



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

6/29/2022 9:36:52 AM

Office of West Virginia  
Secretary Of State

**NOTICE OF PUBLIC COMMENT PERIOD**

AGENCY: Labor TITLE-SERIES: 42-32  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: Supervision of Plumbing Work

CITE STATUTORY AUTHORITY: §21-14-4 and 21-17-12

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/29/2022 1 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Brooke Farber

ADDRESS: 1900 Kanawha Boulevard East, Capitol Complex, Building 3, Room 200  
Charleston, WV 25305

EMAIL: brooke.m.farber@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

The proposed rule includes a definition section; a section on the adoption of the International Plumbing Code standard; a section on the required licensure of master plumbers, journeyman plumbers, and plumbers-in-training; sections on license applications and renewals; a section on the supervision ratio; a section on licensing fees; a section on required examinations for master plumbers and journeyman plumbers; a section on denials, suspension, revocation, and reinstatement of licenses and investigations and grounds for disciplinary actions against licensees; a section on cease and desist orders and penalties; a section on appeals; and a section on licensing reciprocity and work experience.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

HB 2008, passed during the 2021 Regular Legislative Session, and HB 4634, passed during the 2022 Regular Legislative Session, changed certain occupational licensing requirements.

To incorporate the changes effected by the enactment of HB 2008, language was stricken regarding the amount of technical education and training hours required to qualify for licensure as a master plumber or journeyman plumber.

To incorporate the changes effected by the enactment of HB 4634, definitions and language were added regarding recognition of occupational licensing credentials from other states.

The proposed rule also includes some technical corrections and non-substantive changes related to formatting.

The only fee change is to incorporate the requirement in HB 2008 that the annual initial and renewal licensing fees for plumbers-in-training cannot exceed \$25.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

The proposed rule will have no economic impact on revenues of state government.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

The proposed rule will have an economic impact on a special revenue account due to the reduction of licensing fees for plumbers-in-training from \$50 to \$25

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

The proposed rule will have an economic impact due to the reduction of licensing fees for plumbers-in-

training from \$50 to \$25

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2022 Increase/Decrease (use "-")	2023 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Mitchell E Woodrum -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 42  
LEGISLATIVE RULE  
~~WEST VIRGINIA~~ DIVISION OF LABOR

SERIES 32  
SUPERVISION OF PLUMBING WORK

**§42-32-1. General.**

1.1. Scope. -- ~~This rule governs the licensure, fees, examinations, and requirements for individuals performing plumbing work, and sets forth the duties of the Commissioner in issuing licenses and penalties for violations, all in accordance with W. Va. Code §§21-14-1 et seq. and 21-1E-1 et seq.~~ This rule governs licensing, fees, examinations, and penalties for violations in accordance with W. Va. Code §21-14-1 et seq. and §21-17-1 et seq.

1.2. Authority. -- W. Va. Code §21-14-4 and ~~§21-1E-4~~ §21-17-12.

1.3. Filing Date. -- ~~March 16, 2020.~~

1.4. Effective Date. -- ~~May 1, 2020.~~

1.5. Sunset ~~Date~~ Provision. -- This rule shall terminate and have no further force or effect ~~upon May 1, 2030~~ on August 1, 2028.

**§42-32-2. Application and Enforcement.**

2.1. Application. ~~This rule applies to all persons, materials, and transactions governed or otherwise defined under coverage of the Supervision of Plumbing Work Act, W. Va. Code §21-14-1 et seq.~~ This legislative rule applies to all persons and matters governed by or otherwise within the jurisdiction of the Supervision of Plumbing Work Act, W. Va. Code §21-14-1 et seq.

2.2. Enforcement. The enforcement of this legislative rule is vested ~~with~~ in the West Virginia Division of Labor.

**§42-32-3. Definitions.**

3.1. ~~The~~ "Act" means the Supervision of Plumbing Work Act, W. Va. Code §21-14-1 et seq.

3.2. "Cease and desist order" means an order issued by the Division of Labor pursuant to the Act and this rule to an unlicensed person who performs work for which a license is required.

3.3. "Classification" means the scope of work of a master plumber, journeyman plumber, or plumber-in-training as defined in the Act and this rule.

~~3.2.~~ 3.4. "Commissioner" means the Commissioner of the West Virginia Division of Labor and his or her authorized representatives.

~~3.3.~~ 3.5. "Direct supervision" ~~means the direction, oversight, and control of the work of a licensed plumber in training by a licensed master plumber or licensed journeyman plumber at least 75% of the~~

time at each separate job site or location or "supervision" means the competency of a licensed master plumber or licensed journeyman plumber to provide instruction to and direction of the plumbing work of a licensed plumber-in-training and to exercise oversight and control of such plumbing work at each separate job site or location in accordance with section 8 of this rule.

~~3.4.~~ 3.6. "Division" means the West Virginia Division of Labor and its authorized representatives.

~~3.5.~~ "Employer sponsored training program" means a planned curriculum, approved by the Commissioner, that must include training in workplace and technical competencies.

~~3.6.~~ 3.7. "Immediate family," is limited to one or more of the following: father, mother, spouse, brother, sister, son, or daughter as used in W. Va. Code §21-14-3(c)(1), means a person's parents, spouse, sibling, or child.

~~3.7.~~ 3.8. "International Code Council" or "ICC" means the organization located at 500 New Jersey Avenue NW, 6<sup>th</sup> Floor, Washington, DC 20001. "ICC" refers to the International Code Council, 500 New Jersey Avenue NW, 6<sup>th</sup> Floor, Washington, D.C. 20001.

~~3.8.~~ 3.9. "Lapsed license" means a license that has expired for 90 days or more. "Other authorization to practice," as used in section 14 of this rule, means a nontransferable acknowledgment, other than a license, by another state government that is provided to an individual asserting that the individual has met the educational and examination requirements to engage in the performance of plumbing work.

~~3.9.~~ "Supervision" means the direction, oversight, and control of licensed journeyman plumbers and plumbers in training by a licensed master plumber on a plumbing project.

#### **§42-32-4. Adoption of Standards.**

The International Plumbing Code, published by the ICC, as adopted by the State Fire Commission in the State Building Code Legislative Rule, 87 CSR 4, is adopted and incorporated by reference. The International Plumbing Code, published by the ICC and as adopted by the West Virginia State Fire Commission in 87 CSR 4, is incorporated herein in its entirety by reference.

#### **§42-32-5. License Required; Exemptions Licensure Required.**

~~5.1.~~ Unless otherwise exempt under the provisions of W. Va. Code §21-14-3(c), a person may not perform or offer to perform plumbing work in this state without a license issued under the provisions of the Act and this rule. Except as otherwise provided in the Act, no person may perform or offer to perform plumbing work in this state without a license.

~~5.2.~~ Pursuant to W. Va. Code §21-14-3(c)(1), a person who personally performs plumbing work on a single family dwelling owned or leased by a member of the person's immediate family as defined in subsection 3.6 of this rule is exempt from the requirements of the Act and this rule. Any person licensed pursuant to the provisions of the Act and this rule shall carry proof of a valid license at all times when performing plumbing work in this state.

~~5.3.~~ A licensed plumber or plumber in training shall carry proof of a valid license on his or her person at all times during the performance of plumbing work. A license issued pursuant to the Act and this rule is not transferable.

**§42-32-6. Minimum Qualifications and Requirements for a Master or Journeyman Plumber License Licensure of Master Plumbers and Journeyman Plumbers.**

~~6.1. A person desiring a master or journeyman plumber license pursuant to the provisions of the Act and this rule shall submit an application to the Commissioner.~~

~~6.2. The Commissioner shall issue a master or journeyman plumber license to any applicant who:~~

~~6.2.a. Is at least 18 years of age;~~

~~6.2.b. Submits a properly completed application on forms provided by the Division;~~

~~6.2.c. Submits a copy of the required written examination scores reflecting a score of at least 70%;~~

~~6.2.d. for a master plumber license, provides acceptable documentation or a sworn affidavit which demonstrates that he or she has at least 12,000 hours of plumbing work experience, which may include, but is not limited to, the successful completion of a plumbing related training program acquired through career technical education provided by the state's public schools or an apprenticeship program or an employer sponsored training program;~~

~~6.2.e. for a journeyman plumber license, provides acceptable documentation or a sworn affidavit which demonstrates that he or she has at least 8,000 hours of plumbing work experience for a journeyman plumber license, which may include, but is not limited to, the successful completion of a plumbing related training program acquired through career technical education provided by the state's public schools or an apprenticeship program or an employer sponsored training program; and~~

~~6.2.f. Pays the application fee set forth in section 10 of this rule.~~

6.1. Any person desiring to be licensed with a master plumber or journeyman plumber classification shall submit a completed application/affidavit requesting licensure to the Commissioner on forms supplied by the Division and pay the applicable license fee as prescribed in section 9 of this rule.

6.2. All applicants for a master plumber license or journeyman plumber license shall pass a required written examination for the desired classification, as set forth in the Act and section 10 of this rule, except in the case of an applicant seeking licensure in accordance with section 14 of this rule.

6.3. A master plumber's license and journeyman plumber's license is valid for up to one year unless sooner suspended or revoked by the Commissioner.

6.4. A licensed master plumber or licensed journeyman plumber may renew the license on or before its expiration date by submitting a renewal application on forms supplied by the Division and paying the applicable renewal fee as prescribed in section 9 of this rule. The Commissioner shall provide each licensee with a renewal notice at least 45 days in advance of the license's expiration date. If the renewal application is received or postmarked more than 15 days after the license's expiration date, the licensee shall pay a late fee of \$25 in addition to the annual renewal fee: *Provided:* That a license that has been expired for 90 days or more cannot be renewed.

6.5. A duplicate license may be issued upon receipt of a written request to the Commissioner from the licensee. The Commissioner may charge \$10 fee for a duplicate license.

**§42-32-7. Minimum Qualifications and Requirements for a Plumber In-Training License Licensure of Plumbers-In-Training.**

~~7.1. A person desiring a plumber in training license pursuant to the provisions of the Act and this rule shall submit an application to the Commissioner.~~

~~7.2. The Commissioner shall issue a plumber in training license to an applicant who:~~

~~7.2.a. is at least 18 years old;~~

~~7.2.b. submits a properly completed application on forms provided by the Division; and~~

~~7.2.c. pays the application fee set forth in section 10 of this rule.~~

7.1. Any person desiring to be licensed as a plumber-in-training shall submit a completed application/affidavit requesting licensure to the Commissioner on forms supplied by the Division and pay the applicable license fee as prescribed in section 9 of this rule.

7.2. A plumber-in-training's license is valid for up to one year unless sooner suspended or revoked by the Commissioner.

7.3. A licensed plumber-in-training may renew the license on or before its expiration date by submitting a renewal application on forms supplied by the Division and paying the applicable renewal fee as prescribed in section 9 of this rule. The Commissioner shall provide each licensee with a renewal notice at least 45 days in advance of the license's expiration date. If the renewal application is received or postmarked more than 15 days after the license's expiration date, the licensee shall pay a late fee of \$25 in addition to the annual renewal fee: *Provided:* That a license that has been expired for 90 days or more cannot be renewed.

7.4. A duplicate license may be issued upon receipt of a written request to the Commissioner from the licensee. The Commissioner may charge \$10 fee for a duplicate license.

**§42-32-8. Supervision Ratio of Licensed Plumbers-in-Training.**

~~A licensed plumber in training shall only work under the direct supervision of at least one licensed journeyman plumber or one licensed master plumber. A licensed master plumber or licensed journeyman plumber may directly supervise no more than three licensed plumbers-in-training.~~

**§42-32-9. Terms and Validity of a License; Renewal of a License; and Lapse Licensure Fees.**

~~9.1. A license issued pursuant to the Act and this rule is valid throughout the state, is not assignable or transferable, and is valid for 1 year from the date of issuance.~~

~~9.2. The Commissioner shall provide a licensee with a renewal application at least 45 days in advance of the license's expiration date.~~

~~9.3. Upon receipt of a properly completed application and payment of the applicable fee, the Commissioner shall renew the license or registration certificate for a period of 12 months.~~

~~9.4. The Commissioner may issue a duplicate license to a person who, by application and affidavit, states that the original license has been permanently lost or destroyed and that the applicant is otherwise in full compliance with the requirements of the Act and this rule, and who pays the fee set forth in section 10 of this rule.~~

~~9.5. A license that has lapsed cannot be renewed.~~

9.1. An initial or renewal applicant for a master plumber license or a journeyman plumber license shall pay a \$75 annual license fee.

9.2. An initial or renewal applicant for a plumber-in-training license shall pay a \$25 annual license fee.

9.3. Any renewal application that is received or postmarked more than 15 days after the license's expiration date shall pay a \$25 late fee in addition to the annual license fee.

9.4. The Commissioner may charge a \$10 fee for a duplicate license upon receipt of a written request from the licensee.

**§42-32-10. Fees Examination Required for Master Plumbers and Journeyman Plumbers.**

~~10.1. An applicant shall pay a \$75.00 application fee and renewal fee for a journeyman or master plumber license.~~

~~10.2. An applicant shall pay a \$50.00 application fee and renewal fee for a plumber in training license.~~

~~10.3. If a renewal application is received or postmarked more than 15 days after a license's expiration date, the applicant shall pay a late fee of \$25.00 in addition to the annual renewal fee.~~

~~10.4. The Commissioner shall charge a \$10.00 fee for a duplicate license.~~

10.1. Any person desiring to be licensed as a master plumber or journeyman plumber under the provisions of the Act and this rule shall take the examination required for the desired classification and obtain a minimum score of at least 70%.

10.2. The Commissioner shall provide for written examinations for master plumber and journeyman plumber license applicants that test the applicant's knowledge of the International Plumbing Code. The Commissioner shall establish an examination fee schedule for the administration of examinations. The Commissioner may:

10.2.1. Contract with a private testing agent to conduct examinations, in which case applicants shall pay the examination fee directly to the testing agent; or

10.2.2. Develop examinations and examination procedures and conduct examinations, in which case applicants shall pay the examination fee directly to the Division in advance of the examination.

10.3. An applicant who does not receive a minimum score of 70% on an examination is eligible to retake an examination upon payment of the applicable examination fee.

10.4. An applicant who achieves a passing score on a journeyman plumber examination is not eligible to take the master plumber examination until the expiration of 12 months from the date of passage of the journeyman plumber examination.

**§42-32-11. Examination Required Denial, Suspension, Revocation, and Reinstatement of Licenses; Investigations; Grounds for Disciplinary Action.**

~~11.1. A person desiring a master plumber or journeyman plumber license under the provisions of the Act and this rule shall pass a written examination with a score of at least 70% in the license classification desired.~~

~~11.2. The Commissioner shall provide for a written examination for license applicants. The examination shall test the applicant's knowledge of the standards as adopted in section 4 of this rule.~~

~~11.3. The Commissioner may:~~

~~11.3.a. Contract with a private testing agent to conduct the written examinations. The private testing agent shall charge examination fees according to a rate schedule developed by the Commissioner and the applicant shall pay all examination fees directly to the testing agent; or~~

~~11.3.b. Develop a written examination process within the Division to include a fee schedule not to exceed the actual cost of administering the examinations. The license applicant shall pay all fees directly to the Division in advance of the examination.~~

~~11.4. Upon request of an applicant who fails the examination, the Division or private testing agent shall provide the applicant with an analysis of his or her performance on the failed examination. An applicant who fails the examination may be re-examined immediately upon the payment of the fees required.~~

11.1. The Commissioner may deny, suspend, revoke, or reinstate a license in accordance with the provisions of the Act and this rule. A violation of the Act or this rule is grounds for the denial, suspension, revocation, or refusal to reinstate a license and permits the imposition of disciplinary action.

11.2. Upon receipt of a complaint or upon his or her own inquiry, the Commissioner shall conduct an investigation to determine whether there are grounds for disciplinary action against a licensee. All complaints shall be in writing and include the name, address, and phone number of the complainant. The Commissioner shall provide a copy of the complaint to the licensee.

11.3. Any disciplinary action against a licensee may not be imposed without notice to the licensee and opportunity for a hearing in accordance with the provisions of W. Va. Code §29A-5-1 et seq.

11.3.1. The Commissioner may conduct the hearing or appoint a hearing examiner.

11.3.2. A licensee has a right to attend the hearing in person, to be represented by an attorney at law licensed to practice in West Virginia, or to submit a written response to the Commissioner, and may offer testimony and submit relevant factual information: *Provided*, That if the licensee receives proper

notice of the hearing, the licensee's failure to attend the hearing does not preclude the imposition of disciplinary action.

11.3.3. If the Commissioner appoints a hearing examiner to conduct the hearing, the hearing examiner shall submit a recommended decision to the Commissioner within 10 days of conclusion of the hearing. The hearing examiner may recommend the imposition of any appropriate disciplinary action permitted by the Act or this rule. The Commissioner shall accept, reject, or modify the hearing examiner's recommended decision and issue a final order within 10 days of receipt of the recommended decision.

11.3.4. If the Commissioner conducts the hearing and concludes that a violation of the Act or this rule occurred, the Commissioner shall issue a final order within 10 days of the hearing's conclusion and may impose any disciplinary action permitted by the Act or this rule.

**§42-32-12. Denial, Suspension, Revocation, or Reinstatement of License Cease and Desist Orders; Penalties.**

~~12.1. The Commissioner may deny, suspend, revoke, or reinstate a license.~~

~~12.2. The Commissioner shall, upon receipt of a written complaint or upon his or her own inquiry, conduct an investigation to determine whether there are any grounds for disciplinary action against a licensee.~~

~~12.2.a. The Commissioner may provide a form for this purpose, but a complaint may be filed in any form.~~

~~12.2.b. The Commissioner shall provide a copy of the complaint to the licensee.~~

~~12.3. A violation of the Act or this rule is grounds for the denial, suspension, revocation, or refusal to reinstate a license and permits the imposition of disciplinary action.~~

~~12.3.a. A disciplinary action against a licensee or registrant may not be imposed without a proper notice served under W. Va. Code §56-2-1, and an opportunity for hearing held before the Commissioner or his or her designee.~~

~~12.3.b. The hearing shall be conducted pursuant to the provisions of W. Va. Code §29A-5-1 et seq., the Administrative Procedures Act.~~

~~12.3.c. At the hearing, the licensee or registrant shall have the opportunity to present evidence in person, by counsel, or both.~~

~~12.3.d. After the hearing, if the Commissioner finds a violation of the Act or this rule has occurred, he or she may impose any disciplinary action provided for in the Act or this rule.~~

~~12.4. The performance of plumbing work in violation of the Act or this rule may result in the suspension of a license for not more than one year, or revocation of the license until reinstated.~~

~~12.5. A person whose license has been revoked may apply for a new license one year after the date of the revocation.~~

12.1. Upon a determination that a person is engaged in plumbing work in this state without a valid license, the Division shall issue a cease and desist order requiring that person to immediately cease all operations in this state. The person can immediately engage in plumbing work upon issuance of a license.

12.2. Any person continuing to engage in plumbing work after the issuance of a cease and desist order is subject to a penalty of not less than \$200 nor more than \$1,000 as set forth in W. Va. Code §21-14-7.

**§42-32-13. ~~Cease and Desist Order; Penalties; and Appeals.~~**

~~13.1. The Commissioner may issue a cease and desist order to any person performing or offering to perform plumbing work without a license issued by the Commissioner.~~

~~13.2. Any person continuing to engage in plumbing work after the issuance of a cease and desist order is subject to the penalties set forth in W. Va. Code §21-14-7.~~

~~13.3. Any person adversely affected by an action of the Commissioner may appeal the action pursuant to the provisions of W. Va. Code §29A-5-1 et seq.~~

Any person adversely affected by an action of the Commissioner may appeal in accordance with the provisions of W. Va. Code §29A-5-1 et seq.

**§42-32-14. Reciprocity; Work Experience.**

14.1. To the extent that other states license or issue other authorization to practice for master plumbers, journeyman plumbers, or plumbers-in-training, and have requirements equivalent to the Act and this rule, the Commissioner, in his or her discretion, may grant licenses of the same classification without examination to plumbers licensed or authorized by other states, as follows:

~~14.1.~~ 14.1.1. The applicant has provided satisfactory proof of his or her qualifications, including the applicant's compliance with all requirements of W. Va. Code §21-17-3(a); and

~~14.2.~~ 14.1.2. The applicant has paid the applicable license fee established in section 10 of this rule as prescribed in section 9 of this rule.

14.2. To the extent that an applicant is seeking licensure based on work experience, the Commissioner, in his or her discretion, may grant a license with the applicable classification without examination as follows:

14.2.1. The applicant's work experience is in a state that does not license or issue other authorization to practice for the performance of plumbing work;

14.2.2. The applicant has provided satisfactory proof of his or her qualifications, including the applicant's compliance with all requirements of W. Va. Code §21-17-4; and

14.2.3. The applicant has paid the applicable license fee as prescribed in section 9 of this rule.