, it's almost
2 impossible to cause any damage further than that, so.

3 2.2.u.2.K, I would like to see that be
4 rewritten to say weather conditions, including estimated
5 wind direction and speed. If he has a smartphone and we
6 have phone service he could pull up the weather service
7 and it's going to give him the Charleston weather. It is
8 not going to give him Gauley Bridge or anything like
9 that. So there's no real way, unless we -- everybody has
10 to get the wind, you know, gauges to actually predict
11 that. So I would like to see estimated in there. And if
12 he has a newer truck he can look for the temperature.

13 2.2.u.2.L, I would like to see that be
14 rewritten to say the total number of holes, burden and
15 spacing, diameter and depth of holes, stemming and
16 decking heights, weight of explosives used per hole.
17 Delete cubic yards or tons per hole. When you're talking
18 about a construction site shooting small holes, shooting
19 two to three hundred holes, having to figure up, and
20 depending on the terrain they can go from six foot to ten
21 foot to twelve foot, figuring up the cubic yards per hole
22 or tons per every hole I'm going to have to hire another
23 guy just to do calculations.

24 2.2.u.2.M should only say explosive

1 product densities. The rest is kind of redundant. I
2 would like to see the detonating cord type put in there.
3 The length of detonating cord when you're loading pre-
4 split, it comes on a 2,000 foot roll. It's like buying
5 2,000 feet of rope and you're reeling it off. There is
6 no physical way that my blaster out there can tell you
7 that he used 1100 or 1200. Now we can estimate what's
8 left on there, but to actually say how many feet he used
9 is tough. And we use detonating cord -- I don't know of
10 anybody still using detonating cord to detonate
11 production holes. We use detonating cord for pre-split.
12 So it's going across your pre-split line and down your
13 hole.

14 2.2.u.2.O, the total length of detonating
15 cord, like I said, I would like to see that deleted.

16 2.2.u.2.P, right now it says the type,
17 length, delay period of each detonator and the total
18 quantity each type of detonator used. The industry is
19 changing. We used to use electric detonators and each
20 one had a delay. We have gone to nonelectric detonators
21 and we're still using a lot of those and those are like
22 17/500 because they have a surface cap and a down hole
23 cap. What we're going to now and I think what you're
24 going to see in the industry is electronic detonators.

1 And how an electronic detonator differs from an electric
2 detonator, it does not have a timing built in to it, it
3 is programmed into it. So each hole I can program
4 whether I want 8 milliseconds, 11, whatever. So listing
5 the delay period of each detonator with the industry
6 changing to electronics would be something that should be
7 looked at. And what I said to say, type of delay
8 detonator.

9 2.2.u.2.Q, the types of initiation system
10 used. If you talk about the type of delay detonators,
11 that usually dictates the initiation system.

12 2.2.u.2.T, there, again, the powder
13 factor in pounds per cubic yard, tons per pound, or
14 pounds per square foot. We could put that for the whole
15 shot. We can figure that out. But it doesn't really
16 clarify in that section what you're looking for. And a
17 lot of this, guys, to make my guys do math at the end of
18 the day when all the information is already in there that
19 anybody has an investigation can come and do the same
20 calculations I think is just putting a lot of work on a
21 guy. You've got to realize what these guys go through.
22 Whatever Mother Nature is throwing at them today they're
23 loading that shot. They're in the mud, they're in the
24 cold, they're in everything. The end of the day they're

1 doing this paperwork and their hands are cold, they're
2 muddy, and they're miserable and they're having to go
3 through a calculator and type up everything in there, and
4 that's where I get concerned. You know, it's just -- if
5 the information is already there, for somebody else to
6 calculate -- If we have a problem, it's there, the
7 information is there, make sure it's there. But to make
8 him do the calculations for us, I don't think we need to
9 do that.

10 CHAIRMAN SULLIVAN: Are you concerned
11 about errors?

12 MR. ZIMNOX: I am concerned about errors
13 because I have seen those. And what it is, when the guy
14 is doing 17 plus 17 plus 17 plus 17 and he hit the 8
15 instead of the 7 and he put 69, I have got in violation
16 because he hit the wrong number. He already knows by his
17 delay sequences how many 17s and 42s or what he can do
18 before he has an overlap, so he already knows that. But
19 to put it on a piece of paper calculating every hole and
20 having it wrong then, number one, I can get a violation.
21 Number two, if I go to court and that pops up because he
22 hit the wrong number, that's a gray area and I'm going to
23 lose in court just because he's tired at the end of the
24 day. And there is no -- We have looked for -- We don't

1 have a big enough industry for somebody to come in here
2 and do a program for us. You know, we would love to have
3 a computer program, you know, a smart app, you know,
4 where you can just drag holes on there. But it just
5 hasn't worked yet. Nobody has come up with something.

6 2.2.u.2.U, the monitoring records
7 required shall be made part of this blast report within
8 24 hours of the blast. I would like to see put in there,
9 "if required." Because we're not requiring seismographs
10 for every shot. So if we do use a seismograph it needs
11 to be put in there within 24 hours. And I know some
12 seismograph guys are going to argue with that, because
13 what we do we set up remote monitors and they hook on to
14 a satellite and they're setting out there recording every
15 shot all day long 24 hours a day. Then they have to be
16 downloaded into their computer and then sent to us, to
17 our office. Now to get back out in the field to put it
18 on that shot report that we did the day before is going
19 to be restrictive. You know, I'm not going to send my
20 guy back down to Mingo County today just to put that
21 number on there. We do have it, you know, but there are
22 some that are remote seismographs.

23 2.2.u.2.V, delete the firing times of
24 each hole. If I put my -- what my patterns are, whether

1 I'm running 17s down the row, 42s, then I don't need to
2 put the firing times of every hole. It can be figured
3 out if it's needed later on.

4 I thought one of the seismograph guys
5 were going to be here, because there's a lot of stuff in
6 there on the seismographs. They weren't, but I didn't
7 even comment on any of that stuff right now.

8 Do you have any questions?

9 MS. NOWILKI: We don't ask questions.

10 MR. ZIMNOX: Don't ask questions. Okay.

11 MS. NOWILKI: Sir, just so you know, the
12 comment period ends on April 1st.

13 MR. ZIMNOX: Okay.

14 CHAIRMAN SULLIVAN: Appreciate it. Thank
15 you, John.

16 MR. ZIMNOX: You're welcome.

17 COMMISSIONER SHRIVER: Mr. Chairman, no
18 one else has entered the room during the first speaker.
19 Anybody else in the room wish to speak that did not sign
20 and request to speak?

21 (No response.)

22 CHAIRMAN SULLIVAN: He's doing better.

23 COMMISSIONER SHRIVER: With that, as
24 Counsel says, the comment period ends April the 1st. The

1 Commission will meet -- or the Code Committee will meet
2 on April 4th and the Commission on April the 5th to
3 discuss these comments and decide if there's any
4 amendments to be made to the current Rule before
5 promulgating.

6 MS. NOWILKI: If anyone would like to be
7 at those meetings they are open to the public and there
8 may be questions from the Commission at that point.

9 MR. ZIMNOX: Okay.

10 CHAIRMAN SULLIVAN: Anything else?

11 MS. NOWILKI: It's up to you.

12 CHAIRMAN SULLIVAN: I think we're
13 adjourned. Thank you.

14 (MEETING ADJOURNED AT 10:24 A.M.)

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, to-wit:

I, Deborah R. Booth, Notary Public and Certified Court Reporter, do hereby certify that the foregoing is a correct verbatim record of the proceedings had at the time and place set forth for the State Fire Commission public meeting.

Given under my hand this 31st day of March, 2013.



Deborah R. Booth, CCR
Notary Public

My commission expires January 26, 2014.

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #1

Do Not Mark In This Box

2013 MAR -1 PM 2:14

NOTICE OF A PUBLIC HEARING ON A PROPOSED RULE

AGENCY: West Virginia State Fire Commission TITLE NUMBER: 87-1

RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code 29-3-5

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 87-1

TITLE OF RULE BEING AMENDED: Fire Code

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

DATE OF PUBLIC HEARING: March 22, 2013 TIME: 10:00 a.m.

LOCATION OF PUBLIC HEARING: 1207 Quarrier Street
3rd Floor
Workers Compensation Review Board Hearing Room
Charleston, WV 25301

COMMENTS LIMITED TO: ORAL WRITTEN BOTH

DATE WRITTEN COMMENT PERIOD ENDS: April 1, 2013 TIME: 4:00 p.m.

WRITTEN COMMENTS MAY BE MAILED TO:

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

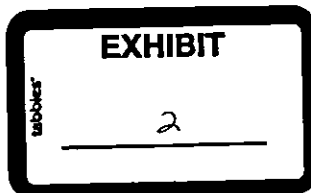
Anthony W. Carrico
WV State Fire Marshal's Office
1207 Quarrier Street, 2nd floor
Charleston, WV 25301

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Robert S. Sullivan

Authorized Signature



Statement of Facts and Circumstances for Promulgation of 87-1 Fire Code

The changes proposed to 87-1 reorganize the Fire Code into a more "user-friendly" format.

The Commission, instead of adopting a myriad of codes that had nothing to do with Fire Code enforcement, only adopted the sections of NFPA that were pertinent to Fire Code enforcement. Further, the Commission updated the editions of the NFPA codes adopted to the 2012 edition.

NFPA 1 has been adopted in full, with a few sections specifically excluded. Then the Commission has adopted certain additions to sections of NFPA 1.

Essentially, very few substantive changes to the existing Fire Code have been made.

The substantive changes include:

- 1) Clarifying where smoke detectors need to be placed in section 2.2.d.10.
- 2) Clarifying that fire alarms are required in mercantile occupancies with sales areas of over 3000 square feet.
- 3) Clarifying that not only is selling fireworks to a West Virginia resident unlawful, fireworks shall not be sold to any person not holding a wholesale license.
- 4) Hotels and motels over 2 stories in heights without direct outside exits from the guest rooms must have a fire alarm system with 24 hour supervision.
- 5) A complete re-write of the explosives section.
- 6) Bringing the fire incident reporting in line with statute.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

State Fire Code 87CSR1

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: State Fire Commission

Address: 1207 Quarrier Street, 2nd Floor
Charleston, WV 25301

Phone Number: 304-558-2191 Email: anthony.w.carrico@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

Proposed rule should not have a fiscal impact on state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

State Fire Code

Rule Title: _____

Rule Title: _____

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

No increase or decrease anticipated in agency total revenues.

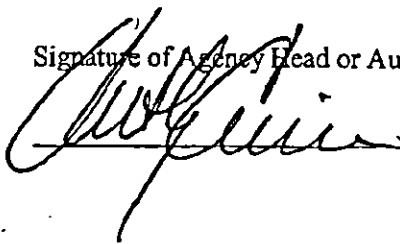
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Proposed rule would not have a fiscal impact due to the fact that the rule establishes and updates the current fire codes statewide. There are no fees associated with this rule in particular.

Date: March 1, 2013

Signature of Agency Head or Authorized Representative

 _____

**TITLE 87
LEGISLATIVE RULE
FIRE COMMISSION**

**SERIES 1
FIRE CODE**

2013 MAR -1 PM 2:14

SECRETARY OF STATE

§ 87-1-1. General.

1.1. Scope. -- This rule establishes the State Fire Code for the safeguarding of life and property from the hazards of fire and explosion.

1.2. Authority. -- This legislative rule is issued under authority of W. Va. Code § 29-3-5.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. This rule repeals and replaces W. Va. 87 CSR 1, Fire Commission, Fire Code, filed April 26, 2010, and effective July 1, 2010.

1.6. Exemption. -- This State Fire Code has no application to personal care homes caring for three or less patients or buildings used wholly as dwelling houses for no more than two families and has no application to farm structures. Provided; however, that farm structures (1) used for group sleeping accommodations for farm workers or (2) used for educational, health care, assembly or detention/correctional occupancy are not exempt from the requirements of this State Fire Code.

1.7. Incorporation of Other Documents. -- This State Fire Code does not include a reprinting of all the requirements imposed by statute or by the incorporation of various National Standards and Codes cited in Section 2 of this rule. For ascertaining these additional standards and requirements it is necessary to make reference to these other documents.

§ 87-1-2. National Standards and Codes.

2.1. The standards and requirements as set out and established by NFPA 1 of the 2012 edition of "The National Fire Codes" published by the National Fire Protection Association and has the same force and effect as if set out verbatim in this rule and is hereby adopted and promulgated by the State Fire Commission as a part of the State Fire Code with the following exceptions or additions:

2.1.a. NFPA 101 2012 edition is adopted in full, as opposed to the limited capacity as set forth in NFPA 1, with the following additions:

2.1.a.1. 11.8 of NFPA 101 is adopted in full with the following additions:

2.1.a.1.A Any new building or structure more than forty (40) feet in height, measured from the lowest level of fire department vehicle access to the floor of the highest normally occupied space used for human occupancy of the structure, is subject to this section for high rise buildings. This rule shall not nullify or interfere with existing city high rise ordinances or local laws previously adopted prior to September 8, 1975 relative to high rise buildings. Industrial occupancies not occupied as business offices are exempted from the provisions of this section.

2.1.a.1.B. Addition of Floors to Existing Buildings. -- Whenever floors are added to an existing building, which previously was not a high rise, causing the building to become a high rise, the building shall qualify as a new building for purposes of this rule.

2.1.a.1.C. Automatic Fire Extinguishing Systems & Standpipe Systems. -- Any building or structure as defined in Subsections 2.1.a.1.A. or 2.1.a.1.B. of this Rule and used for human occupancy shall have an approved automatic fire extinguishing system throughout the entire building and standpipe systems installed in accordance with The National Fire Codes, adopted under Section 2 of this Rule. Class I Manual Standpipe Systems may be used up to 75 feet as adopted by NFPA 14, Standard for Standpipe Systems.

2.1.a.1.D. Fire Alarm System. -- The fire alarm system of a high rise building shall conform to the Standards imposed by this Rule.

2.1.a.1.E. Fire Department Voice Communication System. -- A High rise building or structure used for human occupancy that is seventy-five (75) feet in height or greater as measured in accordance with Subsection 2.1.a.1.A. of this Section shall have an approved electrically supervised fire department voice communication system. The Fire Department Voice Communication System shall be located at each floor level of stair enclosures, elevator lobbies, the penthouse and in any elevator designated for fire department use. This system shall be a telephone jack system unless specifically approved otherwise by the designated fire authority having jurisdiction.

2.1.a.1.F. High Rise Central Control Station. -- In every high rise building as defined in Subsections 2.1.a.1.A. and 2.1.a.1.B. of this Section, a central control station for Fire Department operations shall be provided in a location approved by the State Fire Marshal or the designated local fire authority. The Central Control Station shall contain: (1) the fire department voice communication system panel when required, (2) fire detection and alarm system panels, (3) status indicators for the Heating, Ventilation and Air Conditioning (HVAC), Smoke Control System, fire pumps and emergency generator and a (4) telephone approved by designated fire authority having jurisdiction. Emergency lighting shall be provided at the Central Control Station.

2.1.a.1.G. Emergency Power. -- A permanently installed emergency power generation system conforming to The National Fire Codes adopted by Section 2 of this Rule shall be provided in every high rise building 75 feet in height or greater, as measured in accordance with subsection 2.1.a.1.A. of this Section. All power, lighting, signal, and communication facilities, required by this rule or otherwise, shall be transferable automatically to the emergency power system. The emergency power system shall be of sufficient capacity to provide service for, but not limited to, the following:

2.1.a.1.G.1. the Fire Alarm System;

2.1.a.1.G.2. Exit & Other Emergency Lighting;

2.1.a.1.G.3. Fire Protection Equipment;

2.1.a.1.G.4. the Smoke Management System;

2.1.a.1.G.5. the Fire Department Elevator;

2.1.a.1.G.6. the Fire Department Voice Communication System; and

2.1.a.1.G.7. the Fire Pumps.

2.1.a.1.H. Smoke Management. -- In all high rise buildings as defined in Subsections 2.1.a.1.A. and 2.1.a.1.B. of this Section, a smoke management system designed in accordance with NFPA 92A, Smoke-Control Systems, and 92B, Smoke Management Systems in Malls, Atria and Large Areas, shall be provided and acceptable to the State Fire Marshal.

2.1.a.1.I. Floor Designation. -- All stairway doors, both on the stairway and entrance side, shall indicate the floors by number. The floor number shall be in at least 6" block letters in a contrasting color

2.1.b. NFPA 5000 is excluded in its entirety;

2.1.c. NFPA 472 is excluded in its entirety;

2.1.d. NFPA 120 is excluded in its entirety;

2.1.e. NFPA 101A is excluded in its entirety.

2.2. For purposes of this rule, the following shall be in addition to, and override and take precedent over any standard set forth in NFPA 1, or NFPA 101:

2.2.a. Sprinkler Protection and Area Limitations.

Approved automatic sprinkler systems in accordance with the applicable NFPA Standard for Sprinkler Systems will be installed in all new buildings used for any occupancy, exceeding the area limitations noted in the chart at the end of this subsection. Sprinkler protection for occupancies covered by Section 2 of this rule are required to provide sprinkler protection regardless of area limitations. See Table 2.2.a. below.

**TABLE 2.2.a.
SPRINKLER PROTECTION & AREA LIMITATION****

BUILDING HEIGHT

Type of Construction	1 Story	2 Story	More than 2 Stories and Up to 40 ft.	More than 40 feet	More than 75 feet
Type I					
443 Fire Resistive	50,000	45,000	15,000	Sec. 2.1-High Rise	Sec. 2.1-High Rise
332 Fire Resistive	40,000	30,000	10,000	Sec. 2.1-High Rise	Sec. 2.1-High Rise
Type II					
222 Protected Non-Com.	35,000	25,000	10,000	Sec. 2.1-High Rise	Sec. 2.1-High Rise
111 Protected Limited Combustible	30,000	20,000	8,000	Sec. 2.1-High Rise	Sec. 2.1-High Rise
000 Unprotected Limited Unprotected Non-Com.	12,000	8,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
Type III					
211 Protected Ordinary	10,000	6,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
200 Non-Protected Ordinary	8,000	4,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
Type IV					
2HH Heavy Timber	9,000	6,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
Type V					
111 Protected Wood Frame	8,000	4,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
000 Non-Protected Wood Frame	6,000	3,000	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED

****Notes to Table 2.2.a.:**

(1) The word "area" means that area enclosed by exterior or foundation walls, fire walls, or a combination of exterior or foundation walls. A fire wall shall be constructed in accordance with NFPA 221, Standard for Fire Walls and Fire Barrier Walls, with a minimum of a 2 hour fire rating. Buildings shall only be separated by one (1) two hour fire wall and areas shall be divided as equally as possible.

(2) The phrase "not permitted" means that buildings of these heights are not permitted for the type of construction indicated.

(3) The phrase "Section 2.1-High Rise" means that the building shall also comply with Section 2.1 of this Rule.

(4) Types of building construction indicated in the chart are located in NFPA 220 and 221, Standard on Types of Building Construction.

(5) Exception: Automatic sprinklers shall not be required in open parking structures as defined in NFPA 88A of Type I or Type II construction that are less than 40 feet in height as measured per Section 2.1.a.1.A. of this Rule.

2.2.b. Sprinkler Protection (Certain Occupancies).

2.2.b.1. All nursing, convalescent, old age, custodial care, long term or extended care homes or institutions, and correctional or detention facilities, existing and new, regardless of the type of construction, shall have a complete automatic sprinkler protection in accordance with NFPA Standard 13 contained within the National Fire Codes and incorporated by reference in Subsection 2.1 of this rule.

2.2.b.2. Homes or institutions caring for more than three patients shall meet the requirements of this section.

2.2.c. Carpet Used as Floor Covering.

2.2.c.1. Flammability Requirements for Carpet Used As Floor Covering.

2.2.c.1.A. In institutional, health care, educational and penal occupancies, carpet shall meet a minimum value of 0.45 watts per square centimeter in all corridors and exits. Carpet in all other areas shall meet a minimum value of 0.22 watts per square centimeter.

2.2.c.1.B. Flammability requirements for carpet used as floor covering in all other occupancies shall meet a minimum value of 0.22 watts per square centimeter in all corridors and exits.

2.2.c.1.C. Any pad used under the carpet shall meet the minimum class of the carpet installed.

2.2.c.1.D. The values shall be determined by NFPA 253, Critical Radiant Flux of Floor Covering Systems.

2.2.c.2. Smoke Generation Properties of Carpet Used as Floor Covering.

2.2.c.2.A. In all occupancies smoke generation shall not exceed a maximum value of $D_m=450$ (flaming mode).

2.2.c.2.B. The value shall be determined by ASTM E-662, Specific Optical Density of Smoke Generation by Solid Materials.

2.2.c.2.C. All test data for determining the flammability and smoke properties of carpets shall be conducted by a nationally recognized laboratory as certified by the National Voluntary Laboratory Accreditation Program.

2.2.c.2.D. Where an approved, automatic sprinkler system is installed and all floors are non-combustible, Class II carpet is permitted in any location where Class I carpet is required. Where an approved automatic sprinkler system is installed and all floors are noncombustible and Class II carpet is permitted, no rating is required.

2.2.d. Fire Alarm System.

2.2.d.1. General Requirements for All Occupancies.

2.2.d.1.A. The following requirements apply in addition to NFPA 101, Life Safety Code, Chapter 9, Section 9.6 as adopted by this Rule:

2.2.d.1.A.1. All fire alarm systems, including all components, shall be electrically supervised. Components include pull stations, automatic detection, audio visual devices, flow switches, tamper switches and the main panel.

2.2.d.1.A.2. All fire alarm systems shall be tied in ahead of the main power disconnect, unless a secondary power source is provided.

2.2.d.1.A.3. All sprinkler systems OS & Y, P.I.V. and other Control Valves shall be electrically supervised and tied into the trouble/supervisory side of the fire alarm control panel.

2.2.d.1.A.4. All sprinkler systems shall be tied in so water flow will activate the general fire alarm audio visual device.

2.2.d.1.A.5. Flow and/or pressure switches shall be annunciated separately on the main fire alarm control panel.

2.2.d.2. All Health Care, and Detention and Correctional Occupancies shall be tied into a fire department or a communication center with 24-hour supervision which is responsible for receiving emergency calls.

2.2.d.3. Heating, Ventilation, Air Conditioning Systems (HVAC).

2.2.d.3.A. All heating, ventilation, and air conditioning systems greater than 2000 CFM and less than 15,000 CFM shall have a duct type smoke detector in the return air duct or plenum for automatic shut down, to close main fan dampers and to sound a general fire alarm when activated.

2.2.d.3.B. All heating, ventilation, air conditioning systems greater than 15,000 CFM shall have duct type smoke detectors installed in both supply and return air ducts to automatically shut down, close main fan dampers and to sound a general fire alarm when activated.

2.2.d.3.C. In Health Care, Detention and Correctional occupancies and high rise buildings duct detectors shall be zoned to indicate the specific air handling unit at the main fire alarm panel.

2.2.d.3.D. An HVAC unit which uses 100% of outside air does not require duct detectors, and shall shut down upon fire alarm activation.

2.2.d.3.E. HVAC Systems used as part of the smoke management systems are exempt from the requirements of this subsection.

2.2.d.4. Audible alarm indicating devices shall be of such character and distributed so as to be effectively heard above the ambient noise level obtained under normal conditions of occupancy. Audible alarm indicating devices shall produce signals that are distinctive from audible signals used for other purposes in the same building.

2.2.d.5. Visual signal devices shall be provided in all new fire alarm systems.

2.2.d.6. Pre-recorded or live voice evacuation instructions to occupants are permitted. Pre-recorded instructions shall be preceded by not less than 5 seconds or more than 10 seconds of a continuous alerting signal. Upon completion or failure of pre-recorded instructions, the fire alarm evacuation signal shall sound. Pre-recorded instructions shall be repeated two or more times. Live voice instructions shall be permitted to interrupt the pre-recorded message or the fire alarm evacuation signal. Audible and visual fire alarm devices shall be used only for fire alarm system.

2.2.d.7. Manual pull stations shall be located no greater than 200 feet from each other and at all exits. Manual pull stations shall be of the same general operational type.

2.2.d.8. Thermal detectors are required in the following areas in all occupancies requiring a fire alarm system and as listed or identified in NFPA 101, The Life Safety Code. Thermal detectors are not required in areas provided with sprinkler protection or dwelling units of apartments.

AREAS	TYPE OF DETECTORS
(a) Attic & Cockloft Spaces	Fixed Temperature
(b) Storage Rooms	Rate of Rise
(c) Furnace or boiler rooms	Fixed Temperature
(d) Janitor Closets	Rate of Rise
(e) Kitchens	Fixed Temperature
(f) Laboratories, Home Economics, Woodworking Shops, Auto Shops, Utility Rooms, & Locker Rooms	Rate of Rise

2.2.d.9. Smoke detectors are required in the following areas in all occupancies requiring fire alarm systems:

2.2.d.9.A. Rooms and/or areas dedicated for the location of electrical distribution panels or transformers;

2.2.d.9.B. Stages or Platforms; and

2.2.d.9.C. On each side of required smoke partition doors.

2.2.d.10. Smoke detectors shall be placed a maximum of 15 feet from ends of corridors or walls and 30 feet on center including all toilet rooms over one occupant and in any other rooms that are a part of the means of egress without doors and open to the corridors, where required by the occupancy. Exceeding the spacing requirements will require submission of technical data for approval by the Fire Marshal. Exception: Smoke beam detectors shall be permitted in accordance with manufacturers specifications.

2.2.d.11. A building or structure being used for more than one occupancy shall comply with the fire alarm system requirements of the most stringent occupancy for that building or structure.

2.2.d.12. Hood suppression systems shall be connected to the Fire Alarm System and separately zoned.

2.2.d.13. A pre-signal fire alarm system is not permitted.

2.2.d.14. Elevators shall comply with NFPA 72.

2.2.d.15. All Hotels being 2 or more stories high, Motels being 2 or more stories high, shall be tied into a fire department or a communication center with 24-hour supervision which is responsible for receiving emergency calls.

2.2.d.15.A. Exception: Hotels and motels with direct to outside exits from all guests rooms.

2.2.e. Inspection Tags

2.2.e.1. An inspection tag shall be attached to each fire protection system near the main control valve, main panel, or other such appropriate and visible location as determined by the AHJ. The inspection tag shall contain the following information:

2.2.e.2. The individual performing the work;

2.2.e.3. Date of the test;

2.2.e.4. Results of the inspection and test.

2.2.f. Requirements for Educational and Day Care Occupancies.

2.2.f.1. A fire alarm system is required in every educational and day care occupancy, and shall meet the requirements and standards of this rule. However, classroom buildings of less than 2,500 sq. ft. gross floor area with direct exiting to the outside from each classroom are not required to have a fire alarm system.

2.2.f.2. Open Plan Classroom Concepts require a complete smoke detection system throughout the facility.

2.2.f.3. Day Care Centers located in buildings other than educational facilities shall have smoke detectors installed on the ceilings of each story in front of the doors to the stairways and at no greater than 30 feet spacing in the corridors of all floors occupied by the center. Detectors shall also be installed in lounges and sleeping rooms in the center.

2.2.f.4. Group Day Care Centers require hardwired smoke detectors in sleeping rooms and corridors. Audio visual warning devices are required if hearing impaired individuals are in the facility. In mixed occupancies when exiting requires the use of a common corridor, an electrically supervised fire alarm system shall be installed.

2.2.f.5. An annunciator panel or fire alarm control panel shall be readily accessible to local fire department personnel.

2.2.f.6. Rate of rise thermal detectors are required in all Rest Rooms in new buildings except in fully sprinklered buildings.

2.2.f.7. Smoke detectors shall be installed in all corridors, except in a single story building with direct exiting to the exterior by the means of a door from every normally student occupied room.

2.2.g. Requirements for Assembly Occupancy.

2.2.g.1. A fire alarm system is required in every place of assembly where:

2.2.g.1.A. Occupancy is subject to 300 or more occupants;

2.2.g.1.B. Occupancy is subject to 100 or more occupants above or below the level of exit discharge;

2.2.g.1.C. The building is two (2) or more stories in height above the level of exit discharge, or two (2) or more stories below the level of exit discharge; or

2.2.g.1.D. Theaters with more than one audience-viewing room.

2.2.g.2. Annunciator panels and/or fire alarm control panels shall be readily accessible to fire department personnel.

2.2.g.3. Theaters and auditoriums shall provide audio visual devices. House lights in auditoriums and theaters shall be activated by the fire alarm system.

2.2.h. Requirements for Health Care and Ambulatory Care Occupancies.

2.2.h.1 A fire alarm system is required in every Health Care and Ambulatory Care occupancy, and the system shall meet the requirements and standards of this rule.

2.2.h.2. An approved automatic smoke detection system shall be installed in all corridors.

2.2.h.3. Manual pull stations shall be installed every 50 feet throughout the facility in patient sleeping room areas starting at the end of all corridors. All other manual pull stations shall be placed in accordance with the general requirements of this rule.

2.2.h.4. Fire alarm systems shall have annunciators located at all 24 hour nurse's stations, the telephone switchboard, and at the main location of the fire department's entry.

2.2.i. Requirements for Detention and Correctional Occupancies.

2.2.i.1. A fire alarm system is required in every Detention and Correctional occupancy and the system shall meet the requirements and standards as provided in this subsection.

2.2.i.2. The annunciator panel or fire alarm control panel shall be readily accessible to fire department personnel and shall also be provided in the Detention or Correctional facility control center.

2.2.i.3. Manual pull stations shall be provided as set forth in general requirements of this rule. Manual pull stations may be of the security type in detention or correctional occupancies.

2.2.i.4. Smoke detectors shall be installed in all corridors. If no corridor exists, they shall be installed at the highest point of the cell areas.

2.2.i.5. Dormitory style correctional facilities shall comply with the Residential requirements of subsection 11.6 of this section.

2.2.j. Requirements for Residential Occupancies.

2.2.j.1. A fire alarm system is required for each of the groups of residential buildings, and the system shall meet the requirements and standards of this Rule.

2.2.j.2. Lodging and Rooming Houses protected throughout with a sprinkler system shall be provided with interconnected hardwired smoke detectors as required by NFPA 72.

2.2.j.3. Residential occupancies are designated in two groups. These designated groups shall comply with the requirements of this Rule. One group of occupancies includes hotels, motels, dormitories, lodging and rooming houses. The other group includes apartments only.

2.2.j.4. The following requirements apply to the occupancies of hotels, motels, dormitories, lodging and rooming houses.

2.2.j.4.A. Smoke detectors shall be placed a maximum of 15 feet from ends of corridors or walls and located 30 feet on center throughout all inside corridors. Smoke detectors shall be placed a maximum of 15 feet from ends of walls and 30 feet on center in open bay sleeping areas.

2.2.j.4.B. The annunciator panel or fire alarm control panel shall be readily accessible to fire department personnel and also shall be located at the registration desk.

2.2.j.4.C. All sleeping rooms and living areas in suites shall have an approved self-contained smoke alarm hard wired in accordance with NFPA 72, National Fire Alarm Code.

2.2.j.4.D. Motels and hotels having direct exterior exiting shall have a manual pull station every 75 feet located on exterior walls with the minimum requirement of one manual pull station. However, a one story motel with 16 or less sleeping rooms having direct exiting to the exterior is not required to be provided with a fire alarm system.

2.2.j.5. The following requirements apply to apartments.

2.2.j.5.A. Apartment buildings having 12 or more units or 4 or more stories in height shall have a fire alarm system. Smoke detectors shall be placed a maximum of 15 feet from the ends of corridors and walls and 30 feet on centers.

2.2.j.5.B. All existing apartments shall have approved self-contained smoke alarm located at the entrances to bedrooms.

2.2.j.5.C. All new apartments shall have an approved self-contained smoke alarm hard wired in accordance with NFPA 72, National Fire Alarm Code.

2.2.j.5.D. All new apartment buildings having 12 or more units or 4 or more stories in height with direct exiting to the exterior shall have manual pull stations every 75 feet on the exterior wall with a minimum requirement of one pull station per building.

2.2.k. Requirements for Mercantile Occupancies.

2.2.k.1. A fire alarm system is required in every mercantile occupancy with a sales area totaling over 3,000 square feet, and the system shall meet the requirements and standards as provided in this subsection.

2.2.k.2. If an existing Class B mercantile occupancy has a complete and approved sprinkler protection system, a fire alarm system is not required.

2.2.l. Requirements for Business Occupancies.

2.2.l.1. A fire alarm system is required in every business occupancy where:

2.2.l.1.A. The occupancy is subject to 300 or more total occupants;

2.2.l.1.B. The occupancy is subject to 100 or more occupants above or below the level of exit discharge; or

2.2.l.1.C. The building is two (2) or more stories in height above the level of exit discharge or two (2) or more stories below the level of exit discharge.

2.2.m. Requirements for Industrial Occupancies.

2.2.m.1. A fire alarm system is required in all Industrial Occupancies as required in The National Fire Codes NFPA 101, Life Safety Code, referred to in Section 2 of this rule.

2.2.n. Requirements for Storage Occupancies.

2.2.n.1. A fire alarm system is required in all Storage Occupancies as required in The National Fire Codes NFPA 101, Life Safety Code, referred to in Section 2 of this rule.

2.2.n.2. Residential Board and Care Occupancies.

2.2.n.2.A Application: All facilities classified as residential board and care occupancies shall conform to the Life Safety Code, NFPA 101, requirements except as modified under this subsection. This subsection does not apply to facilities with less than four (4) residents.

2.2.n.2.B. Resident sleeping rooms shall be located on first and second floors unless the facility is provided with a sprinkler system meeting the requirements of NFPA 13, Standard for Sprinkler Systems.

2.2.n.2.C. Provide at least two (2) approved remote exits from each floor; at least one (1) exit shall be a door directly to the outside without traversing any corridor or space exposed to an unprotected vertical opening.

2.2.n.2.D. Vertical Openings shall be properly enclosed on all levels above grade with hour fire rated construction. If used as a primary means of exiting all levels shall be properly enclosed with 1 hour fire rated construction.

2.2.n.2.E. Doors shall be side-hinged swinging at least 32 inches wide when located in means of egress. Bathroom doors may be 24 inches wide.

2.2.n.2.F. Existing Stairs shall be at least Class B.

2.2.n.2.G. Hazardous Areas shall be provided with one hour fire-rated separation or provided with automatic sprinkler protection and smoke tight. Doors shall be self-closing.

2.2.n.2.H. Interior Finish of walls and ceilings shall be at least Class C throughout.

2.2.n.2.I. Fire Alarm:

2.2.n.2.I.1. An electrically supervised fire alarm system shall be provided and meet the requirements of Subsections 11.1 & 11.6 of this Rule.

2.2.n.2.B.2. Individual sleeping rooms shall be provided with a single station smoke alarm hardwired in accordance with NFPA 72, National Fire Alarm Code.

2.2.n.2.J. An approved automatic sprinkler system is required in all residential board and care facilities.

2.2.n.2.K. Corridor Walls shall be at least twenty (20) minute fire-rated and smoke tight.

2.2.n.2.L. Electrical System shall meet the National Electric Code.

2.2.n.2.M. Each sleeping room shall be provided with at least one (1) outside window for rescue and ventilation and shall meet the requirement for windows in one and two family dwellings of the Life Safety Code. A door directly to the outside from each sleeping room does not require an outside window.

2.2.n.2.N. Any carpet located in the facility shall meet the requirements of Section 7 of this Rule for Residential Occupancies.

2.2.n.2.O. No door in any means of egress shall be locked against egress when the building is occupied.

2.2.n.2.P. Every bathroom door lock shall be designed to permit opening of the locked door from the outside in an emergency.

2.2.n.2.Q. Every closet door latch shall be such that it can be readily opened from the inside in case of emergency.

2.2.n.2.R. No stove or combustion heater shall be located as to block escape in case of fire arising from the malfunction of the stove or heater.

2.2.n.2.S. Impractical to evacuate residents in small facilities shall be located in rooms at grade with direct exiting to the outside. The corridor room door shall be 20 minute fire rated construction or its equivalent.

2.2.o. Fireworks

2.2.o.1. Fireworks Defined; Labels Required (W. Va. Code § 29-3-23).

The term "fireworks" means and includes any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation. Fireworks includes blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of unmanned balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance. The term "fireworks" shall not include sparklers and novelty items as specified in W. Va. Code § 29-3-23, model rockets and model rocket engines, designed, sold and used for the purpose of propelling recoverable acro models and shall not include toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with the United States Department of Transportation regulations for packing and shipping of toy paper or plastic caps are used and toy paper or plastic caps manufactured as provided therein, the sale and use of which shall be permitted at all times. Each package containing toy paper or plastic caps offered for retail sale shall be labeled to indicate the maximum explosive content per cap.

2.2.o.2. Unlawful Sale, Possession or Use of Fireworks; Permit for Public Display (W. Va. Code § 29-3-24).

2.2.o.2.A. Except as provided in this subsection, no person, firm, co-partnership or corporation shall offer for sale, possess, expose for sale, sell at retail, keep with intent to sell at retail, or use or explode any fireworks. The granting of permits for supervised displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals shall be in accordance with the National Fire Codes as adopted in Section 2 of this Rule. The State Fire Marshal shall charge a scaled fee for all applications requesting permits to establish a pyrotechnics display as provided in this section. All fees required to be paid by the provisions of this section as set forth in the rule of the Fire Commission, Fee for Services Rendered, 103CSR2 shall be paid to the State Fire Marshal and thereafter

deposited by him or her into a special account for the operation of the State Fire Commission. The permits may be granted upon application to State Fire Marshal and after approval of the local police and fire authorities of the community where the display is proposed to be held and the filing of a bond by the applicant as required by law. Every display shall be handled by a competent operator licensed or certified as to competency by the State Fire Marshal and shall be of composition, and character, and located, discharged or fired in a manner that in the opinion of the chief of the fire department, after proper inspection, and of the chief of police as to not be hazardous to property or endanger any person or persons. After the privilege has been granted, sales, possessions, use and distribution of fireworks for the display are lawful for that purpose only. No permit granted under this subsection is transferable.

2.2.o.2.B. The governing body or chief executive authority of the municipality shall require a bond from the licensee in a sum not less than one thousand dollars conditioned on compliance with the provisions of this section and the rules of the State Fire Commission. No municipality is required to file a bond.

2.2.o.2.C. Before any permit is issued for a pyrotechnic display, the person, firm or corporation making application for the permit shall furnish proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of that person, firm or corporation or any agent or employee thereof, in an amount, character and form the State Fire Marshal determined as necessary for the protection of the public.

2.2.p. Storage and Sale of Consumer Fireworks.

2.2.p.1 For the purposes of this subsection, the term "facility" means any building, igloo, barn, trailer, semitrailer or other mobile property.

2.2.p.2. Storage of Fireworks: All new and existing storage facilities for wholesale fireworks distribution in accordance with W. Va. Code § 29-3-25 shall meet the following requirements:

2.2.p.3. Each storage facility shall be of fire resistive construction as defined in NFPA 220;

2.2.p.4. Each storage facility containing 1000 pounds or more of fireworks shall have a complete automatic sprinkler system installed in accordance with NFPA 13, Installation of Sprinkler Systems;

2.2.p.5. A storage facility shall meet all distance requirements set forth in NFPA 1124 with the following addition:

2.2.p.5.A. A storage facility shall not be located within 1000 feet of an inhabited building or structure;

2.2.p.6. Storage and sale permits shall be issued by the State Fire Marshal's Office. Permits will be issued only upon verified compliance of this rule and payment of required fee;

2.2.p.7. An owner or operator shall immediately notify the Fire Marshal's Office within 24 hours of any lost, stolen or unaccounted for fireworks;

2.2.p.8. Smoking shall not be permitted in the storage facility or within 50 feet of the storage facility. Conspicuous signs indicating "Warning -- No Smoking" shall be posted at frequent intervals throughout the storage facility;

2.2.p.9. No fireworks shall be sold to any West Virginia resident. No fireworks shall be sold to any person not holding a wholesale license at any time;

2.2.p.10. A fire alarm system with complete smoke detection shall be installed throughout the storage facility in accordance with this Rule;

2.2.p.11. Each display area shall contain only inert fireworks and shall be secure to prevent unauthorized access to the display area;

2.2.p.12. All sales shall be recorded and shall include the name, address, city, state and zip code, business license number and tax department number of each purchase;

2.2.p.13. A daily inventory of fireworks shall be maintained for each facility;

2.2.p.14. All vehicles transporting fireworks from a distribution facility shall be placarded in accordance with U.S. DOT requirements. If less than 1000 pounds is being transported, a placard of Class C Explosives is required. If more than 1000 pounds is being transported, a placard of Class B Explosives is required. Each vehicle used to transport fireworks shall meet the requirements of NFPA 1124, Code for the Manufacture, Transportation and Storage of Fireworks;

2.2.p.15. Each Fire Department providing emergency services to any storage facility shall be notified in writing of the existence of the storage facility. The notice shall include information as to the type of explosives and explosive hazards that are stored at the storage facility. Pre-fire planning shall be completed by the fire department prior to operating the facility;

2.2.p.16. The land surrounding each storage facility shall be kept clear of combustibles for a distance of at least 25 feet on all sides;

2.2.p.17. Each storage facility shall be securely locked in accordance with NFPA 495, Explosive Material Code;

2.2.p.18. All electrical wiring and fixtures shall meet the requirements of the National Electrical Code, Class II, Group E, Division I locations;

2.2.p.19. All Heating, Ventilation and Air Conditioning shall meet the requirements of this Rule. No open flame heating units are permitted; and

2.2.q. Explosives.

2.2.q.1. As soon as practical after all loaded blast holes (shot) are linked, they shall be immediately connected to a source of ignition and fired by a person legally permitted to do so.

2.2.q.2. Pre-loading blast holes (shots) to be fired at a later time are prohibited. In an emergency situation, this prohibition may be waived by the State Fire Marshal.

2.2.q.3. Section 4.6.2 of the National Fire Protection Association (NFPA) 495, Explosive Material Code, the provisions of which are incorporated in NFPA 1 and adopted by reference in subsection 2.1 of this Rule, is amended to provide that persons 18 years and older may be issued a Class G Special "Helper" permit to use explosives.

2.2.q.4. A valid explosives storage permit shall be obtained from the State Fire Marshal for any explosives stored overnight. Provided that type III portable magazines and type V trailers which have not been disabled for over the road use shall not be counted as magazines for the purposes of the storage permit only. Also provided that a storage permit for explosives stored exclusively underground shall not be required.

2.2.q.5. A valid Permit to Use Explosives (Blaster License) shall be obtained from the State Fire Marshal for all persons detonating explosives for legal purposes and persons possessing and handling explosives. Exception: persons handling and possessing explosives for the sole purpose of inventory and accounting, and who also shall possess an "Employee Possessor/Responsible Person" clearance as issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives where applicable.

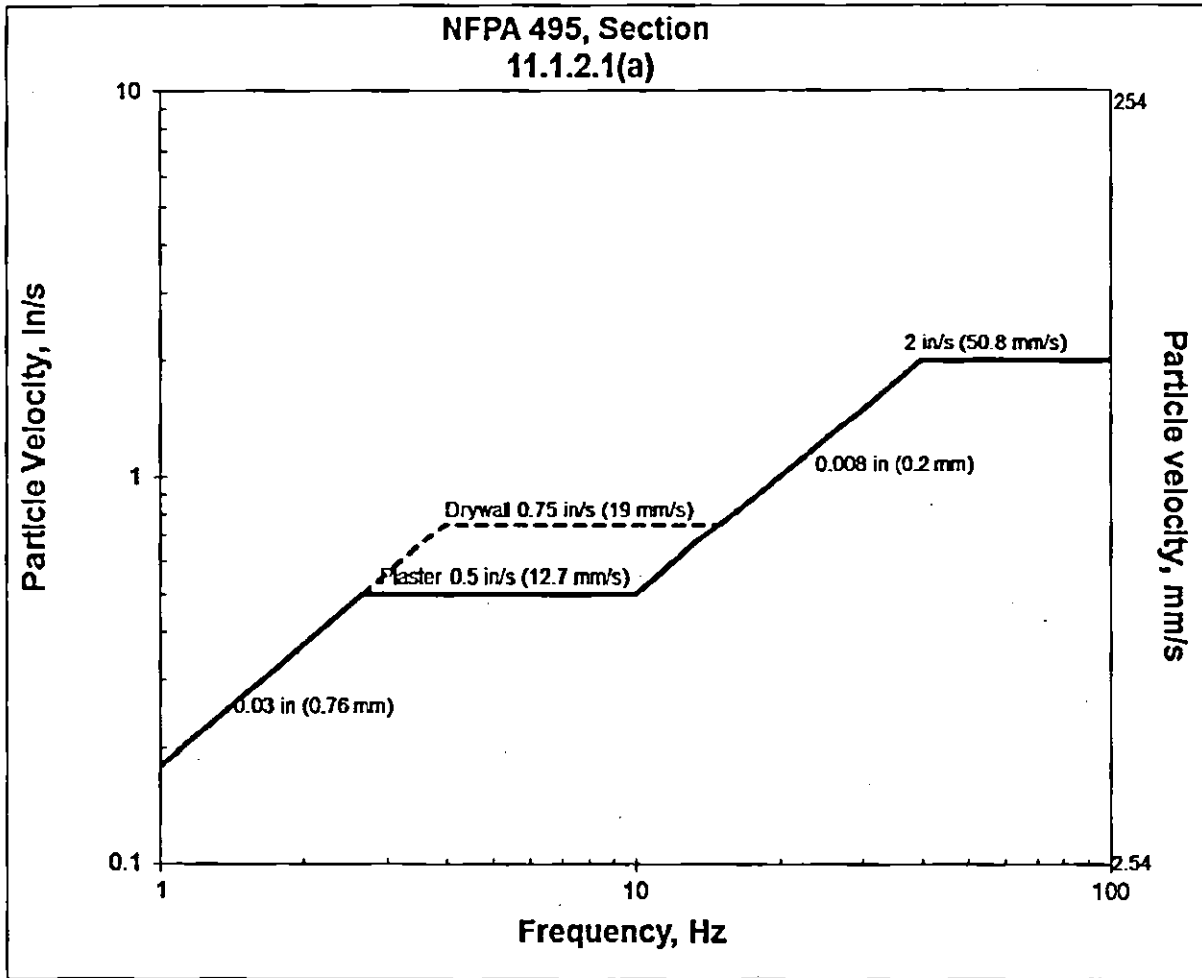
2.2.q.6. Control of Adverse Effects.

2.2.q.6.A. Blasting shall be conducted in a manner that prevents injury to persons and damage to public or private property outside the permit or work area for which blasting activity occurs.

2.2.q.6.B. "Flyrock" defined as rock, mud or debris (excluding dust or detonation byproducts) ejected from the blast site by the force of a blast, shall not be cast beyond the operational boundary of the permit or work area.

2.2.q.6.B.1. If flyrock is cast beyond the operational boundary of the permit or work area, the licensed blaster shall notify the fire marshal by telephone within two (2) hours after learning of the flyrock incident, and submit a flyrock incident report to the fire marshal within three (3) business days after learning of the incident. The report shall be signed by the blaster-in-charge who conducted the blast. The report shall include, at a minimum, a copy of the blast record and all available seismograph data, a sketch of the blast site and rock deposition area, and a detailed explanation of: how the blast(s) were designed and loaded; who witnessed the blast(s) and where they were located and what they observed; the location and nature of the flyrock deposition (including property owners, type and approximate number of rocks, size and distance range), property damages (if any) and personal injuries (if any); the probable cause of the flyrock incident; and the corrective measures to be taken to prevent another flyrock incident.

2.2.q.6.C. Ground vibration, when measured at any dwelling, public or commercial building, school, church, dam, earthen impoundment, or community or institutional building located outside the operational boundary of the permit or work area not owned or leased by the permittee, shall not exceed the limitations as defined and illustrated in NFPA 495, Section 11.1.2.1(a). *Provided, that the requirements set forth in this section shall not apply to blasting operations on surface coal extraction sites otherwise permitted and regulated by the Office of Surface Mining and or the Division of Environmental Protection, Office of Explosives and Blasting.*



2.2.q.4. Airblast, when measured at any dwelling or building listed in (A) (3) of this rule shall be in compliance with NFPA 495, Table 11.2. Air Overpressure Limits.

Table 11.2 Air Overpressure Limits

Lower Frequency of Measuring System [Hz (+/- 3 dBL)]	Measurement Level (dBL)
0.1 Hz or lower – flat response*	134 peak
2 Hz or lower- flat response	133 peak
6 Hz or lower – flat response	129 peak
C-Weighted – slow response*	105 peak

*Only where approved by the state fire marshal.

2.2.q.5. A seismograph shall be used beside the nearest dwelling or building listed in (A) (3) of this rule to demonstrate compliance with the ground vibration and airblast limits listed in (A) (3) and (A) (4) of this rule. As an alternate to seismographic monitoring, the blast shall comply with scaled distance equation, $W = (D/90)^2$, where W is the maximum weight of explosives, in pounds, that can be detonated within any period less than 8 milliseconds, D is the distance, in feet, from the nearest blasthole to the nearest dwelling or building listed in (A) (3) of this rule, and ninety is the applicable scaled distance factor.

2.2.q.6. For structures not listed in (A) (3) of this rule, such as oil or gas wells, oil or gas transmission and distribution lines, high-voltage steel transmission towers, public water lines, silos, and unoccupied barns, located outside the the operational boundary of the blasting operation not owned or leased by the permittee, a seismograph shall be used beside the nearest structure to demonstrate that the peak particle velocity did not exceed 2.0 inches per second. As an alternate to seismographic monitoring, the blast shall comply with scaled distance equation, $W = (D/40)^2$, where W is the maximum weight of explosives, in pounds, that can be detonated within any period less than 8 milliseconds, D is the distance, in feet, from the nearest blasthole to the nearest dwelling or building listed in (A) (3) of this rule, and forty is the applicable scaled distance factor.

2.2.r. Monitoring instruments – All seismographs used to prove compliance with the ground vibration and airblast limits required by this rule shall be deployed in the field according to the ISEE Field Practice Guidelines for Blasting Seismographs (2009 Edition). Whenever possible, the seismographic measurement shall be made within ten (10) feet of the building or structure being monitored, on the side of the building or structure closest to the blast site.

2.2.r.1. A monitoring instrument for recording ground vibration, at a minimum, shall have:

- a. A frequency range of 2 Hz to 250 Hz;
- b. Particle velocity range of .02 to 4.0 inches per second or greater;
- c. An internal dynamic calibration system.

2.2.r.2. A monitoring instrument used to record airblast shall have:

- a. A lower frequency limit of 0.1, 2.0 or 6 Hz;
- b. An upper end flat-frequency response of at least 250 Hz;
- c. A dynamic range that, at a minimum, extends from 106 to 142 dBL.

2.2.r.3. A monitoring instrument shall be calibrated annually and when an instrument is repaired and then the repair may effect the response of the instrument. Calibration shall be done by the manufacturer of the equipment, or by an organization approved by the manufacturer, or by an organization having verifiable knowledge of the calibration procedures developed by the manufacturer. The calibration procedure shall include testing the response of the entire system to externally-generated dynamic inputs. These inputs shall test the entire monitoring system at a sufficient number of discrete frequency intervals to assure flat response throughout the frequency ranges specified by this rule. Dynamic reference standards used for calibration shall be traceable to the National Institute of Standards and technology (NIST). Calibration procedures and documentation of calibration shall immediately be made available upon demand by the State Fire Marshal, or other law enforcement or regulatory personnel.

2.2.r.4. A certificate that indicates the name of the calibration facility, the calibration technician, the date of calibration and frequency range of the airblast monitor shall be made available upon request by the State Fire Marshal, or other law enforcement or regulatory agency.

2.2.s. Monitoring Records.

2.2.s.1. Any person who operates a seismograph for the purpose of demonstrating compliance with the ground vibration and airblast limits of this rule shall receive appropriate training for the

specific seismograph model(s) in use in: programming the seismograph(s) to record the blast; positioning the geophone and microphone; coupling the geophone to the ground; extracting the data after the blast in digital and printed forms; and understanding the results. Such training shall be received from a representative of the seismograph manufacturer or distributor, or other competent person(s). A record of such training shall be maintained by the seismograph operator or his or her employer, and made immediately available for inspection by the state fire marshal or other law enforcement or regulatory agency. All persons who operate a seismograph for the purpose of demonstrating compliance with the ground vibration and airblast limits of this rule shall also receive annual refresher training of at least two (2) hours.

2.2.s.2. Monitoring records, at a minimum, shall contain:

2.2.s.2.A. A calibration pulse on each of the mutually-perpendicular ground vibration traces. These pulses shall represent the dynamic response of the entire recording system to an internally-generated calibration signal, and shall allow the state fire marshal, or other law enforcement or regulatory personnel to verify that the seismograph is recording ground vibration to its specific accuracy.

2.2.s.2.B. The time history of particle velocities for three mutually perpendicular ground vibration traces and one air-overpressure trace, including time base, amplitude scales and peak values for all traces.

2.2.s.2.C. The results of a field calibration test for each channel.

2.2.s.2.D. The frequency content of all vibration signals using either single degree of freedom (SDF) response spectrum, Fast Fourier Transform (FFT) or half-cycle zero-crossing analysis methods.

2.2.s.2.E. Frequency versus particle velocity plots as indicated in NFPA 495, Table 11.1.2.1(b).

2.2.s.2.F. The name and signature of the individual taking the recording.

2.2.s.2.G. The GPS NAD 83 or 27 location of the monitoring instrument, date and time of the recording.

2.2.s.2.H. The last calibration date of the monitoring instrument.

2.2.s.3. If the fire marshal questions the validity of a ground vibration or airblast record, or the interpretation of the record, the fire marshal may require a ground vibration or airblast recording to be analyzed or certified by an independent, qualified consultant who is not related to the blasting activity permittee or its customer. When the fire marshal requires that a recording be analyzed or certified, it shall be performed and included with the blast report within thirty (30) days.

2.2.t. Blasting Activity Registration.

2.2.t.1. "Applicant" is defined as any user of commercial explosives that has obtained applicable BATF clearances and intends to legally detonate any amount of commercial explosives for authorized purposes.

2.2.t.2. An agency approved form shall be submitted for any and all blasting activity, excluding surface coal extraction activities already permitted by the Office of Surface Mining and or the Division of Environmental Protection, Office of Explosives and Blasting, to the State Fire Marshal no less than 14 days prior to the blasting activity commencing, and shall include the following information:

- of business;
- 2.2.t.2.A. The applicant's name, address, telephone number and type
- 2.2.t.2.B. A contact person's name title and telephone number;
- performing the blasting activity;
- 2.2.t.2.C. The identity of independent subcontractors who will be
- 2.2.t.2.D. The type of explosive to be used;
- 2.2.v.2.E. The location of the blasting activity;
- 2.2.t.2.F. Job duration and times of blasting activity.

2.2.u. Blast logs.

2.2.u.1. Blast logs shall be maintained for a period of five years by anyone conducting blasting activities. Those logs shall immediately be made available upon demand by the State Fire Marshal, or other law enforcement or regulatory personnel.

2.2.u.2. The blast log shall include as a minimum:

- 2.2.u.2.A. The name of the blasting activity applicant;
- 2.2.u.2.B. The storage permit number, if applicable;
- 2.2.u.2.C. The date and time of the blast;
- coordinate system;
- 2.2.u.2.D. The location of the blast using GPS NAD 83 or 27
- 2.2.u.2.E. The owner name, address and GPS NAD 83 or 27
- coordinates of the nearest building location not owned by the blasting activity applicant or customer;
- 2.2.w.2.F. The direction and distance in feet from the blast site to the
- nearest structure not owned by the blasting activity applicant or its customer;
- 2.2.u.2.G. The direction and distance to the closest utility not owned
- by the blasting activity applicant or its customer;
- 2.2.u.2.H. The type of material to be blasted;
- 2.2.u.2.I. The type of stemming/decking material used;
- 2.2.u.2.J. The measures taken to control flyrock, including whether
- or not mats were used;
- 2.2.u.2.K. The weather conditions including temperature, wind
- direction and speed, cloud cover;
- 2.2.u.2.L. The total number of holes, diameters, depths, burdens,
- spacings, subdrill, top and deck stemming heights, pounds per hole and cubic yards or tons per hole;

- not including detonating cord; 2.2.u.2.M. Explosives product densities and pounds used and/or units,
- cartridges used; 2.2.u.2.N. The total weight in pounds of explosives and primer
- 2.2.u.2.O. The type and total length in feet of detonating cord(s) used;
- total quantity each type of detonator used; 2.2.u.2.P. The type, length, delay period(s), of each detonator and the
- 2.2.u.2.Q. The type(s) of initiation system used;
- per delay period of less than 8 milliseconds; 2.2.u.2.R. The maximum weight in pounds of explosives detonated
- owned by the applicant or client; 2.2.u.2.S. The scaled distance to the closest structure and/or utility not
- 2.2.u.2.T. The powder factor(s) in pounds per cubic yard, tons per
- blast report within 24 hours of the blast; 2.2.u.2.U. The monitoring records required shall be made a part of the
- 2.2.u.2.V. A technical illustration (sketch) showing north arrow, the
- direction to the nearest structure and/or utility, the arrangement of blast hole burdens and spacings, firing
- time(s) for each blast charge, point of initiation, and free faces;
- load cross section(s); 2.2.u.2.W. A technical illustration (sketch) showing typical borehole
- blaster-in-charge for each blast; 2.2.u.2.X. The printed name, signature, and permit number of the
- 2.2.u.2.Y. Any unusual conditions or comments.

2.3. Necessity of NICET Certification for Fire Protection and Fire Alarm Systems.

2.3.a. No fire protection and fire alarm system maintenance, repair or inspection work may be performed, offered or engaged in for compensation or hire within the State of West Virginia by any company unless the company maintains at least one (1) employee possessing a valid certificate of competency issued by the National Institute of Certification in Engineering Technologies (NICET). All companies shall be registered with the State Fire Commission and shall provide annual information on NICET certificate holders employed by their company for the purpose of maintenance, repair or inspection activities.

2.3.b. All fire protection extinguishment devices or systems not covered in 14.7.a. shall adhere to the following: No fire protection equipment or system installation, maintenance, repair or inspection work may be performed, offered or engaged in for compensation or hire within the State of West Virginia by any company unless the company maintains at least one (1) employee possessing a valid certificate of competency issued by the equipment or system manufacturer. All companies shall be registered

with the State Fire Commission and shall provide annual information on certificate holders employed by their company for the purpose of installation, maintenance, repair or inspection activities.

§ 87-1-3. Reporting of Fire Incidences.

The Fire Chief of any organized public fire brigade, department or company shall report every fire and non-fire incident to the State Fire Marshal. Every fire and non-fire incident response shall be reported within one hundred eighty (180) days after the date of the incident. Provided, that any fire or explosion involving human fatality, arson or suspected arson shall be reported immediately.

§ 87-1-4. Unvented Heaters.

All unvented fuel fired heaters are prohibited for all occupancies except one (1) and two (2) family dwellings. Provided, that a single unvented fuel fired heater is permitted for demonstration purposes in authorized mercantile applications when installed in accordance with manufacturers recommendations. The single heater shall be connected to a permanent source of fuel and shall not be used as a permanent or alternate source of heating. The unvented heater shall be shut off at the end of each business day.

§ 87-1-5. Maintenance of Fire Hazard; Order for Correcting Condition, Removal of Material, Repair, Demolition, etc.; Order to Contain Notice to Comply and Right to Appeal.

Whenever the State Fire Marshal, by and through persons working under his or her direction, determines based upon the State Fire Code and/or on the experience and knowledge applied in the operation of his or her office (1) that any building or structure has been constructed, altered, or repaired in a manner violating the State Fire Code as promulgated prior to the commencement of the construction, alterations, or repairs, or (2) that any building or structure is being maintained or used in such a way as to endanger life or property from the hazards of fire or explosion, or (3) that any building or other structure or property of any kind, which, for want of repairs, or by reason of its age, dilapidated, or abandoned condition or for any other reason constitutes a fire hazards and is located or constructed so as to constitute a danger to other buildings, property, persons, life, or limb, or (4) that in any building or upon any premises there is located any combustible, flammable, or explosive substance or material or other condition dangerous to the safety of persons occupying the building or premises and adjacent premises and property, the State Fire Marshal shall order the condition or thing to be corrected, or combustible, flammable or explosive, items to be removed, or the building or buildings to be repaired, closed to occupants, or removed, as required by the circumstances. The order shall be promptly complied with by the owner, agent, occupant, and lessee of the premises, place, property, or thing. Any order may be expressed in the alternative, e.g. allowing repair but on the failure to repair requiring demolition. Any order by the State Fire Marshal which concludes that a fire hazard exists, shall state what repairs and/or demolition must be accomplished, and that compliance must be completed within thirty (30) days of issuance. In the event of noncompliance, the State Fire Marshal is authorized by statute to enter into and upon the premises affected by the order and cause the building, structure, premises, or thing to be repaired, or torn down, materials removed, and all dangerous conditions remedied (as the case may be) at the expense of the owner, and shall advise that the order can be contested by entering an appeal to the State Fire Commission as outlined in Section 13 of this Rule.

§ 87-1-6. Interference with Fire Protection Equipment.

No person shall render any portable or fixed fire extinguishing system or device or any fire warning system inoperative or inaccessible except as may be necessary during emergencies, maintenance, drills or prescribed testing.

§ 87-1-7. Exit Inspections and Public Life Safety Announcements.

7.1. Inspection of Exits. Not more than ninety (90) minutes prior to the scheduled commencement of any noncontinuous activity, event, performance, show, meeting, function, or other occasion for which people will gather in a place of assembly, the owner or his or her designee pursuant to written authority, instructions, or procedures shall inspect every required exit, way of approach to an exit, and way of departure from an exit. If the inspection reveals that any required means of egress is obstructed, inaccessible, locked, fastened, or otherwise unsuited for immediate use, the scheduled program shall not begin, nor shall admittance to the place of assembly be permitted, until necessary corrective action has been completed.

7.2. Announcements. Immediately prior to the start of a program for which 300 or more people will gather in a place of assembly, the owner or his or her authorized agent shall orally notify all attendees concerning the location of the exits to be used in case of fire or other emergency.

7.3. Records. An accurate record of all inspections, corrections, and notifications shall be kept and retained for at least two (2) years in the offices of the respective building owners. The records shall contain:

7.3.a. a brief description of each activity, event, performance, etc., including its date, time, and location;

7.3.b. the name and signature of the person who performed each requirement of this section; and

7.3.c. the date and time when each requirement was performed.

7.4. Alternatives- In case of practical difficulty or undue hardship, or in which compliance would not significantly increase life safety, the State Fire Marshal may approve or accept alternative means of accomplishing the objectives of this section.

§ 87-1-8. Forest Fire Season.

8.1. The periods of each year between March first and May thirty-first, inclusive, and October first and December thirty-first, inclusive, are designated as forest fire seasons. No person shall during any fire season, except between the hours of five o'clock p.m. and seven o'clock a.m. prevailing time, set fire to, or procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire, located in or within 300 feet of any woodland, brushland, or field containing dry grass or other inflammable material. Any fire set during this time shall be extinguished prior to seven o'clock a.m. prevailing time. The prohibition of fires between seven o'clock a.m. and five o'clock p.m. prevailing time does not include (1) small fires set for the purpose of food preparation, or providing light or warmth around which all grass, brush, stubble, or other debris has been removed for a distance of ten feet from the fire, and (2) burning which may be conducted at any time when the ground surrounding the burning site is covered by one inch or more of snow. Any person who sets or causes to be set any fire permitted by this section shall not leave the fire unattended for any period of time.

8.2. Any person or his or her agent or employee who sets or causes to be set any fire at any time in the use and occupation of any kind on which the burning was being done is in violation of this section if fire escapes beyond the safety strip. Any person who, by himself or herself, or by his or her employees, agents or guides or as an employee, agent or guide of any other person, at any time builds or use any fire in any field, on any public or private road, or in any area adjacent to or on any forest land in this state, shall before leaving the fire for any period of time, totally extinguish the fire. A person shall not at any time throw or place any lighted match, cigar, cigarette, firecracker or lighted material on any forest land, private road, public highway or railroad right-of-way within this state.

§ 87-1-9. Executive Order by the Governor on Open Burning.

On those occasions when the Governor of the State issues an Executive Order or Proclamation to ban open burning due to weather conditions, the State Fire Marshal may assist in the enforcement of the provisions of the Proclamation or Executive Order.

§ 87-1-10. Outdoor Storage of Used Tires.

The storage of used tires shall comply with the following:

- 10.1. All outdoor storage of used tires shall be free from all trash and debris within the site;
- 10.2. The owner and operators of outdoor storage of used tires shall maintain controlled access to the property with only one entrance/exit, and shall install security lighting for use during evening and night time hours as designated by the State Fire Marshal;
- 10.3. All outdoor storage of used tires shall have a perimeter security chain link fence of a minimum height of six feet;
- 10.4. All storage of used tires, shredded or unshredded, shall be separated into individual piles on the property. No pile may exceed 50 feet wide by 50 feet deep by 15 feet in height;
- 10.5. In the absence of an available water supply of at least 500 GPM (gallons per minute) provided by fire hydrants within 1000 feet of the facility, a minimum of 10,000 thousand gallon water supply on the site for exclusive use of fire fighting personnel shall be established;
- 10.6. Fire lanes having a minimum of forty-five foot lanes capable of supporting fire apparatus shall be established and maintained between all tire piles;
- 10.7. A minimum of a fifty foot wide zone around the site perimeter inside the fence line shall be maintained;
- 10.8. All storage piles shall have a minimum of a thirty inch high earthen dike around each tire pile as the piles are established;
- 10.9. A maximum of eighteen tire piles may be established on a single site; and
- 10.10. No site may exceed the storage of more than three hundred thousand tires without the approval of the State Fire Marshal.

§ 87-1-11. Stopping, Standing or Parking Prohibited in Specified Areas.

11.1. No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic-control device, in any of the following places:

- 11.1.a. Within fifteen feet of a fire hydrant; or
- 11.1.b. Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of the entrance when properly sign-posted.

§ 87-1-12. Crossing Fire Hose.

No person shall drive a streetcar or vehicle over any unprotected hose of a fire department when it is laid down on any street, private driveway, or streetcar track, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

§ 87-1-13. Emergency Vehicle Permits.

13.1. Authorization for all fire department vehicles and firefighters to operate Class A vehicles shall be designated by their fire chief and the State Fire Marshal's Office. Vehicles authorized by W. Va. Code § 17C-15-26 shall have red flashing warning lights and an audible signaling device, such as a siren, whistle or bell capable of emitting sound audible from a distance of not less than 500 feet.

13.2. Upon receipt of written notification from the Fire Chief of the local fire department to the State Fire Marshal requesting that an Emergency Vehicle Permit be revoked, the State Fire Marshal shall cause the permit to be revoked.

§ 87-1-14. Fire Safety Separation Requirements for Mobile Home Sites.

14.1. No portion of a manufactured home, excluding the tongue, shall be located closer than 3 m (10ft) side to side, 2.4 m (8 ft) end to side, or 1.8 m (6 ft) end to end horizontally from any other manufactured home or community building unless the exposed composite walls and roof of either structure are without openings and constructed of materials that will provide a 1-hour fire resistance rating or the structures are separated by a 1-hour fire-rated barrier.

14.2. Manufactured homes shall not be positioned vertically, stacked with one over the other, in whole or in part, unless the structure is designed and approved for such installation and permitted by the authority having jurisdiction.

§ 87-1-15. Propane Gas Training Program Certification.

Any person who installs or maintains liquefied petroleum gas systems shall complete training standards and qualifications as established by the National Propane Association Certified Employee Training Program. Exemption: Any person who installs, fuels, maintains or services a fuel gas system on a single family dwelling owned or leased, and occupied by that person.

§ 87-1-16. Requirement of Occupancy Certificate

An Occupancy Certificate shall be obtained before a new or majorly renovated/reconstructed (compromising 50% or more of the space renovated or reconstructed) building is occupied or used for its intended purpose.

§ 87-1-17. Orders and Decisions of the State Fire Marshal; and Appeals and Procedure for Appeals from such Orders or Decisions.

17.1. State Fire Marshal's Order and Decisions are Final and Conclusive. -- Any order or final written decision of the State Fire Marshal based upon or made in the course of the administration or enforcement of the provisions of W. Va. Code § 29-3-1 et seq. based upon or made pursuant to this rule is final, unless vacated or modified upon review pursuant to the appeal rights and procedures provided by W. Va. Code § 29A and this rule.

17.2. State Fire Marshal's Order And Decisions Appealed. -- Any person aggrieved by an order or final written decision of the State Fire Marshal based upon or made in the course of the administration or enforcement of the provisions of W. Va. Code § 29-3-1 et seq. or made pursuant to this rule, and desiring to contest the order or written decision may file an appeal from the order or written decision with the State Fire Commission. Preservation of the right to an appeal and the procedure for the contested case is governed by this section and by W. Va. Code § 29-3-1 et seq.

17.3. W. Va. Code § 29-3-12(g) and (I) Inquiry and Investigation. -- The testimony which may be obtained by the State Fire Marshal pursuant to the authority in W. Va. Code § 29-3-12(g) and (I) shall be obtained without compliance with the provisions in this rule governing "Procedure in Contested Cases." Where appropriate, a subsequent order by the State Fire Marshal relating to the testimony obtained is the same as any other order by the State Fire Marshal subject to the appeal rights provided in W. Va. Code § 29-3-1 et seq.

17.4. Appeal Petition. -- The appeal petition shall be typewritten, styled "Appeal Petition", and the appellant shall submit an original and one (1) copy. It shall be complete in itself so as to fully state the matters contested. No telegram, telephone call, or similar communication will be regarded as an appeal petition. The petition shall contain and include the following:

17.4.a. a copy of the order or decision of the State Fire Marshal being contested;

17.4.b. a clear and concise assignment of each error which the petitioner alleges to have been committed by the State Fire Marshal in issuing the order or decision with each assignment of error being shown in separately numbered paragraphs;

17.4.c. a clear and concise statement of the facts upon which the petitioner relies as sustaining his or her assignment of errors;

17.4.d. the address to which the petitioner desires to have all notices, documents, and the final order of the State Fire Commission mailed;

17.4.e. the telephone number or numbers where the petitioner can be contacted;

17.4.f. the names and addresses of all persons having any ownership interest in the property which is the subject of the State Fire Marshal's order being contested;

17.4.g. a prayer setting forth the relief sought; and

17.4.h. the signature of the petitioner or its duly authorized officer.

17.5. Time Requirement and Manner of Filing Appeal Petition. -- The petitioner shall submit an appeal petition by personal delivery or mailed to the State Fire Commission within thirty (30) days following service upon the petitioner, or within thirty (30) days following actual receipt if service is not required or for some reason is not made of the order or decision being contested. Any appeal petition shall be sent by certified mail, return receipt requested, and is timely if postmarked within the thirty (30) day period. Any appeal petition not delivered or mailed within the thirty (30) day period is not timely filed and the order or decision of the State Fire Marshal being contested is final.

17.6. Copy of Appeal Petition to State Fire Commission. -- Upon receipt of an appeal petition, the Chairman of the State Fire Commission, through office staff, shall supply a copy of the petition to the State Fire Commission members together with an opinion by the State Fire Marshal regarding the urgency

of the matter being contested. If the State Fire Marshal elects to file a response to the appeal petition, he or she shall deliver a copy of the response to the State Fire Commission and a copy to the petitioner.

17.7. Scheduling Appeal Petition for and Notice of Hearing. -- The State Fire Commission Chairman through office staff shall schedule a hearing on the appeal petition giving the petitioner and the State Fire Marshal at least ten (10) days written notice of the date, time, and place of the hearing. The notice to the petitioner shall be by personal delivery or by certified mail, return receipt requested, shall contain a short and plain statement of the matters to be considered at the hearing, and a copy of the State Fire Marshal's response, if any, to the appeal petition, and shall be mailed or personally delivered by the State Fire Marshal no later than thirty (30) days after receipt of the appeal petition. A copy of the notice to the petitioner shall be supplied to the State Fire Marshal. The hearing shall be conducted at a designated location in Charleston, West Virginia, or in the discretion of the State Fire Commission at a location within the county where the premises in question are located.

17.8. Authorized Representative. -- The petitioner may appear individually, or by counsel.

17.9. Continuances -- A motion for continuance shall not be granted unless made in writing three days before the hearing or during the hearing, in either case for good and sufficient cause. Upon consideration of a motion for continuance, the urgency of the situation shall be determined and taken into consideration. Conflicting engagements of counsel or the employment of new counsel are not good grounds for a continuance unless a motion is filed promptly after the notice of hearing has been mailed or unless extenuating circumstances are shown, which the State Fire Commission or hearing examiner considers adequate.

17.10. Absence of Petitioner or Counsel at the Scheduled Hearing -- A hearing by the Fire Commission shall not be delayed or continued due to the absence of the petitioner or his or her legal counsel at a hearing, after service of notice of the time, date, and place of the hearing. The hearing shall proceed and the case shall be submitted for decision on the part of the absent petitioner or petitioners.

17.11. Hearing Examiner -- Any member of the State Fire Commission may conduct a hearing on an appeal petition and has full authority to conduct the proceedings on an appeal petition, and when acting in that capacity shall be referred to as the hearing examiner. Alternatively, the State Fire Commission may authorize and empower an impartial attorney as a hearing examiner with the specific powers listed in W. Va. Code § 29A-5-1(d).

17.12. Subpoenas and Subpoenas Duces Tecum.

17.12.a. At any hearing held under this section, the testimony of witnesses and the production of documentary evidence may be required through the use of subpoenas and subpoenas duces tecum. The State Fire Marshal may issue subpoenas and subpoenas duces tecum at the request of the petitioner, the hearing examiner or the State Fire Commission.

17.12.b. Every subpoena or subpoena duces tecum is required to prove service at least five (5) days before the return date of that subpoena, either by personal service made by any person eighteen (18) years of age, or older, or by registered or certified mail. A return acknowledgment signed by the person to whom the subpoena or subpoena duces tecum is directed is required to prove service by registered or certified mail.

17.12.c. Any party requesting a subpoena or subpoena duces tecum shall see that it is properly served. Service of a subpoena or subpoena duces tecum issued at the insistence of the State Fire Commission is the responsibility of the State Fire Commission.

17.12.d. Any public official who serves any subpoena or subpoena duces tecum is entitled to the same fee as a Sheriff who serves a witness subpoena for a circuit court of this state; and fees for the attendance and travel of witnesses are the same as for witnesses before the circuit courts of this state. All fees shall be paid by the State Fire Commission if the subpoena or subpoena duces tecum is issued at the instance of the Commission. All fees related to any subpoena or subpoena duces tecum issued at the instance of the petitioner or the State Fire Marshal shall be paid by the party requesting the subpoena or subpoena duces tecum.

17.12.e. A request for a subpoena or subpoena duces tecum shall be in writing and shall contain a statement acknowledging that the requesting party agrees to pay the required fee.

17.12.f. Any person receiving a subpoena or subpoena duces tecum issued under this section shall honor the subpoena or subpoena duces tecum as though it were issued by a circuit court of the state, and shall appear as a witness and/or produce the books, records, or papers in response to the subpoena or subpoena duces tecum. In case of disobedience or neglect of any subpoena or subpoena duces tecum served on any person or the refusal of any witness to testify to any matter regarding which he or she may be lawfully interrogated, the circuit court of the county in which the hearing is being held, upon application by the State Fire Commission, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena or subpoena duces tecum issued from the circuit court or a refusal to testify in the circuit court.

17.13. Evidence.

17.13.a. All witnesses appearing at the hearing shall testify under oath or affirmation. Every adverse party has the right of cross-examination of witnesses who testify, and has the right to submit rebuttal evidence.

17.13.b. All relevant and material evidence, including papers, records, agency staff memoranda and documents in the possession of the State Fire Commission or the State Fire Marshal of which either party desires to avail himself or herself, may be offered and made a part of the record in the case.

17.13.c. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded by the Fire Commission. Except as otherwise in this section, the rules of evidence as applied in civil cases in the circuit courts of this state shall be followed in considering the admissibility of evidence. However, when necessary to ascertain facts not reasonably susceptible of proof under those rules, reasonably authenticated evidence not admissible under those Rules may be admitted, except where precluded by the W. Va. Code or privilege, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

17.14. Record of Proceedings. -- All of the testimony, evidence and rulings on admissibility of evidence at any hearing shall be recorded by a certified court reporter. An official record of the hearing shall be prepared by the State Fire Commission. A transcript shall only be prepared if the Commission's final decision is appealed. The cost of the transcript shall be paid by the party requesting it.

17.15. Informal Disposition. -- At any stage of the proceedings, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

17.16. Decision by the State Fire Commission. -- Upon the conclusion of the hearing, the person designated by the State Fire Commission as hearing examiner shall prepare a decision supported by findings of fact and conclusions of law affirming, modifying, or vacating the earlier order of decision of the State Fire Marshal. The State Fire Commission may either accept, modify, or reject the hearing examiner's decision. If the Commission accepts the hearing examiner's decision it shall sign the decision. If the Commission

rejects or modifies the hearing examiner's decision, it shall prepare a written decision setting forth findings of facts and conclusions of law. In either event, the order signed by the State Fire Commission shall be final unless vacated or modified upon judicial review thereof. A copy of the order shall be served on all parties to the hearing and all attorneys of record, if any, in person or by certified mail, return receipt requested.

17.17. Judicial Review. -- The petitioner or by the State Fire Marshal may appeal the Commission's decision to the circuit court of the county where the premises are located, if the appeal is filed within thirty (30) days after the date upon which party was served with a copy of the final order or decision of the State Fire Commission. The final order signed by the State Fire Commission is final if the proceedings for judicial review are not instituted within the said thirty (30) day period.

**TITLE 87
LEGISLATIVE RULE
FIRE COMMISSION**

**SERIES 1
FIRE CODE**

2013 JUN 19 PM 1:05

§ 87-1-1. General.

1.1. Scope. -- This rule establishes the State Fire Code for the safeguarding of life and property from the hazards of fire and explosion.

1.2. Authority. -- This legislative rule is issued under authority of W. Va. Code § 29-3-5.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. This rule repeals and replaces W. Va. 87 CSR 1, Fire Commission, Fire Code, filed April 26, 2010, and effective July 1, 2010.

1.6. Exemption. -- This State Fire Code has no application to personal care homes caring for three or less patients or buildings used wholly as dwelling houses for no more than two families and has no application to farm structures. Provided; however, that farm structures (1) used for group sleeping accommodations for farm workers or (2) used for educational, health care, assembly or detention/correctional occupancy are not exempt from the requirements of this State Fire Code.

1.7. Incorporation of Other Documents. -- This State Fire Code does not include a reprinting of all the requirements imposed by statute or by the incorporation of various National Standards and Codes cited in Section 2 of this rule. For ascertaining these additional standards and requirements it is necessary to make reference to these other documents.

§ 87-1-2. National Standards and Codes.

2.1. The standards and requirements as set out and established by NFPA 1 of the 2012 edition of "The National Fire Codes" published by the National Fire Protection Association and has the same force and effect as if set out verbatim in this rule and is hereby adopted and promulgated by the State Fire Commission as a part of the State Fire Code with the following exceptions or additions:

2.1.a. NFPA 101 2012 edition is adopted in full, as opposed to the limited capacity as set forth in NFPA 1, with the following additions:

2.1.a.1. 11.8 of NFPA 101 is adopted in full with the following additions:

2.1.a.1.A Any new building or structure more than forty (40) feet in height, measured from the lowest level of fire department vehicle access to the floor of the highest normally occupied space used for human occupancy of the structure, is subject to this section for high rise buildings. This rule shall not nullify or interfere with existing city high rise ordinances or local laws previously adopted prior to September 8, 1975 relative to high rise buildings. Industrial occupancies not occupied as business offices are exempted from the provisions of this section.

2.1.a.1.B. Addition of Floors to Existing Buildings. -- Whenever floors are added to an existing building, which previously was not a high rise, causing the building to become a high rise, the building shall qualify as a new building for purposes of this rule.

2.1.a.1.C. Automatic Fire Extinguishing Systems & Standpipe Systems. -- Any building or structure as defined in Subsections 2.1.a.1.A. or 2.1.a.1.B. of this Rule and used for human occupancy shall have an approved automatic fire extinguishing system throughout the entire building and standpipe systems installed in accordance with The National Fire Codes, adopted under Section 2 of this Rule. Class I Manual Standpipe Systems may be used up to 75 feet as adopted by NFPA 14, Standard for Standpipe Systems.

2.1.a.1.D. Fire Alarm System. -- The fire alarm system of a high rise building shall conform to the Standards imposed by this Rule.

2.1.a.1.E. Fire Department Voice Communication System. -- A High rise building or structure used for human occupancy that is seventy-five (75) feet in height or greater as measured in accordance with Subsection 2.1.a.1.A. of this Section shall have an approved electrically supervised fire department voice communication system. The Fire Department Voice Communication System shall be located at each floor level of stair enclosures, elevator lobbies, the penthouse and in any elevator designated for fire department use. This system shall be a telephone jack system unless specifically approved otherwise by the designated fire authority having jurisdiction.

2.1.a.1.F. High Rise Central Control Station. -- In every high rise building as defined in Subsections 2.1.a.1.A. and 2.1.a.1.B. of this Section, a central control station for Fire Department operations shall be provided in a location approved by the State Fire Marshal or the designated local fire authority. The Central Control Station shall contain: (1) the fire department voice communication system panel when required, (2) fire detection and alarm system panels, (3) status indicators for the Heating, Ventilation and Air Conditioning (HVAC), Smoke Control System, fire pumps and emergency generator and a (4) telephone approved by designated fire authority having jurisdiction. Emergency lighting shall be provided at the Central Control Station.

2.1.a.1.G. Emergency Power. -- A permanently installed emergency power generation system conforming to The National Fire Codes adopted by Section 2 of this Rule shall be provided in every high rise building 75 feet in height or greater, as measured in accordance with subsection 2.1.a.1.A. of this Section. All power, lighting, signal, and communication facilities, required by this rule or otherwise, shall be transferable automatically to the emergency power system. The emergency power system shall be of sufficient capacity to provide service for, but not limited to, the following:

- 2.1.a.1.G.1. the Fire Alarm System;
- 2.1.a.1.G.2. Exit & Other Emergency Lighting;
- 2.1.a.1.G.3. Fire Protection Equipment;
- 2.1.a.1.G.4. the Smoke Management System;
- 2.1.a.1.G.5. the Fire Department Elevator;
- 2.1.a.1.G.6. the Fire Department Voice Communication System; and
- 2.1.a.1.G.7. the Fire Pumps.

2.1.a.1.H. Smoke Management. -- In all high rise buildings as defined in Subsections 2.1.a.1.A. and 2.1.a.1.B. of this Section, a smoke management system designed in accordance with NFPA 92A, Smoke-Control Systems, and 92B, Smoke Management Systems in Malls, Atria and Large Areas, shall be provided and acceptable to the State Fire Marshal.

2.1.a.1.I. Floor Designation. -- All stairway doors, both on the stairway and entrance side, shall indicate the floors by number. The floor number shall be in at least 6" block letters in a contrasting color

2.1.b. NFPA 5000 is excluded in its entirety;

2.1.c. NFPA 472 is excluded in its entirety;

2.1.d. NFPA 120 is excluded in its entirety;

2.1.e. NFPA 101A is excluded in its entirety.

2.2. For purposes of this rule, the following shall be in addition to, and override and take precedent over any standard set forth in NFPA 1, or NFPA 101:

2.2.a. Sprinkler Protection and Area Limitations.

Approved automatic sprinkler systems in accordance with the applicable NFPA Standard for Sprinkler Systems will be installed in all new buildings used for any occupancy, exceeding the area limitations noted in the chart at the end of this subsection. Sprinkler protection for occupancies covered by Section 2 of this rule are required to provide sprinkler protection regardless of area limitations. *See* Table 2.2.a. below.

2.2.a.1. All residential occupancies, except one and two family dwellings, shall display in a prominent place, a placard or sign indicating or stating if the building contains an approved automatic sprinkler system, or not

**TABLE 2.2.a.
SPRINKLER PROTECTION & AREA LIMITATION****

Type of Construction	BUILDING HEIGHT				
	1 Story	2 Story	More than 2 Stories and Up to 40 ft.	More than 40 feet	More than 75 feet
Type I					
443					
Fire Resistive	50,000	45,000	15,000	Sec. 2.1-High Rise	Sec. 2.1-High Rise
332					
Fire Resistive	40,000	30,000	10,000	Sec. 2.1-High Rise	Sec. 2.1-High Rise
Type II					
222					
Protected Non-Com.	35,000	25,000	10,000	Sec. 2.1-High Rise	Sec. 2.1-High Rise
111					
Protected Limited Combustible	30,000	20,000	8,000	Sec. 2.1-High Rise	Sec. 2.1-High Rise
000					
Unprotected Limited Unprotected Non-Com.	12,000	8,000		NOT PERMITTED	NOT PERMITTED
			Require Sprinklers		
Type III					
211					
Protected Ordinary	10,000	6,000		NOT PERMITTED	NOT PERMITTED
200					
Non-Protected Ordinary	8,000	4,000		NOT PERMITTED	NOT PERMITTED
			Require Sprinklers		
Type IV					
2HH					
Heavy Timber	9,000	6,000		NOT PERMITTED	NOT PERMITTED
			Require Sprinklers		
Type V					
111					
Protected Wood Frame	8,000	4,000		NOT PERMITTED	NOT PERMITTED
			Require Sprinklers		
000					
Non-Protected Wood Frame	6,000	3,000		NOT PERMITTED	NOT PERMITTED

****Notes to Table 2.2.a.:**

(1) The word "area" means that area enclosed by exterior or foundation walls, fire walls, or a combination of exterior or foundation walls. A fire wall shall be constructed in accordance with NFPA 221, Standard for Fire Walls and Fire Barrier Walls, with a minimum of a 2 hour fire rating. Buildings shall only be separated by one (1) two hour fire wall and areas shall be divided as equally as possible.

(2) The phrase "not permitted" means that buildings of these heights are not permitted for the type of construction indicated.

(3) The phrase "Section 2.1-High Rise" means that the building shall also comply with Section 2.1 of this Rule.

(4) Types of building construction indicated in the chart are located in NFPA 220 and 221, Standard on Types of Building Construction.

(5) Exception: Automatic sprinklers shall not be required in open parking structures as defined in NFPA 88A of Type I or Type II construction that are less than 40 feet in height as measured per Section 2.1.a.1.A. of this Rule.

2.2.b. Sprinkler Protection (Certain Occupancies).

2.2.b.1. All nursing, convalescent, old age, custodial care, long term or extended care homes or institutions, and correctional or detention facilities, existing and new, regardless of the type of construction, shall have a complete automatic sprinkler protection in accordance with NFPA Standard 13 contained within the National Fire Codes and incorporated by reference in Subsection 2.1 of this rule.

2.2.b.2. Homes or institutions caring for more than three patients shall meet the requirements of this section.

2.2.c. Carpet Used as Floor Covering.

2.2.c.1. Flammability Requirements for Carpet Used As Floor Covering.

2.2.c.1.A. In institutional, health care, educational and penal occupancies, carpet shall meet a minimum value of 0.45 watts per square centimeter in all corridors and exits. Carpet in all other areas shall meet a minimum value of 0.22 watts per square centimeter.

2.2.c.1.B. Flammability requirements for carpet used as floor covering in all other occupancies shall meet a minimum value of 0.22 watts per square centimeter in all corridors and exits.

2.2.c.1.C. Any pad used under the carpet shall meet the minimum class of the carpet installed.

2.2.c.1.D. The values shall be determined by NFPA 253, Critical Radiant Flux of Floor Covering Systems.

2.2.c.2. Smoke Generation Properties of Carpet Used as Floor Covering.

2.2.c.2.A. In all occupancies smoke generation shall not exceed a maximum value of $D_m=450$ (flaming mode).

2.2.c.2.B. The value shall be determined by ASTM E-662, Specific Optical Density of Smoke Generation by Solid Materials.

2.2.c.2.C. All test data for determining the flammability and smoke properties of carpets shall be conducted by a nationally recognized laboratory as certified by the National Voluntary Laboratory Accreditation Program.

2.2.c.2.D. Where an approved, automatic sprinkler system is installed and all floors are non-combustible, Class II carpet is permitted in any location where Class I carpet is required. Where an approved automatic sprinkler system is installed and all floors are noncombustible and Class II carpet is permitted, no rating is required.

2.2.d. Fire Alarm System.

2.2.d.1. General Requirements for All Occupancies.

2.2.d.1.A. The following requirements apply in addition to NFPA 101, Life Safety Code, Chapter 9, Section 9.6 as adopted by this Rule:

2.2.d.1.A.1. All fire alarm systems, including all components, shall be electrically supervised. Components include pull stations, automatic detection, audio visual devices, flow switches, tamper switches and the main panel.

2.2.d.1.A.2. All fire alarm systems shall be tied in ahead of the main power disconnect, unless a secondary power source is provided.

2.2.d.1.A.3. All sprinkler systems OS & Y, P.I.V. and other Control Valves shall be electrically supervised and tied into the trouble/supervisory side of the fire alarm control panel.

2.2.d.1.A.4. All sprinkler systems shall be tied in so water flow will activate the general fire alarm audio visual device.

2.2.d.1.A.5. Flow and/or pressure switches shall be annunciated separately on the main fire alarm control panel.

2.2.d.2. All Health Care, Assisted Living facilities licensed by the Health Department, and Detention and Correctional Occupancies shall be tied into a fire department or a communication center with 24-hour supervision which is responsible for receiving emergency calls. Existing Assisted Living facilities licensed by the Health Department shall be in compliance with this requirement by July 1, 2016.

2.2.d.3. Heating, Ventilation, Air Conditioning Systems (HVAC).

2.2.d.3.A. All heating, ventilation, and air conditioning systems greater than 2000 CFM and less than 15,000 CFM shall have a duct type smoke detector in the return air duct or plenum for automatic shut down, to close main fan dampers and to sound a general fire alarm when activated.

2.2.d.3.B. All heating, ventilation, air conditioning systems greater than 15,000 CFM shall have duct type smoke detectors installed in both supply and return air ducts to automatically shut down, close main fan dampers and to sound a general fire alarm when activated.

2.2.d.3.C. In Health Care, Detention and Correctional occupancies and high rise buildings duct detectors shall be zoned to indicate the specific air handling unit at the main fire alarm panel.

2.2.d.3.D. An HVAC unit which uses 100% of outside air does not require duct detectors, and shall shut down upon fire alarm activation.

2.2.d.3.E. HVAC Systems used as part of the smoke management systems are exempt from the requirements of this subsection.

2.2.d.4. Audible alarm indicating devices shall be of such character and distributed so as to be effectively heard above the ambient noise level obtained under normal conditions of occupancy. Audible alarm indicating devices shall produce signals that are distinctive from audible signals used for other purposes in the same building.

2.2.d.5. Visual signal devices shall be provided in all new fire alarm systems.

2.2.d.6. Pre-recorded or live voice evacuation instructions to occupants are permitted. Pre-recorded instructions shall be preceded by not less than 5 seconds or more than 10 seconds of a continuous alerting signal. Upon completion or failure of pre-recorded instructions, the fire alarm evacuation signal shall sound. Pre-recorded instructions shall be repeated two or more times. Live voice instructions shall be permitted to interrupt the pre-recorded message or the fire alarm evacuation signal. Audible and visual fire alarm devices shall be used only for fire alarm system.

2.2.d.7. Manual pull stations shall be located no greater than 200 feet from each other and at all exits. Manual pull stations shall be of the same general operational type.

2.2.d.8. Thermal detectors are required in the following areas in all occupancies requiring a fire alarm system and as listed or identified in NFPA 101, The Life Safety Code. Thermal detectors are not required in areas provided with sprinkler protection or dwelling units of apartments.

AREAS	TYPE OF DETECTORS
(a) Attic & Cockloft Spaces	Fixed Temperature
(b) Storage Rooms	Rate of Rise
(c) Furnace or boiler rooms	Fixed Temperature
(d) Janitor Closets	Rate of Rise
(e) Kitchens	Fixed Temperature
(f) Laboratories, Home Economics, Woodworking Shops, Auto Shops, Utility Rooms, & Locker Rooms	Rate of Rise

2.2.d.9. Smoke detectors are required in the following areas in all occupancies requiring fire alarm systems:

2.2.d.9.A. Rooms and/or areas dedicated for the location of electrical distribution panels or transformers;

2.2.d.9.B. Stages or Platforms; and

2.2.d.9.C. On each side of required smoke partition doors.

2.2.d.10. Smoke detectors shall be placed a maximum of 15 feet from ends of corridors or walls and 30 feet on center including all toilet rooms over one occupant and in any other rooms that are a part of the means of egress without doors and open to the corridors, where required by the occupancy. Exceeding the spacing requirements will require submission of technical data for approval by the Fire Marshal. Exception: Smoke beam detectors shall be permitted in accordance with manufacturers specifications.

2.2.d.11. A building or structure being used for more than one occupancy shall comply with the fire alarm system requirements of the most stringent occupancy for that building or structure.

2.2.d.12. Hood suppression systems shall be connected to the Fire Alarm System and separately zoned.

2.2.d.13. A pre-signal fire alarm system is not permitted.

2.2.d.14. Elevators shall comply with NFPA 72.

2.2.d.15. All Hotels being 2 or more stories high, Motels being 2 or more stories high, shall be tied into a fire department or a communication center with 24-hour supervision which is responsible for receiving emergency calls.

2.2.d.15.A. Exception: Hotels and motels with direct to outside exits from all guests rooms.

2.2.d.16. Carbon monoxide detectors shall be permitted to be connected to an approved fire alarm system. Activation of the carbon monoxide detector shall signal a supervisory alarm on the fire alarm control panel.

2.2.e. Inspection Tags

2.2.e.1. An inspection tag shall be attached to each fire protection system near the main control valve, main panel, or other such appropriate and visible location as determined by the AHJ. The inspection tag shall contain the following information:

2.2.e.2. The individual performing the work;

2.2.e.3. Date of the test;

2.2.e.4. Results of the inspection and test.

2.2.f. Requirements for Educational and Day Care Occupancies.

2.2.f.1. A fire alarm system is required in every educational and day care occupancy, and shall meet the requirements and standards of this rule. However, classroom buildings of less than 2,500 sq. ft. gross floor area with direct exiting to the outside from each classroom are not required to have a fire alarm system.

2.2.f.2. Open Plan Classroom Concepts require a complete smoke detection system throughout the facility.

2.2.f.3. Day Care Centers located in buildings other than educational facilities shall have smoke detectors installed on the ceilings of each story in front of the doors to the stairways and at no greater than 30 feet spacing in the corridors of all floors occupied by the center. Detectors shall also be installed in lounges and sleeping rooms in the center.

2.2.f.4. Group Day Care Centers require hardwired smoke detectors in sleeping rooms and corridors. Audio visual warning devices are required if hearing impaired individuals are in the facility. In mixed occupancies when exiting requires the use of a common corridor, an electrically supervised fire alarm system shall be installed.

2.2.f.5. An annunciator panel or fire alarm control panel shall be readily accessible to local fire department personnel.

2.2.f.6. Rate of rise thermal detectors are required in all Rest Rooms in new buildings except in fully sprinklered buildings.

2.2.f.7. Smoke detectors shall be installed in all corridors, except in a single story building with direct exiting to the exterior by the means of a door from every normally student occupied room.

2.2.g. Requirements for Assembly Occupancy.

2.2.g.1. A fire alarm system is required in every place of assembly where:

2.2.g.1.A. Occupancy is subject to 300 or more occupants;

2.2.g.1.B. Occupancy is subject to 100 or more occupants above or below the level of exit discharge;

2.2.g.1.C. The building is two (2) or more stories in height above the level of exit discharge, or two (2) or more stories below the level of exit discharge; or

2.2.g.1.D. Theaters with more than one audience-viewing room.

2.2.g.2. Annunciator panels and/or fire alarm control panels shall be readily accessible to fire department personnel.

2.2.g.3. Theaters and auditoriums shall provide audio visual devices. House lights in auditoriums and theaters shall be activated by the fire alarm system.

2.2.h. Requirements for Health Care and Ambulatory Care Occupancies.

2.2.h.1 A fire alarm system is required in every Health Care and Ambulatory Care occupancy, and the system shall meet the requirements and standards of this rule.

2.2.h.2. An approved automatic smoke detection system shall be installed in all corridors.

2.2.h.3. Manual pull stations shall be installed every 50 feet throughout the facility in patient sleeping room areas starting at the end of all corridors. All other manual pull stations shall be placed in accordance with the general requirements of this rule.

2.2.h.4. Fire alarm systems shall have annunciators located at all 24 hour nurse's stations, the telephone switchboard, and at the main location of the fire department's entry.

2.2.i. Requirements for Detention and Correctional Occupancies.

2.2.i.1. A fire alarm system is required in every Detention and Correctional occupancy and the system shall meet the requirements and standards as provided in this subsection.

2.2.i.2. The annunciator panel or fire alarm control panel shall be readily accessible to fire department personnel and shall also be provided in the Detention or Correctional facility control center.

2.2.i.3. Manual pull stations shall be provided as set forth in general requirements of this rule. Manual pull stations may be of the security type in detention or correctional occupancies.

2.2.i.4. Smoke detectors shall be installed in all corridors. If no corridor exists, they shall be installed at the highest point of the cell areas.

2.2.i.5. Dormitory style correctional facilities shall comply with the Residential requirements of subsection 11.6 of this section.

2.2.j. Requirements for Residential Occupancies.

2.2.j.1. A fire alarm system is required for each of the groups of residential buildings, and the system shall meet the requirements and standards of this Rule.

2.2.j.2. Lodging and Rooming Houses protected throughout with a sprinkler system shall be provided with interconnected hardwired smoke detectors as required by NFPA 72.

2.2.j.3. Residential occupancies are designated in two groups. These designated groups shall comply with the requirements of this Rule. One group of occupancies includes hotels, motels, dormitories, lodging and rooming houses. The other group includes apartments only.

2.2.j.4. The following requirements apply to the occupancies of hotels, motels, dormitories, lodging and rooming houses.

2.2.j.4.A. Smoke detectors shall be placed a maximum of 15 feet from ends of corridors or walls and located 30 feet on center throughout all inside corridors. Smoke detectors shall be placed a maximum of 15 feet from ends of walls and 30 feet on center in open bay sleeping areas.

2.2.j.4.B. The annunciator panel or fire alarm control panel shall be readily accessible to fire department personnel and also shall be located at the registration desk.

2.2.j.4.C. All sleeping rooms and living areas in suites shall have an approved self-contained smoke alarm hard wired in accordance with NFPA 72, National Fire Alarm Code.

2.2.j.4.D. Motels and hotels having direct exterior exiting shall have a manual pull station every 75 feet located on exterior walls with the minimum requirement of one manual pull station. However, a one story motel with 16 or less sleeping rooms having direct exiting to the exterior is not required to be provided with a fire alarm system.

2.2.j.5. The following requirements apply to apartments.

2.2.j.5.A. Apartment buildings having 12 or more units or 4 or more stories in height shall have a fire alarm system. Smoke detectors shall be placed a maximum of 15 feet from the ends of corridors and walls and 30 feet on centers.

2.2.j.5.B. All existing apartments shall have approved self-contained smoke alarm located at the entrances to bedrooms.

2.2.j.5.C. All new apartments shall have an approved self-contained smoke alarm hard wired in accordance with NFPA 72, National Fire Alarm Code.

2.2.j.5.D. All new apartment buildings having 12 or more units or 4 or more stories in height with direct exiting to the exterior shall have manual pull stations every 75 feet on the exterior wall with a minimum requirement of one pull station per building.

2.2.k. Requirements for Mercantile Occupancies.

2.2.k.1. A fire alarm system is required in every mercantile occupancy with a sales area totaling over 3,000 square feet, and the system shall meet the requirements and standards as provided in this subsection.

2.2.k.2. If an existing Class B mercantile occupancy has a complete and approved sprinkler protection system, a fire alarm system is not required.

2.2.l. Requirements for Business Occupancies.

2.2.l.1. A fire alarm system is required in every business occupancy where:

2.2.l.1.A. The occupancy is subject to 300 or more total occupants;

2.2.l.1.B. The occupancy is subject to 100 or more occupants above or below the level of exit discharge; or

2.2.1.1.C. The building is two (2) or more stories in height above the level of exit discharge or two (2) or more stories below the level of exit discharge.

2.2.m. Requirements for Industrial Occupancies.

2.2.m.1. A fire alarm system is required in all Industrial Occupancies as required in The National Fire Codes NFPA 101, Life Safety Code, referred to in Section 2 of this rule.

2.2.n. Requirements for Storage Occupancies.

2.2.n.1. A fire alarm system is required in all Storage Occupancies as required in The National Fire Codes NFPA 101, Life Safety Code, referred to in Section 2 of this rule.

2.2.n.2. Residential Board and Care Occupancies.

2.2.n.2.A Application: All facilities classified as residential board and care occupancies shall conform to the Life Safety Code, NFPA 101, requirements except as modified under this subsection. This subsection does not apply to facilities with less than four (4) residents.

2.2.n.2.B. Resident sleeping rooms shall be located on first and second floors unless the facility is provided with a sprinkler system meeting the requirements of NFPA 13, Standard for Sprinkler Systems.

2.2.n.2.C. Provide at least two (2) approved remote exits from each floor; at least one (1) exit shall be a door directly to the outside without traversing any corridor or space exposed to an unprotected vertical opening.

2.2.n.2.D. Vertical Openings shall be properly enclosed on all levels above grade with hour fire rated construction. If used as a primary means of exiting all levels shall be properly enclosed with 1 hour fire rated construction.

2.2.n.2.E. Doors shall be side-hinged swinging at least 32 inches wide when located in means of egress. Bathroom doors may be 24 inches wide.

2.2.n.2.F. Existing Stairs shall be at least Class B.

2.2.n.2.G. Hazardous Areas shall be provided with one hour fire-rated separation or provided with automatic sprinkler protection and smoke tight. Doors shall be self-closing.

2.2.n.2.H. Interior Finish of walls and ceilings shall be at least Class C throughout.

2.2.n.2.I. Fire Alarm:

2.2.n.2.I.1. An electrically supervised fire alarm system shall be provided and meet the requirements of Subsections 11.1 & 11.6 of this Rule.

2.2.n.2.B.2. Individual sleeping rooms shall be provided with a single station smoke alarm hardwired in accordance with NFPA 72, National Fire Alarm Code.

2.2.n.2.J. An approved automatic sprinkler system is required in all residential board and care facilities.

2.2.n.2.K. Corridor Walls shall be at least twenty (20) minute fire-rated and smoke tight.

2.2.n.2.L. Electrical System shall meet the National Electric Code.

2.2.n.2.M. Each sleeping room shall be provided with at least one (1) outside window for rescue and ventilation and shall meet the requirement for windows in one and two family dwellings of the Life Safety Code. A door directly to the outside from each sleeping room does not require an outside window.

2.2.n.2.N. Any carpet located in the facility shall meet the requirements of Section 7 of this Rule for Residential Occupancies.

2.2.n.2.O. No door in any means of egress shall be locked against egress when the building is occupied.

2.2.n.2.P. Every bathroom door lock shall be designed to permit opening of the locked door from the outside in an emergency.

2.2.n.2.Q. Every closet door latch shall be such that it can be readily opened from the inside in case of emergency.

2.2.n.2.R. No stove or combustion heater shall be located as to block escape in case of fire arising from the malfunction of the stove or heater.

2.2.n.2.S. Impractical to evacuate residents in small facilities shall be located in rooms at grade with direct exiting to the outside. The corridor room door shall be 20 minute fire rated construction or its equivalent.

2.2.o. Fireworks

2.2.o.1. Fireworks Defined; Labels Required (W. Va. Code § 29-3-23).

The term "fireworks" means and includes any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation. Fireworks includes blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of unmanned balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance. The term "fireworks" shall not include sparklers and novelty items as specified in W. Va. Code § 29-3-23, model rockets and model rocket engines, designed, sold and used for the purpose of propelling recoverable acro models and shall not include toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with the United States Department of Transportation regulations for packing and shipping of toy paper or plastic caps are used and toy paper or plastic caps manufactured as provided therein, the sale and use of which shall be permitted at all times. Each package containing toy paper or plastic caps offered for retail sale shall be labeled to indicate the maximum explosive content per cap.

2.2.o.2. Unlawful Sale, Possession or Use of Fireworks; Permit for Public Display (W. Va. Code § 29-3-24).

2.2.o.2.A. Except as provided in this subsection, no person, firm, co-partnership or corporation shall offer for sale, possess, expose for sale, sell at retail, keep with intent to sell at retail, or use or explode any fireworks. The granting of permits for supervised displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals shall be in accordance

with the National Fire Codes as adopted in Section 2 of this Rule. The State Fire Marshal shall charge a scaled fee for all applications requesting permits to establish a pyrotechnics display as provided in this section. All fees required to be paid by the provisions of this section as set forth in the rule of the Fire Commission, Fee for Services Rendered, 103CSR2 shall be paid to the State Fire Marshal and thereafter deposited by him or her into a special account for the operation of the State Fire Commission. The permits may be granted upon application to State Fire Marshal and after approval of the local police and fire authorities of the community where the display is proposed to be held and the filing of a bond by the applicant as required by law. Every display shall be handled by a competent operator licensed or certified as to competency by the State Fire Marshal and shall be of composition, and character, and located, discharged or fired in a manner that in the opinion of the chief of the fire department, after proper inspection, and of the chief of police as to not be hazardous to property or endanger any person or persons. After the privilege has been granted, sales, possessions, use and distribution of fireworks for the display are lawful for that purpose only. No permit granted under this subsection is transferable.

2.2.o.2.B. The governing body or chief executive authority of the municipality shall require a bond from the licensee in a sum not less than one thousand dollars conditioned on compliance with the provisions of this section and the rules of the State Fire Commission. No municipality is required to file a bond.

2.2.o.2.C. Before any permit is issued for a pyrotechnic display, the person, firm or corporation making application for the permit shall furnish proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of that person, firm or corporation or any agent or employee thereof, in an amount, character and form the State Fire Marshal determined as necessary for the protection of the public.

2.2.p. Storage and Sale of Consumer Fireworks.

2.2.p.1 For the purposes of this subsection, the term "facility" means any building, igloo, barn, trailer, semitrailer or other mobile property.

2.2.p.2. Storage of Fireworks: All new and existing storage facilities for wholesale fireworks distribution in accordance with W. Va. Code § 29-3-25 shall meet the following requirements:

2.2.p.3. Each storage facility shall be of fire resistive construction as defined in NFPA 220;

2.2.p.4. Each storage facility containing 1000 pounds or more of fireworks shall have a complete automatic sprinkler system installed in accordance with NFPA 13, Installation of Sprinkler Systems;

2.2.p.5. A storage facility shall meet all distance requirements set forth in NFPA 1124 with the following addition:

2.2.p.5.A. A storage facility shall not be located within 1000 feet of an inhabited building or structure;

2.2.p.6. Storage and sale permits shall be issued by the State Fire Marshal's Office. Permits will be issued only upon verified compliance of this rule and payment of required fee;

2.2.p.7. An owner or operator shall immediately notify the Fire Marshal's Office within 24 hours of any lost, stolen or unaccounted for fireworks;

2.2.p.8. Smoking shall not be permitted in the storage facility or within 50 feet of the storage facility. Conspicuous signs indicating "Warning -- No Smoking" shall be posted at frequent intervals throughout the storage facility;

2.2.p.9. No fireworks shall be sold to any West Virginia resident. No fireworks shall be sold to any person not holding a wholesale license at any time;

2.2.p.10. A fire alarm system with complete smoke detection shall be installed throughout the storage facility in accordance with this Rule;

2.2.p.11. Each display area shall contain only inert fireworks and shall be secure to prevent unauthorized access to the display area;

2.2.p.12. All sales shall be recorded and shall include the name, address, city, state and zip code, business license number and tax department number of each purchase;

2.2.p.13. A daily inventory of fireworks shall be maintained for each facility;

2.2.p.14. All vehicles transporting fireworks from a distribution facility shall be placarded in accordance with U.S. DOT requirements. If less than 1000 pounds is being transported, a placard of Class C Explosives is required. If more than 1000 pounds is being transported, a placard of Class B Explosives is required. Each vehicle used to transport fireworks shall meet the requirements of NFPA 1124, Code for the Manufacture, Transportation and Storage of Fireworks;

2.2.p.15. Each Fire Department providing emergency services to any storage facility shall be notified in writing of the existence of the storage facility. The notice shall include information as to the type of explosives and explosive hazards that are stored at the storage facility. Pre-fire planning shall be completed by the fire department prior to operating the facility;

2.2.p.16. The land surrounding each storage facility shall be kept clear of combustibles for a distance of at least 25 feet on all sides;

2.2.p.17. Each storage facility shall be securely locked in accordance with NFPA 495, Explosive Material Code;

2.2.p.18. All electrical wiring and fixtures shall meet the requirements of the National Electrical Code, Class II, Group E, Division I locations;

2.2.p.19. All Heating, Ventilation and Air Conditioning shall meet the requirements of this Rule. No open flame heating units are permitted; and

2.2.q. Explosives.

2.2.q.1. As soon as practical after all loaded blast holes (shot) are linked, they shall be immediately connected to a source of ignition and fired by a person legally permitted to do so.

2.2.q.2. Pre-loading blast holes (shots) to be fired at a later time are prohibited unless a waiver has been granted to do so by the State Fire Marshal.

2.2.q.3. Section 4.6.2 of the National Fire Protection Association (NFPA) 495, Explosive Material Code, the provisions of which are incorporated in NFPA 1 and adopted by reference in subsection 2.1 of this Rule, is amended to provide that persons 18 years and older may be issued a Class G Special "Helper" permit to use explosives.

2.2.q.4. A valid explosives storage permit shall be obtained from the State Fire Marshal for any explosives stored overnight. Provided that type III portable magazines and type V trailers which have not been disabled for over the road use shall not be counted as magazines for the purposes of the storage permit

only. Also provided that a storage permit for explosives stored exclusively underground shall not be required.

2.2.q.5. A valid Permit to Use Explosives (Blaster License) shall be obtained from the State Fire Marshal for all persons detonating explosives for legal purposes and persons possessing and handling explosives. Exception: persons handling and possessing explosives for the sole purpose of inventory and accounting, and who also shall possess an "Employee Possessor/Responsible Person" clearance as issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives where applicable.

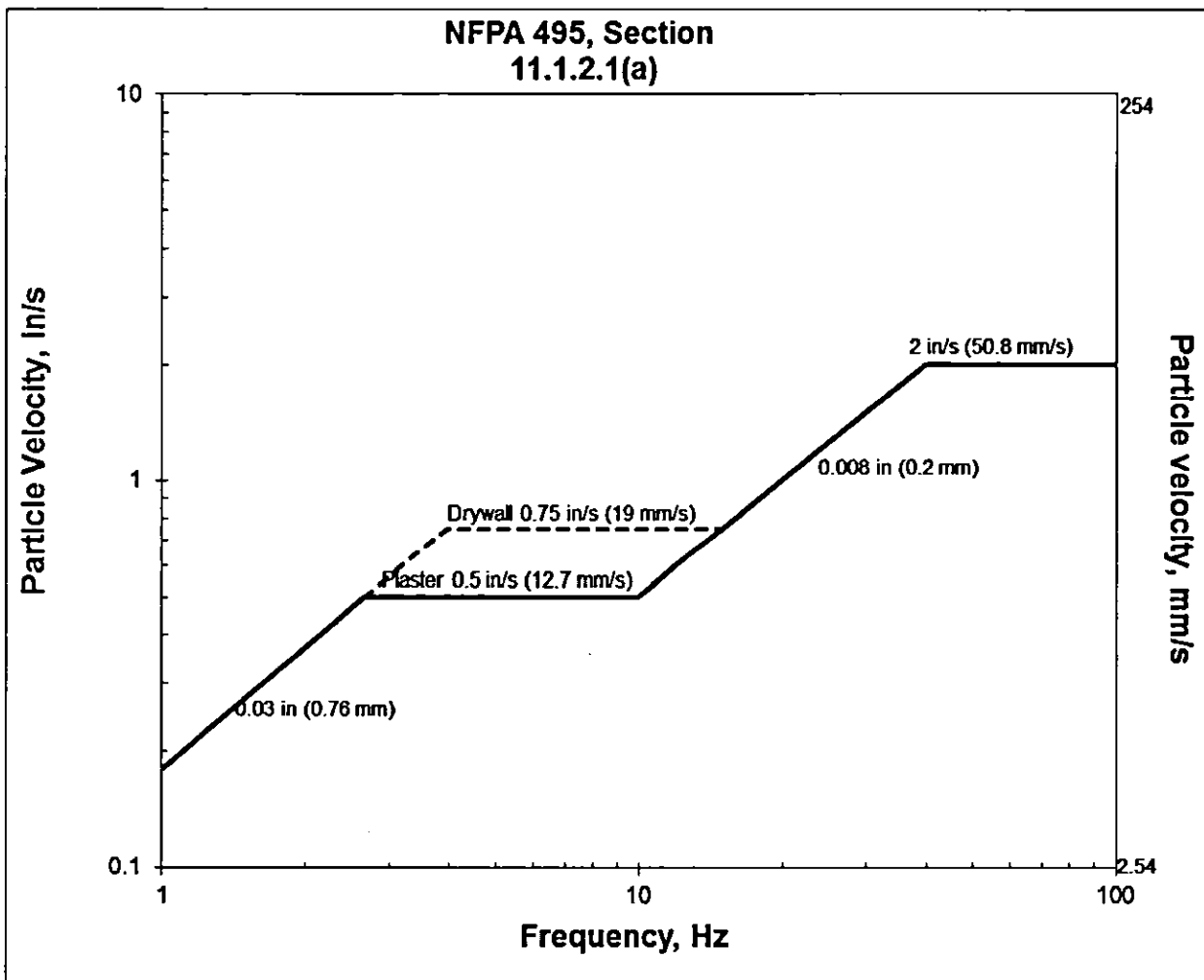
2.2.q.6. Control of Adverse Effects.

2.2.q.6.A. Blasting shall be conducted in a manner that prevents injury to persons and damage to public or private property outside the permit or blast area for which blasting activity occurs. For purposes of this rule, the definition of blast area is the area in which concussion (shock wave), flying material, or gases from an explosion can cause injury to persons (NFPA 495).

2.2.q.6.B. "Flyrock" defined as rock, mud or debris (excluding dust or detonation byproducts) ejected from the blast site by the force of a blast, shall not be cast beyond the operational boundary of the permit or blast area.

2.2.q.6.B.1. If flyrock is cast beyond the operational boundary of the permit or blast area, the licensed blaster shall notify the fire marshal by telephone within two (2) hours after learning of the flyrock incident, and submit a flyrock incident report to the fire marshal within three (3) business days after learning of the incident. The report shall be signed by the blaster-in-charge who conducted the blast. The report shall include, at a minimum, a copy of the blast record and all available seismograph data, a sketch of the blast site and rock deposition area, and a detailed explanation of: how the blast(s) were designed and loaded; who witnessed the blast(s) and where they were located and what they observed; the location and nature of the flyrock deposition (including property owners, type and approximate number of rocks, size and distance range), property damages (if any) and personal injuries (if any); the probable cause of the flyrock incident; and the corrective measures to be taken to prevent another flyrock incident.

2.2.q.6.C. Ground vibration, when measured at any dwelling, public or commercial building, school, church, dam, earthen impoundment, or community or institutional building located outside the operational boundary of the permit or work area not owned or leased by the permittee, shall not exceed the limitations as defined and illustrated in NFPA 495, Section 11.1.2.1(a). *Provided, that the requirements set forth in this subsection shall not apply to blasting operations on surface coal extraction sites, and quarries otherwise permitted and regulated by the West Virginia Department of Environmental Protection, Office of Explosives and Blasting within the Division of Mining and Reclamation.* Alternatively, a waiver of this requirement from the owner of the structure may be filed with the State Fire Marshal's Office.



2.2.q.6.D. Airblast, when measured at any dwelling or building listed in subsection 2.2.q.6.C. of this rule shall be in compliance with NFPA 495, Table 11.2. Air Overpressure Limits.

Table 11.2 Air Overpressure Limits

Lower Frequency of Measuring System [Hz (+/- 3 dBL)]	Measurement Level (dBL)
0.1 Hz or lower – flat response*	134 peak
2 Hz or lower- flat response	133 peak
6 Hz or lower – flat response	129 peak
C-Weighted – slow response*	105 peak

*Only where approved by the state fire marshal.

2.2.q.6.E. A seismograph shall be used beside the nearest dwelling or building listed in subsection 2.2.q.6.C. of this rule to demonstrate compliance with the ground vibration and airblast limits listed in subsection 2.2.q.6.C and 2.2.q.6.D. of this rule. As an alternate to seismographic monitoring, the blast shall comply with scaled distance equation, $W = (D/50)^2$, where W is the maximum weight of explosives, in pounds, that can be detonated within any period less than 8 milliseconds, D is the distance, in feet, from the nearest blasthole to the nearest dwelling or building listed in 2.2.q.6.C. of this rule, and fifty is the applicable scaled distance factor.

2.2.q.6.F. For structures not listed in 2.2.q.6.C. of this rule, such as oil or gas wells, oil or gas transmission and distribution lines, high-voltage steel transmission towers, public water lines, and silos, located outside the the operational boundary of the blasting operation not owned or leased by the permittee, a seismograph shall be used beside the nearest structure to demonstrate that the peak particle velocity did not exceed 2.0 inches per second. As an alternate to seismographic monitoring, the blast shall comply with scaled distance equation, $W = (D/50)^2$, where W is the maximum weight of explosives, in pounds, that can be detonated within any period less than 8 milliseconds, D is the distance, in feet, from the nearest blasthole to the nearest dwelling or building listed in 2.2.q.6.C. of this rule, and fifty is the applicable scaled distance factor. Alternatively, a waiver of this requirement from the owner of the structure may be filed with the State Fire Marshal's Office.

2.2.r. Monitoring instruments – All seismographs used to prove compliance with the ground vibration and airblast limits required by this rule shall be deployed in the field according to the ISEE Field Practice Guidelines for Blasting Seismographs (2009 Edition). Whenever possible, the seismographic measurement shall be made within ten (10) feet of the building or structure being monitored, on the side of the building or structure closest to the blast site.

2.2.r.1. A monitoring instrument for recording ground vibration, at a minimum, shall have:

- a. A frequency range of 2 Hz to 250 Hz;
- b. Particle velocity range of .02 to 4.0 inches per second or greater;
- c. An internal dynamic calibration system.

2.2.r.2. A monitoring instrument used to record airblast shall have:

- a. A lower frequency limit of 0.1, 2.0 or 6 Hz;
- b. An upper end flat-frequency response of at least 250 Hz;
- c. A dynamic range that, at a minimum, extends from 106 to 142 dBL.

2.2.r.3. A monitoring instrument shall be calibrated annually and when an instrument is repaired and then the repair may effect the response of the instrument. Calibration shall be done by the manufacturer of the equipment, or by an organization approved by the manufacturer, or by an organization having verifiable knowledge of the calibration procedures developed by the manufacturer. The calibration procedure shall include testing the response of the entire system to externally-generated dynamic inputs. These inputs shall test the entire monitoring system at a sufficient number of discrete frequency intervals to assure flat response throughout the frequency ranges specified by this rule. Dynamic reference standards used for calibration shall be traceable to the National Institute of Standards and technology (NIST). Calibration procedures and documentation of calibration shall immediately be made available upon demand by the State Fire Marshal, or other law enforcement or regulatory personnel.

2.2.r.4. A certificate that indicates the name of the calibration facility, the calibration technician, the date of calibration and frequency range of the airblast monitor shall be made available upon request by the State Fire Marshal, or other law enforcement or regulatory agency.

2.2.s. Monitoring Records.

2.2.s.1. Any person who operates a seismograph for the purpose of demonstrating compliance with the ground vibration and airblast limits of this rule shall receive appropriate training for the specific seismograph model(s) in use in: programming the seismograph(s) to record the blast; positioning the

geophone and microphone; coupling the geophone to the ground; extracting the data after the blast in digital and printed forms; and understanding the results. Such training shall be received from a representative of the seismograph manufacturer or distributor, or other competent person(s). A record of such training shall be maintained by the seismograph operator or his or her employer, and made immediately available for inspection by the State Fire Marshal or other law enforcement or regulatory agency. All persons who operate a seismograph for the purpose of demonstrating compliance with the ground vibration and airblast limits of this rule shall also receive refresher training every two years.

2.2.s.2. Monitoring records, at a minimum, shall contain:

2.2.s.2.A. A calibration pulse on each of the mutually-perpendicular ground vibration traces. These pulses shall represent the dynamic response of the entire recording system to an internally-generated calibration signal, and shall allow the state fire marshal, or other law enforcement or regulatory personnel to verify that the seismograph is recording ground vibration to its specific accuracy.

2.2.s.2.B. The time history of particle velocities for three mutually perpendicular ground vibration traces and one air-overpressure trace, including time base, amplitude scales and peak values for all traces.

2.2.s.2.C. The results of a field calibration test for each channel.

2.2.s.2.D. The frequency content of all vibration signals using either single degree of freedom (SDF) response spectrum, Fast Fourier Transform (FFT) or half-cycle zero-crossing analysis methods.

2.2.s.2.E. Frequency versus particle velocity plots as indicated in NFPA 495, Table 11.1.2.1(b).

2.2.s.2.F. The name of the individual taking the recording.

2.2.s.2.G. The GPS NAD 83 or 27 location of the monitoring instrument, date and time of the recording.

2.2.s.2.H. The last calibration date of the monitoring instrument.

2.2.s.3. If the fire marshal questions the validity of a ground vibration or airblast record, or the interpretation of the record, the fire marshal may require a ground vibration or airblast recording to be analyzed or certified by the seismograph company supplying and calibrating the seismograph. When the fire marshal requires that a recording be analyzed or certified, it shall be performed and included with the blast report within thirty (30) days.

2.2.t. Blasting Activity Registration.

2.2.t.1. "Applicant" is defined as any user of commercial explosives that has obtained applicable BATF clearances and intends to legally detonate any amount of commercial explosives for authorized purposes.

2.2.t.2. An agency approved form shall be submitted for any and all blasting activity, excluding surface coal extraction activities already permitted by the West Virginia Department of Environmental Protection, Office of Explosives and Blasting within the Division of Mining and Reclamation, to the State Fire Marshal no less than 2 business prior to the blasting activity commencing, and shall include the following information:

2.2.t.2.A. The applicant's name, address, telephone number and type of business;

- 2.2.t.2.B. A contact person's name title and telephone number;
- 2.2.t.2.C. The identity of independent subcontractors who will be performing the blasting activity;
- 2.2.t.2.D. The type of explosive to be used;
- 2.2.v.2.E. The location of the blasting activity;
- 2.2.t.2.F. Job duration and times of blasting activity.

2.2.u. Blast logs.

2.2.u.1. Blast logs shall be maintained for a period of five years by anyone conducting blasting activities. Those logs shall immediately be made available upon demand by the State Fire Marshal, or other law enforcement or regulatory personnel.

2.2.u.2. The blast log shall include as a minimum:

- 2.2.u.2.A. The name of the blasting activity applicant;
- 2.2.u.2.B. The date and time of the blast;
- 2.2.u.2.C. The location of the blast using GPS NAD 83 or 27 coordinate system;
- 2.2.u.2.D. The owner name and address or the GPS NAD 83 or 27 coordinates of the nearest building location not owned by the blasting activity applicant or customer;
- 2.2.w.2.E. The direction and distance in feet from the blast site to the nearest structure not owned by the blasting activity applicant or its customer;
- 2.2.u.2.F. The direction and distance to the closest utility not owned by the blasting activity applicant or its customer;
- 2.2.u.2.G. The type of material to be blasted;
- 2.2.u.2.H. The type of stemming/decking material used;
- 2.2.u.2.I. The measures taken to control flyrock, including whether or not mats were used;
- 2.2.u.2.J. The weather conditions including temperature, wind direction and estimated speed, cloud cover;
- 2.2.u.2.K. The total number of holes, diameters, depths, burdens, spacings, subdrill, top and deck stemming heights, pounds per hole;
- 2.2.u.2.L. Explosives product densities and pounds used and/or units, not including detonating cord;
- 2.2.u.2.M. The total weight in pounds of explosives and primer cartridges used;
- 2.2.u.2.N. The type and total length in feet of detonating cord(s) used;

2.2.u.2.O. The type, length, delay period(s), of each detonator and the total quantity each type of detonator used: *Provided, that for the purposes of this subsection, if an electronic detonator is used, a delay period is not required to be reported on the blast log;*

2.2.u.2.P. The type(s) of initiation system used;

2.2.u.2.Q. The maximum weight in pounds of explosives detonated per delay period of less than 8 milliseconds;

2.2.u.2.R. The scaled distance to the closest structure and/or utility not owned by the applicant or client;

2.2.u.2.S. The powder factor(s) in pounds per cubic yard, tons per pound, or pounds per square foot;

2.2.u.2.T. The monitoring records required shall be made a part of the blast report within 24 hours of the blast if required by subsection 2.2.q.6.C;

2.2.u.2.U. A technical illustration (sketch) showing north arrow, the direction to the nearest structure and/or utility, the arrangement of blast hole burdens and spacings, firing time(s) and/or delay patterns for each blast charge, point of initiation, and free faces;

2.2.u.2.V. A technical illustration (sketch) showing typical borehole load cross section(s);

2.2.u.2.W. The printed name, signature, and permit number of the blaster-in-charge for each blast;

2.2.u.2.X. Any unusual conditions or comments.

2.3. Necessity of NICET Certification for Fire Protection and Fire Alarm Systems.

2.3.a. No fire protection and fire alarm system maintenance, repair or inspection work may be performed, offered or engaged in for compensation or hire within the State of West Virginia by any company unless the company maintains at least one (1) employee possessing a valid certificate of competency issued by the National Institute of Certification in Engineering Technologies (NICET). All companies shall be registered with the State Fire Commission and shall provide annual information on NICET certificate holders employed by their company for the purpose of maintenance, repair or inspection activities.

2.3.b. All fire protection extinguishment devices or systems not covered in 14.7.a. shall adhere to the following: No fire protection equipment or system installation, maintenance, repair or inspection work may be performed, offered or engaged in for compensation or hire within the State of West Virginia by any company unless the company maintains at least one (1) employee possessing a valid certificate of competency issued by the equipment or system manufacturer. All companies shall be registered with the State Fire Commission and shall provide annual information on certificate holders employed by their company for the purpose of installation, maintenance, repair or inspection activities.

§ 87-1-3. Reporting of Fire Incidences.

The Fire Chief of any organized public fire brigade, department or company shall report every fire and non-fire incident to the State Fire Marshal. Every fire and non-fire incident response shall be reported within one hundred eighty (180) days after the date of the incident. Provided, that any fire or explosion involving human fatality, arson or suspected arson shall be reported immediately.

§ 87-1-4. Unvented Heaters.

All unvented fuel fired heaters are prohibited for all occupancies except one (1) and two (2) family dwellings. Provided, that a single unvented fuel fired heater is permitted for demonstration purposes in authorized mercantile applications when installed in accordance with manufacturers recommendations. The single heater shall be connected to a permanent source of fuel and shall not be used as a permanent or alternate source of heating. The unvented heater shall be shut off at the end of each business day.

§ 87-1-5. Maintenance of Fire Hazard; Order for Correcting Condition, Removal of Material, Repair, Demolition, etc.; Order to Contain Notice to Comply and Right to Appeal.

Whenever the State Fire Marshal, by and through persons working under his or her direction, determines based upon the State Fire Code and/or on the experience and knowledge applied in the operation of his or her office (1) that any building or structure has been constructed, altered, or repaired in a manner violating the State Fire Code as promulgated prior to the commencement of the construction, alterations, or repairs, or (2) that any building or structure is being maintained or used in such a way as to endanger life or property from the hazards of fire or explosion, or (3) that any building or other structure or property of any kind, which, for want of repairs, or by reason of its age, dilapidated, or abandoned condition or for any other reason constitutes a fire hazards and is located or constructed so as to constitute a danger to other buildings, property, persons, life, or limb, or (4) that in any building or upon any premises there is located any combustible, flammable, or explosive substance or material or other condition dangerous to the safety of persons occupying the building or premises and adjacent premises and property, the State Fire Marshal shall order the condition or thing to be corrected, or combustible, flammable or explosive, items to be removed, or the building or buildings to be repaired, closed to occupants, or removed, as required by the circumstances. The order shall be promptly complied with by the owner, agent, occupant, and lessee of the premises, place, property, or thing. Any order may be expressed in the alternative, e.g. allowing repair but on the failure to repair requiring demolition. Any order by the State Fire Marshal which concludes that a fire hazard exists, shall state what repairs and/or demolition must be accomplished, and that compliance must be completed within thirty (30) days of issuance. In the event of noncompliance, the State Fire Marshal is authorized by statute to enter into and upon the premises affected by the order and cause the building, structure, premises, or thing to be repaired, or torn down, materials removed, and all dangerous conditions remedied (as the case may be) at the expense of the owner, and shall advise that the order can be contested by entering an appeal to the State Fire Commission as outlined in Section 13 of this Rule.

§ 87-1-6. Interference with Fire Protection Equipment.

No person shall render any portable or fixed fire extinguishing system or device or any fire warning system inoperative or inaccessible except as may be necessary during emergencies, maintenance, drills or prescribed testing.

§ 87-1-7. Exit Inspections and Public Life Safety Announcements.

7.1. Inspection of Exits. Not more than ninety (90) minutes prior to the scheduled commencement of any noncontinuous activity, event, performance, show, meeting, function, or other occasion for which people will gather in a place of assembly, the owner or his or her designee pursuant to written authority, instructions, or procedures shall inspect every required exit, way of approach to an exit, and way of departure from an exit. If the inspection reveals that any required means of egress is obstructed, inaccessible, locked, fastened, or otherwise unsuited for immediate use, the scheduled program shall not begin, nor shall admittance to the place of assembly be permitted, until necessary corrective action has been completed.

7.2. Announcements. Immediately prior to the start of a program for which 300 or more people will gather in a place of assembly, the owner or his or her authorized agent shall orally notify all attendees concerning the location of the exits to be used in case of fire or other emergency.

7.3. Records. An accurate record of all inspections, corrections, and notifications shall be kept and retained for at least two (2) years in the offices of the respective building owners. The records shall contain:

7.3.a. a brief description of each activity, event, performance, etc., including its date, time, and location;

7.3.b. the name and signature of the person who performed each requirement of this section; and

7.3.c. the date and time when each requirement was performed.

7.4. Alternatives- In case of practical difficulty or undue hardship, or in which compliance would not significantly increase life safety, the State Fire Marshal may approve or accept alternative means of accomplishing the objectives of this section.

§ 87-1-8. Forest Fire Season.

8.1. The periods of each year between March first and May thirty-first, inclusive, and October first and December thirty-first, inclusive, are designated as forest fire seasons. No person shall during any fire season, except between the hours of five o'clock p.m. and seven o'clock a.m. prevailing time, set fire to, or procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire, located in or within 300 feet of any woodland, brushland, or field containing dry grass or other inflammable material. Any fire set during this time shall be extinguished prior to seven o'clock a.m. prevailing time. The prohibition of fires between seven o'clock a.m. and five o'clock p.m. prevailing time does not include (1) small fires set for the purpose of food preparation, or providing light or warmth around which all grass, brush, stubble, or other debris has been removed for a distance of ten feet from the fire, and (2) burning which may be conducted at any time when the ground surrounding the burning site is covered by one inch or more of snow. Any person who sets or causes to be set any fire permitted by this section shall not leave the fire unattended for any period of time.

8.2. Any person or his or her agent or employee who sets or causes to be set any fire at any time in the use and occupation of any kind on which the burning was being done is in violation of this section if fire escapes beyond the safety strip. Any person who, by himself or herself, or by his or her employees, agents or guides or as an employee, agent or guide of any other person, at any time builds or use any fire in any field, on any public or private road, or in any area adjacent to or on any forest land in this state, shall before leaving the fire for any period of time, totally extinguish the fire. A person shall not at any time throw or place any lighted match, cigar, cigarette, firecracker or lighted material on any forest land, private road, public highway or railroad right-of-way within this state.

§ 87-1-9. Executive Order by the Governor on Open Burning.

On those occasions when the Governor of the State issues an Executive Order or Proclamation to ban open burning due to weather conditions, the State Fire Marshal may assist in the enforcement of the provisions of the Proclamation or Executive Order.

§ 87-1-10. Outdoor Storage of Used Tires.

The storage of used tires shall comply with the following:

10.1. All outdoor storage of used tires shall be free from all trash and debris within the site;

10.2. The owner and operators of outdoor storage of used tires shall maintain controlled access to the property with only one entrance/exit, and shall install security lighting for use during evening and night time hours as designated by the State Fire Marshal;

10.3. All outdoor storage of used tires shall have a perimeter security chain link fence of a minimum height of six feet;

10.4. All storage of used tires, shredded or unshredded, shall be separated into individual piles on the property. No pile may exceed 50 feet wide by 50 feet deep by 15 feet in height;

10.5. In the absence of an available water supply of at least 500 GPM (gallons per minute) provided by fire hydrants within 1000 feet of the facility, a minimum of 10,000 thousand gallon water supply on the site for exclusive use of fire fighting personnel shall be established;

10.6. Fire lanes having a minimum of forty-five foot lanes capable of supporting fire apparatus shall be established and maintained between all tire piles;

10.7. A minimum of a fifty foot wide zone around the site perimeter inside the fence line shall be maintained;

10.8. All storage piles shall have a minimum of a thirty inch high earthen dike around each tire pile as the piles are established;

10.9. A maximum of eighteen tire piles may be established on a single site; and

10.10. No site may exceed the storage of more than three hundred thousand tires without the approval of the State Fire Marshal.

§ 87-1-11. Stopping, Standing or Parking Prohibited in Specified Areas.

11.1. No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic-control device, in any of the following places:

11.1.a. Within fifteen feet of a fire hydrant; or

11.1.b. Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of the entrance when properly sign-posted.

§ 87-1-12. Crossing Fire Hose.

No person shall drive a streetcar or vehicle over any unprotected hose of a fire department when it is laid down on any street, private driveway, or streetcar track, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

§ 87-1-13. Emergency Vehicle Permits.

13.1. Authorization for all fire department vehicles and firefighters to operate Class A vehicles shall be designated by their fire chief and the State Fire Marshal's Office. Vehicles authorized by W. Va. Code § 17C-15-26 shall have red flashing warning lights and an audible signaling device, such as a siren, whistle or bell capable of emitting sound audible from a distance of not less than 500 feet.

13.2. Upon receipt of written notification from the Fire Chief of the local fire department to the State Fire Marshal requesting that an Emergency Vehicle Permit be revoked, the State Fire Marshal shall cause the permit to be revoked.

§ 87-1-14. Fire Safety Separation Requirements for Mobile Home Sites.

14.1. No portion of a manufactured home, excluding the tongue, shall be located closer than 3 m (10ft) side to side, 2.4 m (8 ft) end to side, or 1.8 m (6 ft) end to end horizontally from any other manufactured home or community building unless the exposed composite walls and roof of either structure are without openings and constructed of materials that will provide a 1-hour fire resistance rating or the structures are separated by a 1-hour fire-rated barrier.

14.2. Manufactured homes shall not be positioned vertically, stacked with one over the other, in whole or in part, unless the structure is designed and approved for such installation and permitted by the authority having jurisdiction.

§ 87-1-15. Propane Gas Training Program Certification.

Any person who installs or maintains liquefied petroleum gas systems shall complete training standards and qualifications as established by the National Propane Association Certified Employee Training Program. Exemption: Any person who installs, fuels, maintains or services a fuel gas system on a single family dwelling owned or leased, and occupied by that person.

§ 87-1-16. Requirement of Occupancy Certificate

An Occupancy Certificate shall be obtained before a new or majorly renovated/reconstructed (compromising 50% or more of the space renovated or reconstructed) building is occupied or used for its intended purpose.

§ 87-1-17. Orders and Decisions of the State Fire Marshal; and Appeals and Procedure for Appeals from such Orders or Decisions.

17.1. State Fire Marshal's Order and Decisions are Final and Conclusive. -- Any order or final written decision of the State Fire Marshal based upon or made in the course of the administration or enforcement of the provisions of W. Va. Code § 29-3-1 et seq. based upon or made pursuant to this rule is final, unless vacated or modified upon review pursuant to the appeal rights and procedures provided by W. Va. Code § 29A and this rule.

17.2. State Fire Marshal's Order And Decisions Appealed. -- Any person aggrieved by an order or final written decision of the State Fire Marshal based upon or made in the course of the administration or enforcement of the provisions of W. Va. Code § 29-3-1 et seq. or made pursuant to this rule, and desiring to contest the order or written decision may file an appeal from the order or written decision with the State Fire Commission. Preservation of the right to an appeal and the procedure for the contested case is governed by this section and by W. Va. Code § 29-3-1 et seq.

17.3. W. Va. Code § 29-3-12(g) and (I) Inquiry and Investigation. -- The testimony which may be obtained by the State Fire Marshal pursuant to the authority in W. Va. Code § 29-3-12(g) and (I) shall be obtained without compliance with the provisions in this rule governing "Procedure in Contested Cases." Where appropriate, a subsequent order by the State Fire Marshal relating to the testimony obtained is the same as any other order by the State Fire Marshal subject to the appeal rights provided in W. Va. Code § 29-3-1 et seq.

17.4. Appeal Petition. -- The appeal petition shall be typewritten, styled "Appeal Petition", and the appellant shall submit an original and one (1) copy. It shall be complete in itself so as to fully state the matters contested. No telegram, telephone call, or similar communication will be regarded as an appeal petition. The petition shall contain and include the following:

17.4.a. a copy of the order or decision of the State Fire Marshal being contested;

17.4.b. a clear and concise assignment of each error which the petitioner alleges to have been committed by the State Fire Marshal in issuing the order or decision with each assignment of error being shown in separately numbered paragraphs;

17.4.c. a clear and concise statement of the facts upon which the petitioner relies as sustaining his or her assignment of errors;

17.4.d. the address to which the petitioner desires to have all notices, documents, and the final order of the State Fire Commission mailed;

17.4.e. the telephone number or numbers where the petitioner can be contacted;

17.4.f. the names and addresses of all persons having any ownership interest in the property which is the subject of the State Fire Marshal's order being contested;

17.4.g. a prayer setting forth the relief sought; and

17.4.h. the signature of the petitioner or its duly authorized officer.

17.5. Time Requirement and Manner of Filing Appeal Petition. -- The petitioner shall submit an appeal petition by personal delivery or mailed to the State Fire Commission within thirty (30) days following service upon the petitioner, or within thirty (30) days following actual receipt if service is not required or for some reason is not made of the order or decision being contested. Any appeal petition shall be sent by certified mail, return receipt requested, and is timely if postmarked within the thirty (30) day period. Any appeal petition not delivered or mailed within the thirty (30) day period is not timely filed and the order or decision of the State Fire Marshal being contested is final.

17.6. Copy of Appeal Petition to State Fire Commission. -- Upon receipt of an appeal petition, the Chairman of the State Fire Commission, through office staff, shall supply a copy of the petition to the State Fire Commission members together with an opinion by the State Fire Marshal regarding the urgency of the matter being contested. If the State Fire Marshal elects to file a response to the appeal petition, he or she shall deliver a copy of the response to the State Fire Commission and a copy to the petitioner.

17.7. Scheduling Appeal Petition for and Notice of Hearing. -- The State Fire Commission Chairman through office staff shall schedule a hearing on the appeal petition giving the petitioner and the State Fire Marshal at least ten (10) days written notice of the date, time, and place of the hearing. The notice to the petitioner shall be by personal delivery or by certified mail, return receipt requested, shall contain a short and plain statement of the matters to be considered at the hearing, and a copy of the State Fire Marshal's response, if any, to the appeal petition, and shall be mailed or personally delivered by the State Fire Marshal no later than thirty (30) days after receipt of the appeal petition. A copy of the notice to the petitioner shall be supplied to the State Fire Marshal. The hearing shall be conducted at a designated location in Charleston, West Virginia, or in the discretion of the State Fire Commission at a location within the county where the premises in question are located.

17.8. Authorized Representative. -- The petitioner may appear individually, or by counsel.

17.9. Continuances -- A motion for continuance shall not be granted unless made in writing three days before the hearing or during the hearing, in either case for good and sufficient cause. Upon consideration of a motion for continuance, the urgency of the situation shall be determined and taken into consideration. Conflicting engagements of counsel or the employment of new counsel are not good grounds for a continuance unless a motion is filed promptly after the notice of hearing has been mailed or unless

extenuating circumstances are shown, which the State Fire Commission or hearing examiner considers adequate.

17.10. Absence of Petitioner or Counsel at the Scheduled Hearing -- A hearing by the Fire Commission shall not be delayed or continued due to the absence of the petitioner or his or her legal counsel at a hearing, after service of notice of the time, date, and place of the hearing. The hearing shall proceed and the case shall be submitted for decision on the part of the absent petitioner or petitioners.

17.11. Hearing Examiner -- Any member of the State Fire Commission may conduct a hearing on an appeal petition and has full authority to conduct the proceedings on an appeal petition, and when acting in that capacity shall be referred to as the hearing examiner. Alternatively, the State Fire Commission may authorize and empower an impartial attorney as a hearing examiner with the specific powers listed in W. Va. Code § 29A-5-1(d).

17.12. Subpoenas and Subpoenas Duces Tecum.

17.12.a. At any hearing held under this section, the testimony of witnesses and the production of documentary evidence may be required through the use of subpoenas and subpoenas duces tecum. The State Fire Marshal may issue subpoenas and subpoenas duces tecum at the request of the petitioner, the hearing examiner or the State Fire Commission.

17.12.b. Every subpoena or subpoena duces tecum is required to prove service at least five (5) days before the return date of that subpoena, either by personal service made by any person eighteen (18) years of age, or older, or by registered or certified mail. A return acknowledgment signed by the person to whom the subpoena or subpoena duces tecum is directed is required to prove service by registered or certified mail.

17.12.c. Any party requesting a subpoena or subpoena duces tecum shall see that it is properly served. Service of a subpoena or subpoena duces tecum issued at the insistence of the State Fire Commission is the responsibility of the State Fire Commission.

17.12.d. Any public official who serves any subpoena or subpoena duces tecum is entitled to the same fee as a Sheriff who serves a witness subpoena for a circuit court of this state; and fees for the attendance and travel of witnesses are the same as for witnesses before the circuit courts of this state. All fees shall be paid by the State Fire Commission if the subpoena or subpoena duces tecum is issued at the instance of the Commission. All fees related to any subpoena or subpoena duces tecum issued at the instance of the petitioner or the State Fire Marshal shall be paid by the party requesting the subpoena or subpoena duces tecum.

17.12.e. A request for a subpoena or subpoena duces tecum shall be in writing and shall contain a statement acknowledging that the requesting party agrees to pay the required fee.

17.12.f. Any person receiving a subpoena or subpoena duces tecum issued under this section shall honor the subpoena or subpoena duces tecum as though it were issued by a circuit court of the state, and shall appear as a witness and/or produce the books, records, or papers in response to the subpoena or subpoena duces tecum. In case of disobedience or neglect of any subpoena or subpoena duces tecum served on any person or the refusal of any witness to testify to any matter regarding which he or she may be lawfully interrogated, the circuit court of the county in which the hearing is being held, upon application by the State Fire Commission, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena or subpoena duces tecum issued from the circuit court or a refusal to testify in the circuit court.

17.13. Evidence.

17.13.a. All witnesses appearing at the hearing shall testify under oath or affirmation. Every adverse party has the right of cross-examination of witnesses who testify, and has the right to submit rebuttal evidence.

17.13.b. All relevant and material evidence, including papers, records, agency staff memoranda and documents in the possession of the State Fire Commission or the State Fire Marshal of which either party desires to avail himself or herself, may be offered and made a part of the record in the case.

17.13.c. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded by the Fire Commission. Except as otherwise in this section, the rules of evidence as applied in civil cases in the circuit courts of this state shall be followed in considering the admissibility of evidence. However, when necessary to ascertain facts not reasonably susceptible of proof under those rules, reasonably authenticated evidence not admissible under those Rules may be admitted, except where precluded by the W. Va. Code or privilege, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

17.14. Record of Proceedings. -- All of the testimony, evidence and rulings on admissibility of evidence at any hearing shall be recorded by a certified court reporter. An official record of the hearing shall be prepared by the State Fire Commission. A transcript shall only be prepared if the Commission's final decision is appealed. The cost of the transcript shall be paid by the party requesting it.

17.15. Informal Disposition. -- At any stage of the proceedings, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

17.16. Decision by the State Fire Commission. -- Upon the conclusion of the hearing, the person designated by the State Fire Commission as hearing examiner shall prepare a decision supported by findings of fact and conclusions of law affirming, modifying, or vacating the earlier order of decision of the State Fire Marshal. The State Fire Commission may either accept, modify, or reject the hearing examiner's decision. If the Commission accepts the hearing examiner's decision it shall sign the decision. If the Commission rejects or modifies the hearing examiner's decision, it shall prepare a written decision setting forth findings of facts and conclusions of law. In either event, the order signed by the State Fire Commission shall be final unless vacated or modified upon judicial review thereof. A copy of the order shall be served on all parties to the hearing and all attorneys of record, if any, in person or by certified mail, return receipt requested.

17.17. Judicial Review. -- The petitioner or by the State Fire Marshal may appeal the Commission's decision to the circuit court of the county where the premises are located, if the appeal is filed within thirty (30) days after the date upon which party was served with a copy of the final order or decision of the State Fire Commission. The final order signed by the State Fire Commission is final if the proceedings for judicial review are not instituted within the said thirty (30) day period.