

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

Form #3

Do Not Mark In This Box

FILED

2015 JUN 29 P 4:41

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**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 29-3-5b

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: State Building 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.

 6/29/15
Authorized Signature

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

State Building Code, 87 CSR 04

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia State Fire Commission

Address: 1207 Quarrier Street, Second Floor
Charleston, WV 25301

Phone Number: 304-558-2191 Email: kenneth.e.tyree@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 Building Code, 87 CSR 04

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.

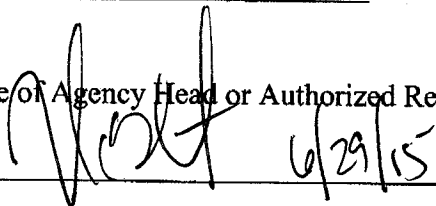
MEMORANDUM

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 State Building Code statewide. There are no fees associated with this Rule.

Date: June 29, 2015

Signature of Agency Head or Authorized Representative

 6/29/15

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

June 29, 2015

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

Kenneth E. Tyree
State Fire Marshal
1207 Quarrier Street, 2nd Floor
Charleston, WV 25301
(304) 558-2191 phone
(304) 558-2537 fax
kenneth.e.tyree@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)

Stephen R. Connolly, Esq.
Deputy Attorney General
2012 Quarrier Street
Charleston, WV 25311
(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 87-4 STATE BUILDING CODE

This rule amends the existing rule with few substantive changes. The Commission is updating this rule to include the various recent changes to standards and codes included in the State Building Code. The rule also requires local governments to file an annual report to the Commission to ensure jurisdictions are utilizing certified employees and implementing up-to-date building codes. This requirement allows the Commission to regulate the area of safe building practices more efficiently throughout the State. The rule also has minor technical clean-up language.

The substantive changes for this Rule include:

1. Updating to the 2015 edition of the IBC and omitting references to the IFC. (See §87-4-4.1.a.);
2. Updating to the 2015 editions of the IMC, IFGC, IPMC, IRC and IEBC. (See §87-4-4 et seq.);
3. Requiring judicial approval of demolitions occurring under the IPMC to avoid unilateral taking of property without oversight (See §87-4-4.1.e.1);
4. Including the 2015 edition of the ISPSC (See §87-4-1.n.);
5. Codifies requirements of State licensed Architects or Professional Engineers to review design documents for certificates of occupancy (See §87-7-3.3.);
6. Requires local governments to file an annual report with the State Fire Commission documenting their current building code and enforcement officials (See §87-4-7.a-b.);
7. Expressly delegates interpretation and enforcement decision-making to the local jurisdictions (See §87-4-7.3.a.);
8. Clarifies for the purpose of local governments adopting multiple codes and standards, that a single appeals board shall consist of five (5) members and defines the qualifications for its members. (See §87-4-7.5.a.);

West Virginia Fire Commission Response to Comments on the State Building Code, 87-4

BACKGROUND

The Fire Commission is proposing a revision to the State Building Code to update certain ICC standards and codes, as well as adopting other regulations and requirements not formerly included in the most recent revision to the Rule.

Prior to the Commission's initial filing of the Rule, stakeholder meetings were held on February 23, 2015, March 24, 2015, and April 6, 2015, at the Office of the State Fire Marshal. The Office was represented by Counsel, Chair of the Commission, Chair of the Legislative Codes Committee of the Commission, the State Fire Marshal, his Chief Inspector, several field Marshals, and office staff. Outside representatives from NFPA, ICC, WVCOA, HBAWV, and other interested parties were present at different times during these meetings. The proposed Rule was reviewed, and revisions made, prior to the Commission's consideration and approval on April 15, 2015.

During the Public Comment Period, the Commission received a letter from the National Fire Sprinkler Association as well as the International Codes Council (ICC) in favor of the proposed Rule. The ICC letter did make a recommendation to update the International Energy Code to the 2015 standard. However, this update cannot be made until and unless W.Va. Code §29-3-5b is amended to permit a change from the codified 2009 code to the requested 2015 code.

No other comments were received from the public during the comment period.

This summarizes the topics upon which comments were made to the West Virginia State Fire Commission on the State Building Code, 87 CSR 4.

The Commission appreciates all of the efforts of those involved in the stakeholder meetings and in contributing to formulating this important public safety Rule.

May 30, 2015

National Fire Sprinkler Association
Ron Brown, Regional Manager



Reference: **West Virginia Fire Prevention and Commercial and Residential Building Code Comments**

Mr. Ken Tyree, State Fire Marshal
1207 Quarrier St.
Charleston WV 25301

It is my understanding that the commercial and residential building codes being proposed for adoption by the West Virginia Fire Commission are based upon the International Code Council's 2015 Edition of the International Building and International Residential Codes. It is further my understanding that the proposed code adoption **does NOT amend out any of the fire sprinkler requirements found in the above noted ICC codes.**

If the above is correct then it is the position of the National Fire Sprinkler Association (NFSA) and its West Virginia member fire sprinkler contractors, manufactures and suppliers that the residential and commercial construction code proposed by the West Virginia Fire Commission ICC / IBC – IRS 2015 Edition should be **adopted as proposed.**

The products and practices used to construct apartment buildings, townhouses and homes today have led to significant fire safety concerns. These concerns led the national model code entities adoption of fire sprinklers as the best and lowest cost component to protect occupants and fire fighters from fire in today's residential structures. The requirements in the national model building and fire codes are interconnected and as such they should not be cherry picked for what meets the needs of a particular industry or an individual's wishes. The criteria for fire resistive barriers, travel distance to exits, size of fire compartments, and many other fire safety elements are established on the assumption all code requirements including fire sprinkler requirements will be met.

The citizens of West Virginia deserve to be purchasing new construction that meets nationally recognized minimum construction standards. In order to insure that happens it makes sense that the most significant minimum fire safety component found in the codes since 2009, fire sprinklers, should be required.

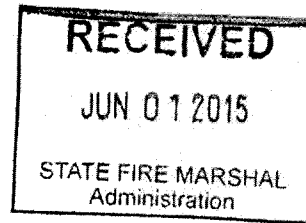
In closing it is the position of the West Virginia member fire sprinkler contractors, manufactures and suppliers that the West Virginia commercial and residential building codes include all fire sprinkler requirements found in the International Code Council IBC and IRC 2015 Edition.

Respectfully

Ron Brown Regional Manager
National Fire Sprinkler Association
brown@nfsa.org
260-615-8083



International Code Council
500 New Jersey Avenue, NW
Sixth Floor
Washington, DC 20001
tel: 888.icc.safe (422.7233)
fax: 202.783.2348
www.iccsafe.org



May 26, 2015

Ken E. Tyree
State Fire Marshal
1207 Quarrier Street, 2nd Floor
Charleston, WV 25301

Dear Marshal Tyree:

My name is Bryan Soukup and I am the Regional Governmental Relations Manager for the Mid-Atlantic States at the International Code Council (ICC). Please allow this letter to serve as public comment in support of final approval of West Virginia Proposed Rule 6418 of 2015 (Citation Authority 29-3-5b) for the adoption of the 2015 IBC, IMC, IFGC, IPMC, IRC, IEBC, and ISPC.

The ICC is a member-focused association dedicated to helping the building safety community and the construction industry provide safe and sustainable construction through the development of codes and standards used in the design, build, and compliance process. Most U.S. states and communities, Federal agencies, and many global markets choose the International Codes to set the standards for regulating construction, fire prevention, and energy conservation in the built environment.

The 15 International Codes (I-Codes) are updated and revised every three years through a national governmental consensus process that strikes a balance between the latest technology, new building products, installation techniques, economics, and cost while incorporating the most recent advances in public and first responder safety. It is an open, inclusive process that encourages input from all individuals and groups, and allows ICC Governmental Members¹ to determine the final code provisions.

The I-Codes are correlated to work together without conflicts thereby eliminating confusion in building design, inconsistent code enforcement, or interpretation among different jurisdictions. Jurisdictions that utilize the most current edition of the I-Codes ensure the highest standards for safety, energy efficiency, sustainability, economic incentive, and long-term resiliency of their built environment.

I would like to commend the State of West Virginia for its consistently outstanding work, reviewing, and now proposing to modernize the West Virginia building and safety codes based on the 2015 updates. The proposed amendments and updates of these codes will ensure that the West Virginia Codes remain technically viable, allow for economic investment in building construction, and provide for the greatest safety of the public and emergency responders, while embracing new technology and building practices and incorporating amendments that reflect the unique character and needs of West Virginia.

Please allow me this opportunity to also recommend adopting the 2015 International Energy Conservation Code (IECC). The IECC is adopted at the state or local level in 46 states, including Washington DC, Puerto Rico and the U.S. Virgin Islands (adoption chart can be found at: <http://www.iccsafe.org/gr/Pages/adoptions.aspx>). Presently, Colorado, Delaware,

¹ A Government/Municipality (including agencies, departments & units) engaged in administration, formulation or enforcement of laws, regulations or ordinances relating to public health, safety and welfare.

A Governmental Member may designate 4-12 voting representatives (based on population) who are employees or officials of that governmental member and are actively engaged full or part-time in the administration, formulation or enforcement of laws, regulations or ordinances relating to public health, safety and welfare.

Washington DC, Illinois, Iowa, Maryland, Massachusetts, Missouri, Nevada, North Dakota, Oregon, Rhode Island, Utah, Virginia and Washington have adopted the 2012 IECC statewide. West Virginia, however, remains on the 2009 IECC.

Benefits of the 2015 IECC include:

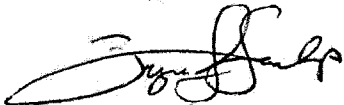
- Evolution to contain a new option for residential compliance, the Energy Rating Index (ERI) path in Section R406, that is supported by home builders and energy efficiency advocates.
- Increased energy efficiency, with more flexibility and easier enforcement and compliance for both builders and code officials.
- Allowing for, in the ERI path, the use of the Home Energy Rating System (HERS) already used by builders of one third of all new homes to rate their new homes, and to market those new homes to consumers.
- Full coordination with the family of I-Codes to ensure that efficiency measures are selected and installed in a manner that does not compromise safety.
- Provisions encouraging the use of new and smarter technological advances.
- Reference to nationally developed consensus standards.

Technical assistance and training from ICC is always available to designers, inspectors, builders, and other professionals in your state. They will have access to ICC training programs and materials, product Evaluation Reports, certification programs, and ICC technical staff, who can assist with code opinions and interpretations based on the I-Codes.

Thank you for the opportunity to submit these comments. The ICC is honored to partner with the State of West Virginia in support of the adoption and administration of the 2015 I-Codes and we look forward to continuing to serve your needs for many more years.

Please feel free to contact me via email or phone (information noted below) if you have any questions, concerns, or comments relative anything ICC-related.

Sincerely,



Bryan J. Soukup, Esq.
Regional Government Relations Manager—Mid-Atlantic States
International Code Council
bsoukup@iccsafe.org
888-422-7233; Ext. 6238

Alternate Contact:
Dorothy M. Harris, Vice President of State & Local Government Relations
International Code Council
DHarris@iccsafe.org
888-422-7233; Ext. 7722

**TITLE 87
LEGISLATIVE RULE
STATE FIRE COMMISSION**

**SERIES 4
STATE BUILDING CODE**

FILED
2015 JUN 29 P 4:41
OFFICE WEST VIRGINIA
SECRETARY OF STATE

§87-4-1. General.

1.1. Scope. -- This rule establishes the standards considered necessary by the State Fire Commission for the safeguarding of life and property and to ensure compliance with the minimum standards of safe construction of all structures erected or renovated throughout this state.

1.2. Authority. -- W. Va. Code §29-3-5b.

1.3. Filing Date. -- ~~June 3, 2013.~~

1.4. Effective Date. -- ~~September 1, 2013.~~

1.5. Incorporation of Other Documents. -- This rule does not include a reprinting of all the requirements imposed by statute or by the incorporation of various nationally recognized standards and codes cited in Subsection 4.1 of this rule. For ascertaining these additional standards and requirements, it is necessary to make reference to the other documents.

§87-4-2. Definitions.

2.1. "ANSI" means American National Standards Institute, 25 West 43rd St., Fourth Floor, New York, NY 10036.

2.2. "ASTM" means American Society of Testing and Materials.

2.3. "Fire Commission" means the thirteen (13) appointed members of the West Virginia State Fire Commission.

2.4. "Fire Marshal" means the West Virginia State Fire Marshal and/or his or her designated representatives.

2.5. "ICC" or "International" means International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001.

2.6. "Local jurisdiction" means municipal, ~~or county,~~ level or other local government.

2.7. "NFPA" means National Fire Protection Association, ~~1 Batterymarch Park, P. O. Box 9101, Quincy, MA 02269-9101.~~

2.8. "State Building Code" means the entire contents of this rule and the referenced national standards and codes.

2.9. "State Fire Code" means the entire contents of ~~State Fire Commission~~, the State Fire Code, W.Va. Code R. § 87-1-1 et seq. (87CSR1), and the referenced standards and codes.

§87-4-3. Conflicts.

3.1. Whenever there is a conflict between the State Fire Code and the State Building Code, the State Fire Code takes precedence.

3.2. Whenever there is a conflict between the International Plumbing Code requirements of the State Building Code and the rules of the West Virginia State Department of Health and Human Resources, the rules of the Department of Health and Human Resources take precedence.

3.3. Whenever there is a conflict between the State Building Code and statutory laws of the State of West Virginia, the laws of the State of West Virginia take precedence.

§87-4-4. National Standards and Codes.

4.1. The standards and requirements as set out and as published by the International Code Council, and American National Standards Institute, and the National Fire Protection Association as listed in this subsection, have the same force and effect as if set out verbatim in this rule.

4.1.a. The ~~2012~~ 2015 edition, International Building Code, with the following exceptions:

4.1.a.1. Provided; that the section entitled "Fire Prevention" and identified as Section 101.4.5 is deleted and not considered to be a part of this rule and omit all references to the International Fire Code and substitute NFPA Life Safety Code 2015 edition .

4.1.a.2. Further provided that the entire subsection entitled "Qualifications" and identified as Section 113.3 is deleted and replaced with the following:

"Section 113.3. Board of Appeals

113.3 Qualifications. The board of appeals shall consist of five members, with up to three alternates, who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction. They may include, but are not limited to, a WV Registered Professional Architect or Engineer, or a WV Licensed General Building, Residential, Electrical, Piping, Plumbing, Mechanical or Fire Protection Contractor, with at least 10 years experience, five of which shall be in responsible charge of work."

4.1.b. The ~~2012~~ 2015 edition of the International Plumbing Code.

4.1.c. The ~~2012~~ 2015 edition of the International Mechanical Code.

4.1.d. The ~~2012~~ 2015 edition of the International Fuel Gas Code, with the following exception:

4.1.d.1. Section 404.10 Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade. If the minimum depth cannot be maintained, the piping system shall be installed in conduit or shielded in an approved manner.

4.1.e. The ~~2012~~ 2015 edition of the International Property Maintenance Code. This Code may be rejected at the option of the local jurisdiction.

4.1.e.1. Provided, that Section 110.3 Failure to Comply, shall be modified as follows:

“If the owner of a premises fails to comply with a demolition order within the time prescribed, the legal counsel of the jurisdiction shall institute appropriate action in the Circuit Court of the County in which the property is located against the owner of the premises where the structure is or was located seeking an Order causing the structure to be demolished and removed. Thereafter, the local jurisdiction, through an available public agency or by contract or arrangement with private persons, shall demolish and remove the structure and the costs thereof, as well as all fees and costs incurred in the legal action, shall be a lien upon such real estate.”

4.1.e.2. This code may be adopted by the local jurisdiction without requiring adoption of the other national codes and standards listed in this ~~section~~ rule.

4.1.f. The 2009 edition of the International Energy Conservation Code for residential buildings, ~~Provided that this does not become effective until November 30, 2013.~~

4.1.g. The ANSI/ASHRAE/IESNA Standard 90.1-2007 ~~Edition~~ for commercial buildings.

4.1.h. The ~~2009~~ 2015 edition of the International Residential Code for One and Two Family Dwellings, with the following exceptions:

4.1.h.1. Chapter 11 of the ~~2009~~ 2015 edition of the International Residential Code for One and Two Family Dwellings, Seventh Printing, entitled “Energy Efficiency”, is exempt from this rule.

4.1.h.2. Section ~~G2415.10~~ G2415.12 (404.10) Minimum Burial Depth. Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade. If the minimum depth cannot be maintained, the piping system shall be installed in conduit or shielded in an approved manner.

4.1.h.2. Section ~~R311.7.4~~ R311.7.5 Stair Treads and Risers

4.1.h.2.A. 311.7.4.1 311.7.5.1 Riser Heights -- The maximum riser height shall be eight and one-quarter (8 ¼) inches.

4.1.h.2.B. 311.7.4.2 311.7.5.2 Tread Depth -- The minimum tread depth shall be nine (9) inches.

4.1.h.3. Section R403.1.7.1: Building Clearances From Ascending Slopes is not applicable to this rule.

4.1.h.4. Section R403.1.7.2: Footings Setbacks From Descending Slope Surfaces is not applicable to this rule.

4.1.j The 2009 ICC/ANSI A117.1 American National Standards for Accessibility & Usable Buildings & Facilities.

4.1.k. The ~~2012~~ 2015 International Existing Building Code, with the following exception:

4.1.k.1. Omit reference to International Fire Code and substitute NFPA Life Safety Code ~~2009~~ 2015 Edition.

4.1.m. The ~~2011~~ 2014 edition of the National Electric Code, NFPA 70.

4.1.n. The 2015 edition of the International Swimming Pool and Spa Code.

4.2. Whenever a certificate of occupancy is required by the State Building Code and/or the incorporated codes and standards herein, the project documents shall be designed by an Architect licensed by the WV Board of Architects or a Professional Engineer licensed by the WV State Board of Registration for Professional Engineers.

§87-4-5 Fire Protection of Floors in Residential Buildings

5.1 New One and Two Family Dwellings over one level in height, New One and Two Family Dwellings containing a basement, and New One and Two Family Dwellings containing a crawl space containing a fuel burning appliance below the first floor, shall provide one of the following methods for fire protection of floors: (1) A 1/2 inch (12.7 mm) gypsum wallboard membrane, 5/8 inch (16 mm) wood structural panel membrane, or equivalent on the underside of the floor framing member; (2) Wood floor assemblies using dimension lumber or structural composite lumber equal or greater than 2 inch by 10 inch (50.8 mm by 254 mm) nominal dimension, or other approved floor assemblies demonstrating equivalent fire performance; or (3) An Automatic Fire Sprinkler System as set forth in section R313.2 of the ~~2009~~ 2015 edition of the International Residential Code for One and Two Family Dwellings: *Provided*, That floor assemblies located directly over a space protected by an automatic sprinkler system as set forth in section R313.2 of the ~~2009~~ 2015 edition of the International Residential Code for One and Two Family Dwellings are exempt from this requirement.

§87-4-6. Exceptions.

6.1. The following structures are not subject to inspection by local jurisdictions:

6.1.a. Group U utility structures and storage sheds comprising an area not more than 200 sq. ft. which have no plumbing or electrical connections and are used only for residential storage purposes. (Examples include sheds that are for the residential storage of lawnmowers, tools, bicycles or furniture.) Not included are those utility structures and storage sheds which have plumbing or electrical connections are a non-residential use or for the storage of explosives or other hazardous or explosive materials.

§87-4-7. Adoption by Local Jurisdiction.

7.1. Each local jurisdiction adopting the State Building Code shall notify the State Fire Commission in writing. The local jurisdiction shall send a copy of the ordinance or order to the State Fire Marshal, West Virginia State Fire Commission, 1207 Quarrier Street, 2nd floor, Charleston, West Virginia 25301, within thirty (30) days of adoption.

7.1.a. Any municipality, county or local governmental entity adopting and enforcing the State Building Code, shall submit an annual report to the State Fire Commission indicating the number of employees in their respective code enforcement department, their job title, whether the employee is or is not certified by the State Fire Commission in their respective discipline, as well as verification that the entity has adopted the current version of the State Building Code. The municipality, county or local governmental entity shall also report what ICC codes are being enforced respectively.

7.1.b. This annual report shall be filed with the State Fire Commission no later than the thirtieth day of June of each year. The report may be completed by the Code Official, Deputy Code Official, or any other agent of the municipality, county or local governmental entity with signature authority.

7.2. Each local jurisdiction which adopts the State Building Code is responsible for the enforcement of the building code as provided in West Virginia Code § 7-1-3n and § 8-12-13.

7.3. Throughout the national codes, adopted in subsection 4.1 of this rule, there are discretionary provisions or amendments which require further action by the adopting local jurisdiction in order to adapt these codes to various local conditions. The appendices are not a part of the code and must also be adopted by the local jurisdiction to be enforceable. It is therefore the intent of this rule to further authorize each local jurisdiction to further complete, by order or ordinance, those respective areas which are indicated to be completed by the adopting "jurisdiction" and any of the appendices the local jurisdiction wishes to adopt.

7.3.a. All questions of interpretation and enforcement of the State Building Code are delegated to the local jurisdiction unless expressly provided by State Code, by this Rule, or by the incorporated codes and standards referenced in this rule.

7.4. Within the penalty sections of each of the national codes, adopted in Section 4.1 of this rule, there is a penalty for imprisonment. The provision of imprisonment for any violation of this rule is optional with each adopting local jurisdiction.

7.5. Each of the national codes adopted in subsection 4.1 of this rule provides for a separate appeals board. However, the intent and requirements for an appeal board may be met with the creation by the local jurisdiction of a single appeals board for the entire "State Building Code."

7.5.a. The board of appeals shall consist of five members, with up to three alternates, who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction. They may include, but are not limited to, a WV Registered Professional Architect or Engineer, or a WV Licensed General Building, Residential, Electrical, Piping, Plumbing, Mechanical or Fire Protection Contractor, with at least 10 years experience, five of which shall be in responsible charge of work.

§87-4-8. Existing Building Codes.

8.1. All building codes previously adopted by local jurisdictions are null and void.

**TITLE 87
LEGISLATIVE RULE
STATE FIRE COMMISSION**

**SERIES 4
STATE BUILDING CODE**

§87-4-1. General.

1.1. Scope. -- This rule establishes the standards considered necessary by the State Fire Commission for the safeguarding of life and property and to ensure compliance with the minimum standards of safe construction of all structures erected or renovated throughout this state.

1.2. Authority. -- W. Va. Code §29-3-5b.

1.3. Filing Date. -- ~~June 3, 2013.~~

1.4. Effective Date. -- ~~September 1, 2013.~~

1.5. Incorporation of Other Documents. -- This rule does not include a reprinting of all the requirements imposed by statute or by the incorporation of various nationally recognized standards and codes cited in Subsection 4.1 of this rule. For ascertaining these additional standards and requirements, it is necessary to make reference to the other documents.

§87-4-2. Definitions.

2.1. "ANSI" means American National Standards Institute, 25 West 43rd St., Fourth Floor, New York, NY 10036.

2.2. "ASTM" means American Society of Testing and Materials.

2.3. "Fire Commission" means the thirteen (13) appointed members of the West Virginia State Fire Commission.

2.4. "Fire Marshal" means the West Virginia State Fire Marshal and/or his or her designated representatives.

2.5. "ICC" or "International" means International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001.

2.6. "Local jurisdiction" means municipal, ~~or county, level~~ or other local government.

2.7. "NFPA" means National Fire Protection Association, ~~1 Batterymarch Park, P. O. Box 9101, Quincy, MA 02269-9101.~~

2.8. "State Building Code" means the entire contents of this rule and the referenced national standards and codes.

2.9. "State Fire Code" means the entire contents of ~~State Fire Commission~~, the State Fire Code, W.Va. Code R. § 87-1-1 et seq. (87CSR1), and the referenced standards and codes.

§87-4-3. Conflicts.

3.1. Whenever there is a conflict between the State Fire Code and the State Building Code, the State Fire Code takes precedence.

3.2. Whenever there is a conflict between the International Plumbing Code requirements of the State Building Code and the rules of the West Virginia State Department of Health and Human Resources, the rules of the Department of Health and Human Resources take precedence.

3.3. Whenever there is a conflict between the State Building Code and statutory laws of the State of West Virginia, the laws of the State of West Virginia take precedence.

§87-4-4. National Standards and Codes.

4.1. The standards and requirements as set out and as published by the International Code Council, and American National Standards Institute, and the National Fire Protection Association as listed in this subsection, have the same force and effect as if set out verbatim in this rule.

4.1.a. The ~~2012~~ 2015 edition, International Building Code, with the following exceptions:

4.1.a.1. Provided; that the section entitled "Fire Prevention" and identified as Section 101.4.5 is deleted and not considered to be a part of this rule and omit all references to the International Fire Code and substitute NFPA Life Safety Code 2015 edition.

4.1.a.2. Further provided that the entire subsection entitled "Qualifications" and identified as Section 113.3 is deleted and replaced with the following:

"Section 113.3. Board of Appeals

113.3 Qualifications. The board of appeals shall consist of five members, with up to three alternates, who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction. They may include, but are not limited to, a WV Registered Professional Architect or Engineer, or a WV Licensed General Building, Residential, Electrical, Piping, Plumbing, Mechanical or Fire Protection Contractor, with at least 10 years experience, five of which shall be in responsible charge of work."

4.1.b. The ~~2012~~ 2015 edition of the International Plumbing Code.

4.1.c. The ~~2012~~ 2015 edition of the International Mechanical Code.

4.1.d. The ~~2012~~ 2015 edition of the International Fuel Gas Code, with the following exception:

4.1.d.1. Section 404.10 Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade. If the minimum depth cannot be maintained, the piping system shall be installed in conduit or shielded in an approved manner.

4.1.e. The ~~2012~~ 2015 edition of the International Property Maintenance Code. This Code may be rejected at the option of the local jurisdiction.

4.1.e.1. Provided, that Section 110.3 Failure to Comply, shall be modified as follows:

“If the owner of a premises fails to comply with a demolition order within the time prescribed, the legal counsel of the jurisdiction shall institute appropriate action in the Circuit Court of the County in which the property is located against the owner of the premises where the structure is or was located seeking an Order causing the structure to be demolished and removed. Thereafter, the local jurisdiction, through an available public agency or by contract or arrangement with private persons, shall demolish and remove the structure and the costs thereof, as well as all fees and costs incurred in the legal action, shall be a lien upon such real estate.”

4.1.e.2. This code may be adopted by the local jurisdiction without requiring adoption of the other national codes and standards listed in this ~~section~~ rule.

4.1.f. The 2009 edition of the International Energy Conservation Code for residential buildings, ~~Provided that this does not become effective until November 30, 2013.~~

4.1.g. The ANSI/ASHRAE/IESNA Standard 90.1-2007 ~~Edition~~ for commercial buildings.

4.1.h. The 2009 2015 edition of the International Residential Code for One and Two Family Dwellings, with the following exceptions:

4.1.h.1. Chapter 11 of the 2009 2015 edition of the International Residential Code for One and Two Family Dwellings, Seventh Printing, entitled “Energy Efficiency”, is exempt from this rule.

4.1.h.2. Section ~~G2415.10~~ G2415.12 (404.10) Minimum Burial Depth. Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade. If the minimum depth cannot be maintained, the piping system shall be installed in conduit or shielded in an approved manner.

4.1.h.2. Section ~~R311.7.4~~ R311.7.5 Stair Treads and Risers

4.1.h.2.A. ~~311.7.4.1~~ 311.7.5.1 Riser Heights -- The maximum riser height shall be eight and one-quarter (8 ¼) inches.

4.1.h.2.B. ~~311.7.4.2~~ 311.7.5.2 Tread Depth -- The minimum tread depth shall be nine (9) inches.

4.1.h.3. Section R403.1.7.1: Building Clearances From Ascending Slopes is not applicable to this rule.

4.1.h.4. Section R403.1.7.2: Footings Setbacks From Descending Slope Surfaces is not applicable to this rule.

4.1.j The 2009 ICC/ANSI A117.1 American National Standards for Accessibility & Usable Buildings & Facilities.

4.1.k. The ~~2012~~ 2015 International Existing Building Code, with the following exception:

4.1.k.1. Omit reference to International Fire Code and substitute NFPA Life Safety Code ~~2009~~ 2015 Edition.

4.1.m. The ~~2011~~ 2014 edition of the National Electric Code, NFPA 70.

4.1.n. The 2015 edition of the International Swimming Pool and Spa Code.

4.2. Whenever a certificate of occupancy is required by the State Building Code and/or the incorporated codes and standards herein, the project documents shall be designed by an Architect licensed by the WV Board of Architects or a Professional Engineer licensed by the WV State Board of Registration for Professional Engineers.

§87-4-5 Fire Protection of Floors in Residential Buildings

5.1 New One and Two Family Dwellings over one level in height, New One and Two Family Dwellings containing a basement, and New One and Two Family Dwellings containing a crawl space containing a fuel burning appliance below the first floor, shall provide one of the following methods for fire protection of floors: (1) A 1/2 inch (12.7 mm) gypsum wallboard membrane, 5/8 inch (16 mm) wood structural panel membrane, or equivalent on the underside of the floor framing member; (2) Wood floor assemblies using dimension lumber or structural composite lumber equal or greater than 2 inch by 10 inch (50.8 mm by 254 mm) nominal dimension, or other approved floor assemblies demonstrating equivalent fire performance; or (3) An Automatic Fire Sprinkler System as set forth in section R313.2 of the ~~2009~~ 2015 edition of the International Residential Code for One and Two Family Dwellings: *Provided*, That floor assemblies located directly over a space protected by an automatic sprinkler system as set forth in section R313.2 of the ~~2009~~ 2015 edition of the International Residential Code for One and Two Family Dwellings are exempt from this requirement.

§87-4-6. Exceptions.

6.1. The following structures are not subject to inspection by local jurisdictions:

6.1.a. Group U utility structures and storage sheds comprising an area not more than 200 sq. ft. which have no plumbing or electrical connections and are used only for residential storage purposes. (Examples include sheds that are for the residential storage of lawnmowers, tools, bicycles or furniture.) Not included are those utility structures and storage sheds which have plumbing or electrical connections are a non-residential use or for the storage of explosives or other hazardous or explosive materials.

§87-4-7. Adoption by Local Jurisdiction.

7.1. Each local jurisdiction adopting the State Building Code shall notify the State Fire Commission in writing. The local jurisdiction shall send a copy of the ordinance or order to the State Fire Marshal, West Virginia State Fire Commission, 1207 Quarrier Street, 2nd floor, Charleston, West Virginia 25301, within thirty (30) days of adoption.

7.1.a. Any municipality, county or local governmental entity adopting and enforcing the State Building Code, shall submit an annual report to the State Fire Commission indicating the number of employees in their respective code enforcement department, their job title, whether the employee is or is not certified by the State Fire Commission in their respective discipline, as well as verification that the entity has adopted the current version of the State Building Code. The municipality, county or local governmental entity shall also report what ICC codes are being enforced respectively.

7.1.b. This annual report shall be filed with the State Fire Commission no later than the thirtieth day of June of each year. The report may be completed by the Code Official, Deputy Code Official, or any other agent of the municipality, county or local governmental entity with signature authority.

7.2. Each local jurisdiction which adopts the State Building Code is responsible for the enforcement of the building code as provided in West Virginia Code § 7-1-3n and § 8-12-13.

7.3. Throughout the national codes, adopted in subsection 4.1 of this rule, there are discretionary provisions or amendments which require further action by the adopting local jurisdiction in order to adapt these codes to various local conditions. The appendices are not a part of the code and must also be adopted by the local jurisdiction to be enforceable. It is therefore the intent of this rule to further authorize each local jurisdiction to further complete, by order or ordinance, those respective areas which are indicated to be completed by the adopting "jurisdiction" and any of the appendices the local jurisdiction wishes to adopt.

7.3.a. All questions of interpretation and enforcement of the State Building Code are delegated to the local jurisdiction unless expressly provided by State Code, by this Rule, or by the incorporated codes and standards referenced in this rule.

7.4. Within the penalty sections of each of the national codes, adopted in Section 4.1 of this rule, there is a penalty for imprisonment. The provision of imprisonment for any violation of this rule is optional with each adopting local jurisdiction.

7.5. Each of the national codes adopted in subsection 4.1 of this rule provides for a separate appeals board. However, the intent and requirements for an appeal board may be met with the creation by the local jurisdiction of a single appeals board for the entire "State Building Code."

7.5.a. The board of appeals shall consist of five members, with up to three alternates, who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction. They may include, but are not limited to, a WV Registered Professional Architect or Engineer, or a WV Licensed General Building, Residential, Electrical, Piping, Plumbing, Mechanical or Fire Protection Contractor, with at least 10 years experience, five of which shall be in responsible charge of work.

§87-4-8. Existing Building Codes.

8.1. All building codes previously adopted by local jurisdictions are null and void.