WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

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

AGENCY: Emergency Management TITLE-SERIES: 170-07

RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: 170-07 National Flood Insurance Program

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: W.Va. Code 15-5-20b(c)

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W.Va. Code 15-5-20b(a) states "The Legislature, finding that the National Flood Insurance Program is a voluntary federal program under which federal flood insurance is made available to participating communities and is of vital importance to the citizens of West Virginia, does hereby continue the State Office of the National Flood Insurance Program. Effective July 1, 2022, the State Office of the National Flood Insurance Program shall transfer from the Offices of the Insurance Commissioner to the Division of Emergency Management established pursuant to 15-5-3 of this code." W.Va. Code 15-5-20b(c) states, "The Director of the Division of Emergency Management may propose rules for legislative approval in accordance with the provisions of 29A-3-1 et seq. of this code as necessary to administer the State Office of the National Flood Insurance Program and any of the program's responsibilities. Any state-owned property located in a non-participating local community shall be governed by rules proposed by the Director of the Division of Emergency Management." This rule complies with the statute.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/29/2022

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/28/2022

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

None

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This rule is a new rule which needs to be promulgated as the National Flood Insurance Program transferred from the Offices of the Insurance Commissioner to the Department of Homeland Security, Division of Emergency Management per HB 4295 in the 2022 Regular Session.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

This rule discusses application and enforcement, templates and administrative procedures specific to the guidelines for the continuation of the State Office of the National Flood Insurance Program, a voluntary federal program under which federal flood insurance is made available to participating communities.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

0

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

0

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

0

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			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

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

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

Yes

Brandolyn N Felton-Ernest -- 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 170
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF EMERGENCY MANAGEMENT

SERIES 7
NATIONAL FLOOD INSURANCE PROGRAM

§170-7-1. General.

1.1. Scope. -- This rule specifies guidelines for the continuation of the State Office of the National Flood Insurance Program, a voluntary federal program under which federal flood insurance is made available to participating communities and is of vital importance to the citizens of West Virginia.

1.2. Authority. -- W. Va. Code §15-5-20b(c).

1.3. Filing Date. --

1.4. Effective Date. --

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

§170-7-2. Application and Enforcement.

2.1. Application. This legislative rule is proposed to assist with administering the State Office of the National Flood Insurance Program and any of the program's responsibilities.

2.2. Enforcement. Effective July 1, 2022, the State Office of the National Flood Insurance Program shall transfer from the Offices of the Insurance Commissioner to the Division of Emergency Management. The State Office of the National Flood Insurance Program shall offer and conduct training as required by W. Va. Code §15-5-20a and adopt adequate land use and development criteria that are consistent with the minimum standards established by the National Flood Insurance Program. The State Office of the National Flood Insurance Program shall be under the supervision of the Director of the Division of Emergency Management.

2.3. Interagency Participation. The State Office of the National Flood Insurance Program, in consultation with the Director of the Division of Emergency Management, and with the assistance of floodplain managers around the state, shall develop and publish a strategic plan to establish shared goals, define a path to meet these goals, and shall invite other governmental units to adopt these goals and objectives.

§170-7-3. Templates.

3.1. The Division of Emergency Management will develop templates to be prepared and used to help communities meet the requirements of the National Flood Insurance Program. The counties and municipalities shall utilize the templates to comply with the National Flood Insurance Program.

§170-7-4. Administrative Procedures

4.1. The Division of Emergency Management will develop guidance on the administrative procedures

associated with local municipalities permitting state agency development. The Division of Emergency Management will reach out and disseminate guidance to the local and state officials.

4.2. When necessary, the Division of Emergency Management will provide clarification when addressing any conflicts. For participating communities, floodplain compliance will be administered and managed by the Division of Emergency Management.

4.3. The Division of Emergency Management will provide oversight of compliance with local floodplain managers and state agencies to the maximum extent possible.

4.4. When non-compliance is identified, the Division of Emergency Management should address the non-compliance.

4.5. Regarding permits, municipalities should permit state agencies and state agencies are not exempt from municipal permits.

§170-7-5. Severability.

5.1. The sections of this rule are severable. Should any section be declared by judicial opinion unconstitutional or in any manner contrary to the laws of the State of West Virginia, that particular section shall be invalid and all other sections shall remain in full force and effect.