

Appalachian Fire & Security LLC

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July 13, 2023

Brandolyn N. Felton-Ernest
1900 Kanawha Blvd, E.
Building Room W-400
Charleston, WV 25305

RE: Proposed changes to West Virginia State Fire Code 15A-11-3

Ms. Felton-Ernest:

I am in receipt of the proposed amendments to the existing Fire Code as referenced above. Please allow this correspondence to serve as written public comments with respect to the proposed amendments.

First, please be advised that I have worked in the fire equipment industry for over 34 years and have owned and operated a business, exclusively relating to fire and safety services, in the State of West Virginia since 2001. As such, I feel I am extremely knowledgeable in this field and the impact that the proposed amendments will have on the State and its residents.

The proposed changes I would personally like to address are changes to section **2.2.k. Requirements for Mercantile Occupancies**. The current State Fire Code states as follows:

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.

The proposed amendment would strike those stipulations as outlined above and follow the requirements as set forth in NFPA Codes 72 and 101 which states that a fire alarm system is required in every mercantile occupancy with a sales area totaling over 30,000 square feet; however, any mercantile occupancy with a sales area totaling over 12,000 square feet must have a complete and approved sprinkler protection system that is monitored by an alarm panel.

When the original stipulations were made in the WV State Fire Code, in addition to the applicable NFPA codes, they were put in place to meet the demands of the demographics in the State of West Virginia in order to properly safeguard the life and property of its residents from the hazards of fire and explosion. A majority percentage of the mercantile stores located throughout the State are significantly less than 30,000 square feet, most even smaller than 12,000 square feet, and are in largely rural areas. These rural areas are without full time, 24/7, paid fire fighting departments and rely solely on volunteer fire departments, some coming from neighboring communities. Having a monitored fire alarm system in these smaller mercantile locations has proven quicker response times from responding units and less loss of product, property and lives. The proposed increase in square footage required for mercantile stores to have a mandatory fire alarm system, would hinder the response time thus increasing the likelihood of loss, which would be detrimental to the State and its residents.

Furthermore, I would like to address the section of the proposed amendments that asked for a summary of the overall economic impact of the proposed rule on the revenues of State Government, Special Revenue Accounts, the State or its residents. In each section, the response was "zero." I do not feel this is accurate as the reduction in square footage for mandatory fire alarms would cause immeasurable economic impact on the revenues of the State and its residents as follows:

1. Reduction in fees obtained by the State Fire Marshall's Plans & Review Division due to decrease in amount of fire alarms being required for occupancy of smaller mercantile stores and fire alarm plans no longer being submitted.
2. Reduction in sales tax paid to the State Tax Department due to decrease in labor and materials charges as they are no longer needed and would not be included in Contractor invoicing for fire alarm installations.
3. Reduction in licensing fees obtained by the State of West Virginia as fire equipment businesses would no longer need as many technicians to install, service and inspect fire alarm systems due to the reduced number being installed.
4. Reduction in monies collected by local City municipalities, i.e. B&O taxes, permit fees, etc. due to a reduction in fire alarm installations. Local businesses, hotels, restaurants and stores would also see a reduction in monies collected due to a reduced number of contractors in the area.
5. Reductions in revenue for fire equipment companies who install fire alarm systems. This would result in fewer employees needed; less equipment, gas and materials purchased in the State, and could create significant hardships for these businesses due to reduced fire alarm installation, service and inspection of systems.
6. Reduction in job opportunities for West Virginia residents due to the lack of employees needed by fire equipment companies.

As I have stated, I have worked in this industry for over 34 years, as well as working in other states and jurisdictions besides West Virginia, and it has been my experience that West Virginia has, in the past, set the standard for how State Fire Codes should be written in regards to meeting the needs of their state's demographic and protecting its residents, communities and businesses. I believe implementing these proposed changes will not only cause a financial detriment to the State and its residents but severe safety issues in these communities as well.

Thank you for allowing me this opportunity to address my thoughts and concerns regarding this matter. Should you have any additional questions or require further information, please do not hesitate to contact me.

Sincerely,

Bill Brown

Bill Brown
Appalachian Fire & Security, LLC

WV STATE FIRE COMMISSION MEETING
1207 Quarrier St. Charleston WV 25301

July 25th, 2023

PLEASE NOTE:

The following minutes have been provided and are considered unofficial, until they are submitted for approval at the next scheduled meeting.

The official business meeting was called to order at 10:01am by Chairman Grant Gunnoe.

ROLL CALL: by Kathryn L Burns

Commissioners Present

Doug Estep, Edward George (via conference), Grant Gunnoe, Brian Jones (via conference), Thomas Keefer (via conference), Doug Mongold (via conference), Jim Oldaker, Ted Shriver, Virgil White and Marshal Tyree.

It is noted that Counsel Brandolyn Felton-Ernest is present as well.

Commissioners Absent

Dave Camp, Carl Eastham, Phil Hart and Steven Byers

UNFINISHED BUSINESS:

1. 87CSR1 State Fire Code

a) Consideration of Public Comments

Marshal Tyree briefed the Commission on the two Public Comments received.

Comment 1 – Was submitted by Bill Brown of Appalachian Fire and Security and pertained to the proposed striking of sections 2.2.k.1 and 2.2.k.2, his opinion on the effects that would have on safety and its' economic impact. The entire comment was provided to the Commission and attached to the agenda.

Marshal Tyree gave his response to the Comment noting that the intent of the proposed changes/striking of the items was to better align the State Fire Codes with the National Codes. His research on the item brought him to the conclusion that the purpose or reasoning is that when it was placed in the code in 1984 it was based on Mercantile buildings at that time and that most were downtown and had apartments above them. In his research that was the only outlier to the difference in what the National Codes have required since 1976. He appreciates Mr. Browns comments, but the proposed change would make an equal playing field whether or not you are installing alarms in WV or OH, VA or PA.

Marshal Tyree read Mr. Brown's comments on his opinion the economic impact to striking the language in 2.2.k.1 and 2.2.k.2.

Comment 2 – Was a comment Marshal Tyree made regarding the placement of items pertaining to Plan Reviews and Certificate of Occupancies. They were placed in the wrong place and his comment would relocate them to 2.1.d. No language was changed. It also realigned pages 2 though 5 to make an edit to the section of each of those pertaining to High Rises. The proposed edits were provided to the Commission and attached to the agenda.

b) Consideration of Public Hearing

Commissioner Shriver spoke regarding the Public Hearing which he attended noting there were no attendees at the Hearing and therefore no additional comments.

Comment 1- Commissioner Shriver made a motion that the Commission does not entertain the changes as proposed by Appalachian Fire and Security LLC and leave the draft as presented to the Commission, seconded by Commissioner White. With the ayes and nays having been taken on a voice vote the motion passed.

Comment 2- Commissioner Shriver made a motion to accept the changes in the draft, to move the Plan Review process and Certificates of Occupancies references, seconded Commissioner Oldaker. With the ayes and nays having been taken on a voice vote the motion passed.

- c) Vote on authorizing staff to file a Notice of Agency Approval of the proposed rule, after consideration of any public comments received, with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee.

Commissioner Shriver made a motion authorizing staff to file a Notice of Agency Approval of the proposed rule (87CSR1) with accepted/adopted changes with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee, seconded by Commissioner White. With the ayes and nays having been taken on a voice vote the motion passed.

NEW BUSINESS:

1. 87CSR6 Evaluation & Recognition of Local Fire Departments

- a) Consideration of Public Comments – None Received

Counsel Felton-Ernest informed the Commission of the edits she has made changing the authority section, 1.2 the code section was incorrect, she changed the filing date, effective date, added a sunset provision and necessary formatting changes.

- b) Vote on authorizing staff to file a Notice of Agency Approval of the proposed rule, after consideration of any public comments received, with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee.

Commissioner George made a motion authorizing staff to file a Notice of Agency Approval of the proposed rule (87CSR6) including the changes and updates as presented by Counsel, with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee, seconded by Commissioner Oldaker. With the ayes and nays having been taken on a voice vote the motion passed.

2. 87CSR13 Certification of Fire Chiefs

- a) Consideration of Public Comments – None Received

Counsel Felton-Ernest noted updates to the filing date, effective date, sunset provision and the language in section of 87-13-6 (6.1) in regard to appeals and proceedings of the office of Administrative Hearings consistent with the directive of the Secretary of States office and the statute passed in regard to the Intermediate Court of Appeals being the entity hearing those appeals.

- b) Vote on authorizing staff to file a Notice of Agency Approval of the proposed rule, after consideration of any public comments received, with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee.

Commissioner White made a motion authorizing staff to file a Notice of Agency Approval of the proposed rule (87CSR13) as updated by Counsel, with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee, seconded by Commissioner Estep. With the ayes and nays having been taken on a voice vote the motion passed.

GOOD OF THE ORDER:

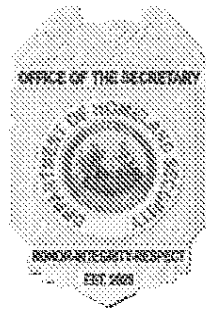
None

TIME AND PLACE OF NEXT MEETING(S):

Committee Meetings 10:00am Thursday, August 3rd, 2023 at Twin Falls Resort. Commission Meeting 9:00am Friday, August 4th, 2023 at Twin Falls Resort

Commissioner White made a motion to adjourn, without objection meeting adjourned.

STATE OF WEST VIRGINIA
DEPARTMENT OF HOMELAND SECURITY
Building 1, Suite W-400
1900 Kanawha Blvd., East
Charleston, West Virginia 25305
Established May 28, 2020



OFFICE OF THE CABINET SECRETARY
DEPUTY GENERAL COUNSEL
BRANDOLYN N. FELTON-ERNEST, ESQ.
Email: Brandolyn.FeltonErnest@wv.gov
Telephone: 304-550-2930
Website: dhs.wv.gov

July 26, 2023

VIA U.S. MAIL AND EMAIL

Bill Brown

Appalachian Fire & Security LLC

352 Courthouse Road

Princeton, West Virginia 24740

appalachian011@suddenlinkmail.com

Re: Proposed Changes to 87 CSR 01, Fire Code

Dear Sir:

I received your letter dated July 13, 2023, which was correspondence to serve as a written public comment with respect to the proposed amendments to the Fire Code.

In your letter/public comment, you addressed the language in section 2.2.k. -- Requirements for Mercantile Occupancies. The proposed amendments to the Fire Code strikes through that section of the Fire Code.

The West Virginia State Fire Commission held a special meeting on July 25, 2023, to address the public comments received on 87 CSR 01 during the public comment period, including your public comment.

The State Fire Marshal briefed the Commission on the public comment and asserted that the intent of the proposed changes/striking of the items was to better align the State Fire Codes with the National Codes.

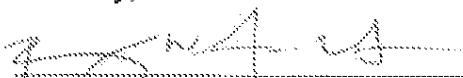
During the meeting, a Commissioner made a motion that the Commission not entertain the changes as proposed by Appalachian Fire & Security LLC and leave the draft of 87 CSR 01 as presented to the Commission and the motion was seconded by another Commissioner. With the ayes and nays having been taken on a voice vote, the motion passed.

Therefore, the West Virginia State Fire Commission passed a motion authorizing staff to file a Notice of Agency Approval of the proposed rule 87 CSR 01 with accepted/adopted changes with the Secretary of State's Office for consideration by the Legislative Rule-Making Review Committee.

As such, the West Virginia State Fire Commission appreciates your public comment and considered your suggested change; however, the West Virginia State Fire Commission agreed to not make your suggested change to the rule.

If you have any questions or concerns regarding the content of this letter, please reach out to the State Fire Marshal or the West Virginia State Fire Commission.

Sincerely,



Brandotyri N. Felton-Ernest, Esq.
Deputy General Counsel
Office of the Cabinet Secretary
Department of Homeland Security
1900 Kanawha Blvd., East
Building 1, Suite 400-W
Charleston, West Virginia 25305
(304) 558-2930 (office)
(304) 558-6221 (fax)

Brandotyri.FeltonErnest@wv.gov

cc: Kenneth Tyree, State Fire Marshal
Grant Gunnoe, Chairman, West Virginia State Fire Commission
File



Felton Ernest, Brandolyn <brandolyn.feltonernest@wv.gov>

Response Letter to Public Comment

1 message

Felton Ernest, Brandolyn <brandolyn.feltonernest@wv.gov>

Wed, Jul 26, 2023 at 10:30 AM

To: appalachian01@suddenlinkmail.com

Cc: Kenneth E Tyree <kenneth.e.tyree@wv.gov>, Grant Gunnoe <ggunnoe@hotmail.com>

Good morning, Sir:

Attached to this email, please find a response letter to your public comment dated July 13, 2023.

A paper copy of this letter will also be placed in the mail to you.

Thank you.

--

Brandolyn N. Felton-Ernest, Esq.

Deputy General Counsel

Department of Homeland Security

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Response Letter to Public Comment from Appalachian Fire & Security LLC.pdf

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