

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

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FILED
1998 JUL 25 PM 1:44
SECRETARY OF STATE

NOTICE OF AN EMERGENCY RULE

AGENCY: Governor's Committee on Crime, Delinquency & Correction TITLE NUMBER: 149

CITE AUTHORITY: West Virginia Code 30-29

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 2

TITLE OF RULE BEING AMENDED: Basic Training Academy, Annual In-Service
and Biennial In-Service Training Standards

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: _____

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

The revision to existing rules will enable law enforcement officers certified in other states to come to West Virginia as a law enforcement officer and complete only a portion of the basic training program instead of the full twelve week program. It will enable law enforcement officers to continue their certification after leaving police work and wanting to return instead of having to complete basic training again. The last revision will provide avenues for decertification which are necessary to maintain the integrity of the training and certification program.

Use Additional Sheets If Necessary.

James M. Alpert



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(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

September 6, 1988

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Governor's Committee on Crime, Delinquency & Corrections

RULE: Amendments to Series 2, Basic Training Academy, Annual In-Service and Biennial In-Service Training Standards

DATE FILED AS AN EMERGENCY RULE: July 25, 1988

DECISION NO. 16-88

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

KEN HECHLER
Secretary of State

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE Sept 6, 1988
ADMINISTRATIVE LAW DIVISION



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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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DECISION

EMERGENCY RULE DECISION
(ERD 16-88)

AGENCY: Governor's Committee on Crime, Delinquency & Corrections

RULE: Amendments to Series 2, Basic Training Academy, Annual In-Service & Biennial In-Service Training Standards

FILED AS AN EMERGENCY RULE: July 25, 1988

- par. 1 The Committee has filed amendments to the above rule as an emergency.
- par. 2 West Virginia Code 29A-3-15A requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the ERD is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Committee has filed this emergency rule with supporting documents with the Secretary of State on July 25, 1988 and with the LRMRC on July 25, 1988.

par. 7 It is the determination of the Secretary of State that the Committee has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §30-29-3 reads in part:

§30-29-3. Duties of the governor's committee and the subcommittee.

Upon recommendation of the subcommittee, the governor's committee shall, by or pursuant to rule or regulation:

(a) Provide funding for the establishment and support of law-enforcement training academies in the state;

(b) Establish standards governing the establishment and operation of the law-enforcement training academies, including regional locations throughout the state in order to provide access to each law-enforcement agency in the state in accordance with available funds;

(c) Establish minimum law-enforcement instructor qualifications;

(d) Certify qualified law-enforcement instructors;

(e) Maintain a list of approved law-enforcement instructors;

(f) Promulgate standards governing the qualification of law-enforcement officers and the entry level law-enforcement training curricula.

par. 9 It is the determination of the Secretary of State that the Committee has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

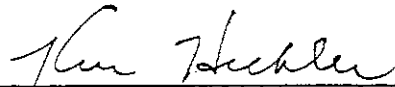
par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Committee are as follows:

The revision to existing rules will enable law enforcement officers certified in other states to come to West Virginia as

a law enforcement officer and complete only a portion of the basic training program instead of the full twelve week program. It will enable law enforcement officers to continue their certification after leaving police work and wanting to return instead of having to complete basic training again. The last revision will provide avenues for decertification which are necessary to maintain the integrity of the training and certification program.

- par. 13 The training and availability of trained law enforcement officers is contingent upon updates to standards and procedures used in such basic training and directly affects public peace and safety.
- par. 14 It is the determination of the Secretary of State that this proposal meets the standards for emergency rule.
- par. 15 This decision shall be cited as Emergency Rule Decision 16-88 or ERD 16-88 and may be cited as precedent. This decision is available from the Secretary of State's office and has been filed with the Committee, the Attorney General and the Legislative Rule Making Review Committee.



KEN HECHLER
SECRETARY OF STATE
FILED IN THE OFFICE OF
THE SECRETARY OF STATE

THIS DATE Sept 6, 1988
ADMINISTRATIVE LAW DIVISION

Entered _____