

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

Form #3

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2009 JUL 21 AM 11:17

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: 29-3-5

AMENDMENT TO AN EXISTING RULE: YES  NO

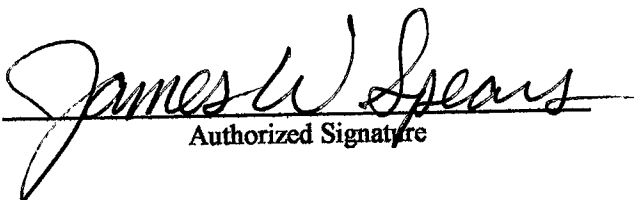
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: STATE FIRE CODE

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

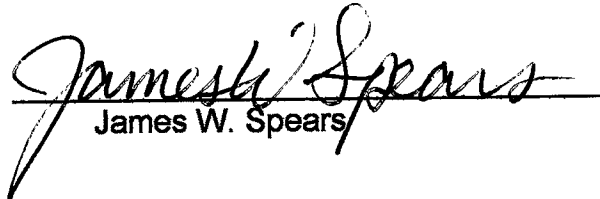
THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

  
Authorized Signature

**WEST VIRGINIA**  
**STATE FIRE CODE**  
**TITLE 87, SERIES 1**

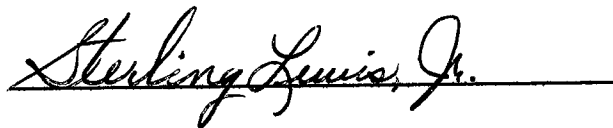
**Rules**  
**Of the West Virginia**  
**State Fire Commission**

Approved by Secretary, Department of Military Affairs and Public Safety

  
James W. Spears

  
Date

Approved by State Fire Commission

  
Sterling Lewis, Jr.

  
Date

**STATE FIRE COMMISSION**  
**1207 Quarrier Street, 2<sup>nd</sup> Floor**  
**Charleston, WV 25301**

## SUMMARY OF PROPOSED RULE

The West Virginia State Fire Commission promulgates the State Fire Code in accordance with West Virginia Code, Chapter 29, Article 3, Section 5.

The purpose of this code is to establish the minimum requirements for the safeguarding of life and property from the hazards of fire and explosion.

Amendments to the State Fire Code include the adoption of the 2009 National Fire Codes as promulgated and miscellaneous requirements for fire safety.

## **STATE FIRE CODE**

### **STATEMENT OF CIRCUMSTANCES**

The State Fire Code provides the latest technology in fire safety designs and installations. This proposed rule adopts the 2009 edition of the National Fire Codes which are referenced by federal and state governments for reducing property loss and loss of life from the hazards of fire and explosion.

The purpose of updating the State Fire Code will provide the design professionals with different options to achieve a level of fire safety within different occupancies. The proposed rule also provides for miscellaneous fire requirements not specifically addressed by the National Codes. The State Fire Commission is authorized by Chapter 29, Article 3, Section 5 of the West Virginia Code to establish safe practices embodied in widely recognized standards of good practice for fire safety.

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: State Fire Code

Type of Rule:  Legislative  Interpretive  Procedural

Agency: State Fire Commission

Address: 1207 Quarrier Street, 2nd Floor  
Charleston, WV 25301

Phone Number: (304) 558-2191 Email: Sterling.Lewis@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.

This proposed rule will provide the State Fire Commission with updated technology on fire safety procedures and requirements to reduce fire loss. The initial cost for filing the National Fire Codes has been waived by the National Fire Protection Association, therefore, there is no cost to the State for filing this rule.

**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.

<b>FISCAL YEAR</b>			
<b>Effect of Proposal</b>	<b>Current Increase/Decrease (use "-")</b>	<b>Next Increase/Decrease (use "-")</b>	<b>Fiscal Year (Upon Full Implementation)</b>
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

Rule Title: \_\_\_\_\_

Rule Title: State Fire Code

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

Non-applicable

### 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.

The use of this technology will provide the necessary fire safety features for the reduction of fire loss. Requests for updating the code have been made by fire officials, architects, business and industry.

Date: 13 May 07

Signature of Agency Head or Authorized Representative

James W. Spears

**TITLE 87  
LEGISLATIVE RULE  
FIRE COMMISSION**

**SERIES 1  
FIRE CODE**

**§87-1-1. General.**

1.1. Scope. -- This rule establishes the State Fire Code for the safeguarding of life and property from the hazards of fire and explosion.

1.2. Authority. -- This legislative rule is issued under authority of W. Va. Code §29-3-5.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Exemption. -- This State Fire Code has no application to personal care homes caring for three or less patients or buildings used wholly as dwelling houses for no more than two families and has no application to farm structures. Provided; however, that farm structures (1) used for group sleeping accommodations for farm workers or (2) used for educational, health care, assembly or detention/correctional occupancy are not exempt from the requirements of this State Fire Code.

1.6. Incorporation of Other Documents. -- This State Fire Code does not include a reprinting of all the requirements imposed by statute or by the incorporation of various National Standards and Codes cited in Section 4 of this rule. For ascertaining these additional standards and requirements it is necessary to make reference to these other documents.

**§87-1-2. Reporting of Fire Incidences.**

2.1 Fire Departments, Brigades, and Companies.

The Fire Chief of any organized public fire brigade, department or company shall report every fire and non-fire incident to the State Fire Marshal on the forms approved by the State Fire

~~Marshal~~. Every fire and non-fire incident response shall be reported within thirty (30) days after the date of the incident. Provided, that any fire or explosion involving human fatality, arson or suspected arson shall be reported immediately.

**§87-1-3. Unvented Heaters.**

All unvented fuel fired heaters are prohibited for all occupancies except one (1) and two (2) family dwellings. Provided, that a single unvented fuel fired heater is permitted for demonstration purposes in authorized mercantile applications when installed in accordance with manufacturers recommendations. The single heater shall be connected to a permanent source of fuel and shall not be used as a permanent or alternate source of heating. The unvented heater shall be shut off at the end of each business day.

**§87-1-4. National Standards and Codes.**

4.1. Incorporating of National Standards and Codes - The standards and requirements as set out and established by the 2009 2004/2005 edition of "The National Fire Codes" ~~and the 2004/2005 National Fire Codes Supplements~~ published by the National Fire Protection Association (but not including standards and requirements directed to the operation of local fire departments), NFPA 5000, NFPA 900 and NFPA 101A) and have the same force and effect as if set out verbatim in this rule and are hereby adopted and promulgated by the State Fire Commission as a part of the State Fire Code. The State Fire Marshal shall make use of the standards and requirements within the incorporated publications in all matters coming under his or her jurisdiction. A copy of The National Fire Codes has been filed with the Secretary of State and a copy of the Table of Contents of that publication is included in

Appendix A of this rule. Information regarding the purchase of The National Fire Codes or separate volumes of the Codes may be obtained by writing to the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

4.2. National Standards and Codes - Modification of Fireworks Display Rule. The "Rule of the State Fire Marshal For The Display of Fireworks" as contained in N.F.P.A. 1123 and 1126 of the 2006 2003 edition of The National Fire Codes has the same force and effect and controls the display of fireworks as if set out verbatim in this rule and is hereby adopted and promulgated by the State Fire Commission as a part of the State Fire Code, but with subdivisions 4.2.1 and 4.2.2 changed to read as follows:

4.2.1. Upon receipt of the application at least 15 days in advance of the date set for this display, the Chief of the Fire Department shall make, or cause to be made an investigation of the site of the proposed display for the purpose of determining whether the provisions of this rule are complied with in the case of the particular display. He or she shall confer with the Chief of the Police Department, or the County Sheriff if the site for the proposed display is to be outside the limits of a municipality, about the application and whether issuance of a permit would be consistent with public safety. If a display is properly lawful, the Chief of Police or the County Sheriff, if the site of the proposed display is outside the limits of a municipality and the Chief of Fire Department shall together endorse the application, stating that they approve the display as being in conformance with all parts of the law and with this rule. Failure to approve the application by either the Fire Chief or Police Chief or County Sheriff is sufficient cause for the State Fire Marshal to deny a permit.

4.2.2. The application, following endorsement by the Chiefs of the Fire and Police Departments or County Sheriff shall be sent to the State Fire Marshal who shall then, upon receipt of evidence of financial responsibility as required by law in such cases, issue a nontransferable permit authorizing the display.

4.3. These changes to the N.F.P.A. 1123 and 1126 and contained in Subsection 4.2 of this section are made to make certain it is understood that the County Sheriff rather than City Police Chief is the local police authority referred to in W. Va. Code §29-3-24 in those situations where the proposed site of a fireworks display is outside the limits of a municipality.

4.4. National Standards and Codes, Table of Contents

The National Fire Codes as published by National Fire Protection Association are adopted by this rule and are set forth in Appendix A of this Rule.

**§87-1-5. Sprinkler Protection and Area Limitations.**

Approved automatic sprinkler systems in accordance with the applicable NFPA Standard for Sprinkler Systems will be installed in all new buildings used for any occupancy, exceeding the area limitations noted in Appendix B at the end of this rule. Sprinkler protection for occupancies covered by Section 6 of this rule are required to provide sprinkler protection regardless of area limitations.

**§87-1-6. Sprinkler Protection (Certain Occupancies).**

6.1. All nursing, convalescent, old age, custodial care, and long term or extended care homes or institutions, existing and new, regardless of the type of construction, shall have a complete automatic sprinkler protection in accordance with Standard 13 contained within the National Fire Codes and incorporated by reference in Subsection 4.1 of this rule.

6.2. Homes or institutions caring for more than three patients shall meet the requirements of this section.

**§87-1-7. Carpet Used as Floor Covering.**

7.1. Flammability Requirements for Carpet Used As Floor Covering

7.1.1. In institutional, health care, educational and penal occupancies, carpet shall meet a minimum value of 0.45 watts per square centimeter in all corridors and exits. Carpet in all other areas shall meet a minimum value of 0.22 watts per square centimeter.

7.1.2. Flammability requirements for carpet used as floor covering in all other occupancies shall meet a minimum value of 0.22 watts per square centimeter in all corridors and exits.

7.1.3. Any pad used under the carpet shall meet the minimum class of the carpet installed.

7.1.4. The values shall be determined by NFPA 253, Critical Radiant Flux of Floor Covering Systems.

## 7.2. Smoke Generation Properties of Carpet Used as Floor Covering.

7.2.1. In all occupancies smoke generation shall not exceed a maximum value of  $D_m=450$  (flaming mode).

7.2.2. The value shall be determined by ASTM E-662, Specific Optical Density of Smoke Generation by Solid Materials.

7.2.3. All test data for determining the flammability and smoke properties of carpets shall be conducted by a nationally recognized laboratory as certified by the National Voluntary Laboratory Accreditation Program.

7.2.4. Where an approved, automatic sprinkler system is installed and all floors are non-combustible, class II carpet is permitted in any location where Class I carpet is required. Where an approved automatic sprinkler system is installed and all floors are noncombustible and Class II carpet is permitted, no rating is required.

## **§87-1-8. Maintenance of Fire Hazard; Order for Correcting Condition, Removal of Material, Repair, Demolition, etc.; Order to Contain Notice to Comply and Right to Appeal.**

Whenever the State Fire Marshal, by and through persons working under his or her direction, determines based upon the State Fire Code and/or on the experience and knowledge applied in the operation of his or her office (1) that any building or structure has been constructed, altered, or repaired in a manner violating the State Fire Code as promulgated prior to the commencement of the construction, alterations, or repairs, or (2) that any building or structure is being maintained or used in such a way as to endanger life or property from the hazards of fire or explosion, or (3) that any building or other structure or property of any kind, which, for want of repairs, or by reason of its age, dilapidated, or abandoned condition or for any other reason constitutes a fire hazards and is located or constructed so as to constitute a danger to other buildings, property, persons, life, or limb, or (4) that in any building or upon any premises there is located any combustible, flammable, or explosive substance or material or other condition dangerous to the safety of persons occupying the building or premises and adjacent premises and property, the State Fire Marshal shall order the condition or thing to be corrected, or combustible, flammable or explosive, items to be removed, or the building or buildings to be repaired, closed to occupants, or removed, as required by the circumstances. The order shall be promptly complied with by the owner, agent, occupant, and lessee of the premises, place, property, or thing. Any order may be expressed in the alternative, e.g. allowing repair but on the failure to repair requiring demolition. Any order by the State Fire Marshal which concludes that a fire hazard exists, shall state what repairs and/or demolition must be accomplished, and that compliance must be completed within thirty (30) days of issuance. In the event of noncompliance, the State Fire Marshal is authorized by statute to enter into and upon the premises affected by the order and cause the building, structure, premises, or thing to be repaired, or torn down, materials removed, and all dangerous conditions remedied (as the case may be) at the expense of the owner, and shall advise that the order can be contested by entering an appeal to the State Fire Commission as outlined in Section 13 of this Rule.

**§87-1-9. Interference with Fire Protection Equipment.**

No person shall render any portable or fixed fire extinguishing system or device or any fire warning system inoperative or inaccessible except as may be necessary during emergencies, maintenance, drills or prescribed testing.

**§87-1-10. High Rise Buildings - Fire Safety Standards and Requirements.**

10.1. General - Any new building or structure more than forty (40) feet in height, measured from the lowest level of fire department vehicle access to the floor of the highest normally occupied space used for human occupancy of the structure, is subject to this section for high rise buildings. This rule shall not nullify or interfere with existing city high rise ordinances or local laws previously adopted prior to September 8, 1975 relative to high rise buildings. Industrial occupancies not occupied as business offices are exempted from the provisions of this section.

10.2. Addition of Floors to Existing Buildings - Whenever floors are added to an existing building, which previously was not a high rise, causing the building to become a high rise, the building shall comply with this rule.

10.3. Automatic Fire Extinguishing Systems & Standpipe Systems - Any building or structure as defined in Subsections 10.1 or 10.2 of this Rule and used for human occupancy shall have an approved automatic fire extinguishing system throughout the entire building and standpipe systems installed in accordance with The National Fire Codes, adopted under Section 4 of this Rule. Class I Manual Standpipe Systems may be used up to 75 feet as adopted by NFPA 14, Standard for Standpipe Systems.

10.4. Fire Alarm System - The fire alarm system of a high rise building shall conform to the Standards imposed by Section 4 and Section 11 of this Rule.

10.5. Fire Department Voice Communication System - A High rise building

or structure used for human occupancy that is seventy-five (75) feet in height or greater as measured in accordance with Subsection 10.1 of this Section shall have an approved electrically supervised fire department voice communication system. The Fire Department Voice Communication System shall be located at each floor level of stair enclosures, elevator lobbies, the penthouse and in any elevator designated for fire department use. This system shall be a telephone jack system unless specifically approved otherwise by the designated fire authority having jurisdiction.

10.6. High Rise Central Control Station - In every high rise building as defined in Subsections 10.1 and 10.2 of this Section, a central control station for Fire Department operations shall be provided in a location approved by the State Fire Marshal or the designated local fire authority. The Central Control Station shall contain: (1) the fire department voice communication system panel when required, (2) fire detection and alarm system panels, (3) status indicators for the Heating, Ventilation and Air Conditioning (HVAC), Smoke Control System, fire pumps and emergency generator and a (4) telephone approved by designated fire authority having jurisdiction. Emergency lighting shall be provided at the Central Control Station.

10.7. Emergency Power - A permanently installed emergency power generation system conforming to The National Fire Codes adopted by Section 4 of this Rule shall be provided in every high rise building 75 feet in height or greater, as measured in accordance with subsection 10.1 of this Section. All power, lighting, signal, and communication facilities, required by this rule or otherwise, shall be transferable automatically to the emergency power system. The emergency power system shall be of sufficient capacity to provide service for, but not limited to, the following:

- (a) the Fire Alarm System;
- (b) exit & Other Emergency Lighting;
- (c) fire Protection Equipment;

- (d) the Smoke Management System;
- (e) the Fire Department Elevator;
- (f) the Fire Department Voice Communication System; and
- (g) the Fire Pumps.

10.8. Smoke Management - In all high rise buildings as defined in Subsections 10.1 and 10.2 of this Section, a smoke management system designed in accordance with NFPA 92A, Smoke-Control Systems, and 92B, Smoke Management Systems in Malls, Atria and Large Areas, shall be provided and acceptable to the State Fire Marshal.

10.9 Floor Designation - All stairway doors, both on the stairway and entrance side, shall indicate the floors by number. The floor number shall be in at least 6" block letters in a contrasting color.

**§87-1-11. Fire Alarm System.**

11.1. General Requirements for All Occupancies

11.1.1. The following requirements apply in addition to NFPA 101, Life Safety Code, Chapter 9, Section 9.6 as adopted by this Rule.

11.1.2. All fire alarm systems, including all components, shall be electrically supervised. Components include pull stations, automatic detection, audio visual devices, flow switches, tamper switches and the main panel.

11.1.3. All fire alarm systems shall be tied in ahead of the main power disconnect, unless a secondary power source is provided.

11.1.4. All sprinkler systems OS & Y, P.I.V. and other Control Valves shall be electrically supervised and tied into the trouble/supervisory side of the fire alarm control panel.

11.1.5. All sprinkler systems shall be tied in so water flow will activate the general fire alarm audio visual device.

11.1.6. Flow and/or pressure switches shall be annunciated separately on the main fire alarm control panel.

11.1.7. All Health Care, and Detention and Correctional Occupancies shall be tied into a fire department or a communication center with 24-hour supervision which is responsible for receiving emergency calls.

11.1.8. Heating, Ventilation, Air Conditioning Systems (HVAC)

(a) All heating, ventilation, and air conditioning systems greater than 2000 CFM and less than 15,000 CFM shall have a duct type smoke detector in the return air duct or plenum for automatic shut down, to close main fan dampers and to sound a general fire alarm when activated.

(b) All heating, ventilation, air conditioning systems greater than 15,000 CFM shall have duct type smoke detectors installed in both supply and return air ducts to automatically shut down, close main fan dampers and to sound a general fire alarm when activated.

(c) Health Care, Detention and Correctional occupancies and high rise buildings duct detectors shall be zoned to indicate the specific air handling unit at the main fire alarm panel.

(d) An HVAC unit which uses 100% of outside air does not require duct detectors, and shall shut down upon fire alarm activation.

(e) HVAC Systems used as part of the smoke management systems are exempt from the requirements of this subsection.

11.1.9. Audible alarm indicating devices shall be of such character and distributed so as to be effectively heard above the ambient noise level obtained under normal conditions of occupancy. Audible alarm indicating devices shall produce signals that are distinctive from audible signals used for other purposes in the same building.

11.1.10. Visual signal devices shall be provided in all new fire alarm systems.

11.1.11. Pre-recorded or live voice evacuation instructions to occupants are permitted. Pre-recorded instructions shall be preceded by not less than 5 seconds or more than 10 seconds of a continuous alerting signal. Upon completion or failure of pre-recorded instructions, the fire alarm evacuation signal shall sound. Pre-recorded instructions shall be repeated two or more times. Live voice instructions shall be permitted to interrupt the pre-recorded message or the fire alarm evacuation signal. Audible and visual fire alarm devices shall be used only for fire alarm system.

11.1.12. Manual pull stations shall be located no greater than 200 feet from each other and at all exits. Manual pull stations shall be of the same general operational type.

11.1.13. Thermal detectors are required in the following areas in all occupancies requiring a fire alarm system and as listed or identified in NFPA 101, The Life Safety Code. Thermal detectors are not required in areas provided with sprinkler protection or dwelling units of apartments.

AREAS TYPE OF DETECTORS

(a)	Attic & Cockloft Spaces	Fixed Temperature
(b)	Storage Rooms	Rate of Rise
(c)	Furnace or boiler rooms	Fixed Temperature
(d)	Janitor Closets	Rate of Rise
(e)	Kitchens	Fixed Temperature
(f)	Laboratories, Home Economics, Woodworking Shops, Auto Shops, Utility Rooms, & Locker Rooms	Rate of Rise

11.1.14. Smoke detectors are required in the following areas in all occupancies requiring fire alarm systems:

(A) Rooms and/or areas dedicated for the location of electrical distribution panels or transformers;

(B) Stages or Platforms; and

(C) On each side of required smoke partition doors.

11.1.15. Smoke detectors shall be placed a maximum of 15 feet from ends of corridors or walls and 30 feet on center and in rooms open to the corridors, where required by the occupancy. Exceeding the spacing requirements will require submission of technical data for approval by the Fire Marshal. Exception: Smoke beam detectors shall be permitted in accordance with manufacturers specifications.

11.1.16. A building or structure being used for more than one occupancy shall comply with the fire alarm system requirements of the most stringent occupancy for that building or structure.

11.1.17. Hood suppression systems shall be connected to the Fire Alarm System and separately zoned.

11.1.18. A pre-signal fire alarm system is not permitted.

11.1.19. Elevators shall comply with NFPA 72.

11.2. Requirements for Educational and Day Care Occupancies

11.2.1. A fire alarm system is required in every educational and day care occupancy, and shall meet the requirements and standards of this rule. However, classroom buildings of less than 2500 sq. ft. gross floor area with direct exiting to the outside from each classroom are not required to have a fire alarm system.

11.2.2. Open Plan Classroom Concepts require a complete smoke detection system throughout the facility.

11.2.3. Day Care Centers located in buildings other than educational facilities shall have smoke detectors installed on the ceilings of each story in front of the doors to the stairways and at no greater than 30 feet spacing in the corridors of all floors occupied by the center. Detectors shall also be installed in lounges and sleeping rooms in the center.

11.2.4. Group Day Care Centers require hardwired smoke detectors in sleeping rooms and corridors. Audio visual warning devices are required if hearing impaired individuals are in the facility. In mixed occupancies when exiting requires the use of a common corridor, an electrically supervised fire alarm system shall be installed.

11.2.5. An annunciator panel or fire alarm control panel shall be readily accessible to local fire department personnel.

11.2.6. Rate of rise thermal detectors are required in all Rest Rooms in new buildings except in fully sprinklered buildings.

11.2.7. Smoke detectors shall be installed in all corridors, except in a single story building with direct exiting to the exterior by the means of a door from every normally student occupied room.

11.2.8. An inspection tag shall be attached to each fire protection system near the main control valve, main panel, or other such appropriate and visible location as determined by the AHJ. The inspection tag shall contain the following information.

- a) The individual performing the work.
- b) Date of the test.
- c) Results of the inspection and test.

### 11.3. Requirements for Assembly Occupancy

11.3.1. A fire alarm system is required in every place of assembly where:

(a) Occupancy is subject to 300 or more occupants;

(b) Occupancy is subject to 100 or more occupants above or below the level of exit discharge;

(c) The building is two (2) or more stories in height above the level of exit discharge, or two (2) or more stories below the level of exit discharge; or

(d) Theaters with more than one audience-viewing room.

11.3.2. Annunciator panels and/or fire alarm control panels shall be readily accessible to fire department personnel.

11.3.3. Theaters and auditoriums shall provide audio visual devices. House lights in auditoriums and theaters shall be activated by the fire alarm system.

### 11.4. Requirements for Health Care and Ambulatory Care Occupancies

11.4.1. A fire alarm system is required in every Health Care and Ambulatory Care occupancy, and the system shall meet the requirements and standards of this rule.

11.4.2. An approved automatic smoke detection system shall be installed in all corridors.

11.4.3. Manual pull stations shall be installed every 50 feet throughout the facility in patient sleeping room areas starting at the end of all corridors. All other manual pull stations shall be placed in accordance with the general requirements of this rule.

11.4.4. Fire alarm systems shall have annunciators located at all 24 hour nurse's stations, the telephone switchboard, and at the main location of the fire department's entry.

### 11.5. Requirements for Detention and Correctional Occupancies

11.5.1. A fire alarm system is required in every Detention and Correctional occupancy and the system shall meet the requirements and standards as provided in this subsection.

11.5.2. The annunciator panel or fire alarm control panel shall be readily accessible to fire department personnel and shall also be provided in the Detention or Correctional facility control center.

11.5.3. Manual pull stations shall be provided as set forth in general requirements of this rule. Manual pull stations may be of the security type in detention or correctional occupancies.

11.5.4. Smoke detectors shall be installed in all corridors. If no corridor exists, they shall be installed at the highest point of the cell areas.

11.5.5. Dormitory style correctional facilities shall comply with the Residential requirements of subsection 11.6 of this section.

#### 11.6. Requirements for Residential Occupancies

11.6.1. A fire alarm system is required for each of the groups of residential buildings, and the system shall meet the requirements and standards of this Rule.

11.6.2. Lodging and Rooming Houses protected throughout with a sprinkler system shall be provided with interconnected hardwired smoke detectors as required by NFPA 72.

11.6.3. Residential occupancies are designated in two groups. These designated groups shall comply with the requirements of this Rule. One group of occupancies include hotels, motels, dormitories, lodging and rooming houses. The other group includes apartments only.

11.6.4. The following requirements apply to the occupancies of hotels, motels, dormitories, lodging and rooming houses.

11.6.4.1. Smoke detectors shall be placed a maximum of 15 feet from ends of corridors or walls and located 30 feet on center throughout all inside corridors. Smoke detectors shall be placed a maximum of 15 feet from ends

of walls and 30 feet on center in open bay sleeping areas.

11.6.4.2. The annunciator panel or fire alarm control panel shall be readily accessible to fire department personnel and also shall be located at the registration desk.

11.6.4.3. All sleeping rooms and living areas in suites shall have an approved self-contained smoke ~~alarm detector~~ alarm hard wired in accordance with NFPA 72, National Fire Alarm Code.

11.6.4.4. Motels and hotels having direct exterior exiting shall have a manual pull station every 75 feet located on exterior walls with the minimum requirement of one manual pull station. However, a one story motel with 16 or less sleeping rooms having direct exiting to the exterior is not required to be provided with a fire alarm system.

11.6.5. The following requirements apply to apartments.

11.6.5.1. Apartment buildings having 12 or more units or 4 or more stories in height shall have a fire alarm system. Smoke detectors shall be placed a maximum of 15 feet from the ends of corridors and walls and 30 feet on centers.

11.6.5.2. All existing apartments shall have approved self-contained smoke alarm ~~detectors~~ located at the entrances to bedrooms.

11.6.5.3. All new apartments shall have an approved self-contained smoke alarm ~~detector~~ hard wired in accordance with NFPA 72, National Fire Alarm Code.

11.6.5.4. All new apartment buildings having 12 or more units or 4 or more stories in height with direct exiting to the exterior shall have manual pull stations every 75 feet on the exterior wall with a minimum requirement of one pull station per building.

#### 11.7. Requirements for Mercantile Occupancies

11.7.1. A fire alarm system is required in every mercantile occupancy over 3,000 square feet, and the system shall meet the requirements and standards as provided in this subsection.

11.7.2. If an existing Class B mercantile occupancy has a complete and approved sprinkler protection system, a fire alarm system is not required.

#### 11.8. Requirements for Business Occupancies

11.8.1. A fire alarm system is required in every business occupancy where:

- (a) The occupancy is subject to 300 or more total occupants;
- (b) The occupancy is subject to 100 or more occupants above or below the level of exit discharge; or
- (c) The building is two (2) or more stories in height above the level of exit discharge or two (2) or more stories below the level of exit discharge.

#### 11.9. Requirements for Industrial Occupancies

11.9.1. A fire alarm system is required in all Industrial Occupancies as required in The National Fire Codes NFPA 101, Life Safety Code, referred to in Section 4 of this rule.

#### 11.10. Requirements for Storage Occupancies

11.10.1. A fire alarm system is required in all Storage Occupancies as required in The National Fire Codes NFPA 101, Life Safety Code, referred to in Section 4 of this rule.

### **§87-1-12. Exit Inspections and Public Life Safety Announcements.**

12.1. Inspection of Exits. Not more than ninety (90) minutes prior to the scheduled commencement of any noncontinuous activity, event, performance, show, meeting, function, or other occasion for which people will gather in a place of assembly, the owner or his or her designee pursuant to written authority,

instructions, or procedures shall inspect every required exit, way of approach to an exit, and way of departure from an exit. If the inspection reveals that any required means of egress is obstructed, inaccessible, locked, fastened, or otherwise unsuited for immediate use, the scheduled program shall not begin, nor shall admittance to the place of assembly be permitted, until necessary corrective action has been completed.

12.2. Announcements. Immediately prior to the start of a program for which 300 or more people will gather in a place of assembly, the owner or his or her authorized agent shall orally notify all attendees concerning the location of the exits to be used in case of fire or other emergency.

12.3. Records. An accurate record of all inspections, corrections, and notifications shall be kept and retained for at least two (2) years in the offices of the respective building owners. The records shall contain:

- (a) a brief description of each activity, event, performance, etc., including its date, time, and location;
- (b) the name and signature of the person who performed each requirement of this section; and
- (c) the date and time when each requirement was performed.

12.4. Alternatives. In case of practical difficulty or undue hardship, or in which compliance would not significantly increase life safety, the State Fire Marshal may approve or accept alternative means of accomplishing the objectives of this section.

### **§87-1-13. Orders and Decisions of the State Fire Marshal; and Appeals and Procedure for Appeals from such Orders or Decisions.**

13.1. State Fire Marshal's Order and Decisions are Final and Conclusive - Any order or final written decision of the State Fire Marshal based upon or made in the course of the administration or enforcement of the provisions

of W. Va. Code 29-3-1 et seq. based upon or made pursuant to this rule is final, unless vacated or modified upon review pursuant to the appeal rights and procedures provided by Chapter 29A of the W.Va. Code and this rule.

13.2. State Fire Marshal's Order And Decisions Appealed - Any person aggrieved by an order or final written decision of the State Fire Marshal based upon or made in the course of the administration or enforcement of the provisions of W. Va. Code 29-3-1 et seq. or made pursuant to this rule, and desiring to contest the order or written decision may file an appeal from the order or written decision with the State Fire Commission. Preservation of the right to an appeal and the procedure for the contested case is governed by this section and by W. Va. Code §29-3-1 et seq.

13.3. W. Va. Code §29-3-12(g) and (I) Inquiry and Investigation - The testimony which may be obtained by the State Fire Marshal pursuant to the authority in W. Va. Code §29-3-12(g) and (I) shall be obtained without compliance with the provisions in this rule governing "Procedure in Contested Cases." Where appropriate, a subsequent order by the State Fire Marshal relating to the testimony obtained is the same as any other order by the State Fire Marshal subject to the appeal rights provided in W. Va. Code §29-3-1 et seq.

13.4. Appeal Petition - The appeal petition shall be typewritten, styled "Appeal Petition", and the appellant shall submit an original and one (1) copy. It shall be complete in itself so as to fully state the matters contested. No telegram, telephone call, or similar communication will be regarded as an appeal petition. The petition shall contain and include the following:

(A) a copy of the order or decision of the State Fire Marshal being contested;

(B) a clear and concise assignment of each error which the petitioner alleges to have been committed by the State Fire Marshal in issuing the order or decision with each assignment of error being shown in separately numbered paragraphs;

(C) a clear and concise statement of the facts upon which the petitioner relies as sustaining his or her assignment of errors;

(D) the address to which the petitioner desires to have all notices, documents, and the final order of the State Fire Commission mailed;

(E) the telephone number or numbers where the petitioner can be contacted;

(F) the names and addresses of all persons having any ownership interest in the property which is the subject of the State Fire Marshal's order being contested;

(G) a prayer setting forth the relief sought; and

(H) the signature of the petitioner or its duly authorized officer.

13.5. Time Requirement and Manner of Filing Appeal Petition - The petitioner shall submit an appeal petition by personal delivery or mailed to the State Fire Commission within thirty (30) days following service upon the petitioner, or within thirty (30) days following actual receipt if service is not required or for some reason is not made of the order or decision being contested. Any appeal petition shall be sent by certified mail, return receipt requested, and is timely if postmarked within the thirty (30) day period. Any appeal petition not delivered or mailed within the thirty (30) day period is not timely filed and the order or decision of the State Fire Marshal being contested is final.

13.6. Copy of Appeal Petition to State Fire Commission - Upon receipt of an appeal petition, the Chairman of the State Fire Commission, through office staff, shall supply a copy of the petition to the State Fire Commission members together with an opinion by the State Fire Marshal regarding the urgency of the matter being contested. If The State Fire Marshal elects to file a response to the appeal petition, he or she shall deliver a copy of the response to the State Fire Commission and a copy to the petitioner.

13.7. Scheduling Appeal Petition for and Notice of Hearing - The State Fire Commission Chairman through office staff shall schedule a hearing on the appeal petition giving the petitioner and the State Fire Marshal at least ten (10) days written notice of the date, time, and place of the hearing. The notice to the petitioner shall be by personal delivery or by certified mail, return receipt requested, shall contain a short and plain statement of the matters to be considered at the hearing, and a copy of the State Fire Marshal's response, if any, to the appeal petition, and shall be mailed or personally delivered by the State Fire Marshal no later than thirty (30) days after receipt of the appeal petition. A copy of the notice to the petitioner shall be supplied to the State Fire Marshal. The hearing shall be conducted at a designated location in Charleston, West Virginia, or in the discretion of the State Fire Commission at a location within the county where the premises in question are located.

13.8. Authorized Representative - The petitioner may appear individually, or by counsel.

13.9. Continuances - A motion for continuance shall not be granted unless made in writing three days before the hearing or during the hearing, in either case for good and sufficient cause. Upon consideration of a motion for continuance, the urgency of the situation shall be determined and taken into consideration. Conflicting engagements of counsel or the employment of new counsel are not good grounds for a continuance unless a motion is filed promptly after the notice of hearing has been mailed or unless extenuating circumstances are shown, which the State Fire Commission or hearing examiner considers adequate.

13.10. Absence of Petitioner or Counsel at the Scheduled Hearing - A hearing by the Fire Commission shall not be delayed or continued due to the absence of the petitioner or his or her legal counsel at a hearing, after service of notice of the time, date, and place of the hearing. The hearing shall proceed and the case shall be submitted for decision on the part of the absent petitioner or petitioners.

13.11. Hearing Examiner - Any member of the State Fire Commission may conduct a hearing on an appeal petition and has full authority to conduct the proceedings on an appeal petition, and when acting in that capacity shall be referred to as the hearing examiner. Alternatively, the State Fire Commission may authorize and empower an impartial attorney as a hearing examiner with the specific powers listed in W. Va. Code §29A-5-1(d).

13.12. Subpoenas and Subpoenas Duces Tecum

13.12.1. At any hearing held under this section, the testimony of witnesses and the production of documentary evidence may be required through the use of subpoenas and subpoenas duces tecum. The State Fire Marshal may issue subpoenas and subpoenas duces tecum at the request of the petitioner, the hearing examiner or the State Fire Commission.

13.12.2. Every subpoena or subpoena duces tecum is required to prove service at least five (5) days before the return date of that subpoena, either by personal service made by any person eighteen (18) years of age, or older, or by registered or certified mail. A return acknowledgment signed by the person to whom the subpoena or subpoena duces tecum is directed is required to prove service by registered or certified mail.

13.12.3. Any party requesting a subpoena or subpoena duces tecum shall see that it is properly served. Service of a subpoena or subpoena duces tecum issued at the insistence of the State Fire Commission is the responsibility of the State Fire Commission.

13.12.4. Any public official who serves any subpoena or subpoena duces tecum is entitled to the same fee as a Sheriff who serves a witness subpoena for a circuit court of this state; and fees for the attendance and travel of witnesses are the same as for witnesses before the circuit courts of this state. All fees shall be paid by the State Fire Commission if the subpoena or subpoena duces tecum is issued at the instance of the Commission. All fees related to any subpoena or subpoena duces

tecum issued at the instance of the petitioner or the State Fire Marshal shall be paid by the party requesting the subpoena or subpoena duces tecum.

13.12.5. A request for a subpoena or subpoena duces tecum shall be in writing and shall contain a statement acknowledging that the requesting party agrees to pay the required fee.

13.12.6. Any person receiving a subpoena or subpoena duces tecum issued under this section shall honor the subpoena or subpoena duces tecum as though it were issued by a circuit court of the state, and shall appear as a witness and/or produce the books, records, or papers in response to the subpoena or subpoena duces tecum. In case of disobedience or neglect of any subpoena or subpoena duces tecum served on any person or the refusal of any witness to testify to any matter regarding which he or she may be lawfully interrogated, the circuit court of the county in which the hearing is being held, upon application by the State Fire Commission, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena or subpoena duces tecum issued from the circuit court or a refusal to testify in the circuit court.

### 13.13. Evidence

13.13.1. All witnesses appearing at the hearing shall testify under oath or affirmation. Every adverse party has the right of cross-examination of witnesses who testify, and has the right to submit rebuttal evidence.

13.13.2. All relevant and material evidence, including papers, records, agency staff memoranda and documents in the possession of the State Fire Commission or the State Fire Marshal of which either party desires to avail himself or herself, may be offered and made a part of the record in the case.

13.13.3. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded by the Fire Commission. Except as otherwise in this section, the rules of evidence as applied in civil cases in the circuit courts of this state shall

be followed in considering the admissibility of evidence. However, when necessary to ascertain facts not reasonably susceptible of proof under those rules, reasonably authenticated evidence not admissible under those Rules may be admitted, except where precluded by the W.V. Code or privilege, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs

13.14. Record of Proceedings - All of the testimony, evidence and rulings on admissibility of evidence at any hearing shall be recorded by a certified court reporter. An official record of the hearing shall be prepared by the State Fire Commission. A transcript, shall only be prepared if the Commission's final decision is appealed. The cost of the transcript shall be paid by the party requesting it.

13.15. Informal Disposition - At any stage of the proceedings, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

13.16. Decision by the State Fire Commission - Upon the conclusion of the hearing, the person designated by the State Fire Commission as hearing examiner shall prepare a decision supported by findings of fact and conclusions of law affirming, modifying, or vacating the earlier order of decision of the State Fire Marshal. The State Fire Commission may either accept, modify, or reject the hearing examiner's decision. If the Commission accepts the hearing examiner's decision it shall sign the decision. If the Commission rejects or modifies the hearing examiner's decision, it shall prepare a written decision setting forth findings of facts and conclusions of law. In either event, the order signed by the State Fire Commission shall be final unless vacated or modified upon judicial review thereof. A copy of the order shall be served on all parties to the hearing and all attorneys of record, if any, in person or by certified mail, return receipt requested.

13.17. Judicial Review - The petitioner or by the State Fire Marshal may appeal the Commission's decision to the circuit court of the county where the premises are located, if the appeal is filed within thirty (30) days after the

date upon which party was served with a copy of the final order or decision of the State Fire Commission. The final order signed by the State Fire Commission is final if the proceedings for judicial review are not instituted within the said thirty (30) day period.

13.18 Any person who violates the final order or decision of the State Fire Commission is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned in the county or regional jail not more than ninety days, or both fined and imprisoned. Each and every day which violates the final order or decision of the State Fire Commission continues after knowledge or official notice that same is illegal is a separate offense.

#### **§87-1-14. Miscellaneous Provisions.**

##### 14.1. Forest fire season:

14.1.1. The periods of each year between March first and May thirty-first, inclusive, and October first and December thirty-first, inclusive, are designated as forest fire seasons. No person shall during any fire season, except between the hours of four o'clock p.m. and seven o'clock a.m. prevailing time, set fire to, or procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire, located in or within 300 feet of any woodland, brushland, or field containing dry grass or other inflammable material. Any fire set during this time shall be extinguished prior to seven o'clock a.m. prevailing time. The prohibition of fires between seven o'clock a.m. and four o'clock p.m. prevailing time does not include (1) small fires set for the purpose of food preparation, or providing light or warmth around which all grass, brush, stubble, or other debris has been removed for a distance of ten feet from the fire, and (2) burning which may be conducted at any time when the ground surrounding the burning site is covered by one inch or more of snow. Any person who sets or causes to be set any fire permitted by this section

shall not leave the fire unattended for any period of time.

14.1.2. Any person or his or her agent or employee who sets or causes to be set any fire at any time in the use and occupation of any kind on which the burning was being done is in violation of this section if fire escapes beyond the safety strip. Any person who, by himself or herself, or by his or her employees, agents or guides or as an employee, agent or guide of any other person, at any time builds or use any fire in any field, on any public or private road, or in any area adjacent to or on any forest land in this state, shall before leaving the fire for any period of time, totally extinguish the fire. A person shall not at any time throw or place any lighted match, cigar, cigarette, firecracker or lighted material on any forest land, private road, public highway or railroad right-of-way within this state.

14.1.3. The State Fire Marshal may issue permits authorizing fires prohibited by this section in accordance with West Virginia Code, §20-3-5 and 6.

##### 14.2. Executive Order by the Governor on Open Burning

14.2.1. On those occasions when the Governor of the State issues an Executive Order or Proclamation to ban open burning due to weather conditions, the State Fire Marshal may assist in the enforcement of the provisions of the Proclamation or Executive Order.

##### 14.3. Outdoor Storage of Used Tires

The storage of used tires shall comply with the following:

14.3.1. All outdoor storage of used tires shall be free from all trash and debris within the site;

14.3.2. The owner and operators of outdoor storage of used tires shall maintain controlled access to the property with only one entrance/exit, and shall install security lighting for use during evening and night time hours as designated by the State Fire Marshal;

14.3.3. All outdoor storage of used tires shall have a perimeter security chain link fence of a minimum height of six feet;

14.3.4. All storage of used tires, shredded or unshredded, shall be separated into individual piles on the property. No pile may exceed 50 feet wide by 50 feet deep by 15 feet in height;

14.3.5. In the absence of an available water supply of at least 500 GPM (gallons per minute) provided by fire hydrants within 1000 feet of the facility, a minimum of 10,000 thousand gallon water supply on the site for exclusive use of fire fighting personnel shall be established;

14.3.6. Fire lanes having a minimum of forty-five foot lanes capable of supporting fire apparatus shall be established and maintained between all tire piles;

14.3.7. A minimum of a fifty foot wide zone around the site perimeter inside the fence line shall be maintained;

14.3.8. All storage piles shall have a minimum of a thirty inch high earthen dike around each tire pile as the piles are established;

14.3.9. A maximum of eighteen tire piles may be established on a single site; and

14.3.10. No site may exceed the storage of more than three hundred thousand tires without the approval of the State Fire Marshal.

#### 14.4. Fireworks Defined; Labels Required (WV Code §29-3-23)

The term "fireworks" means and includes any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation. Fireworks includes blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of unmanned balloons which require fire underneath to propel

them, firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance. The term "fireworks" shall not include sparklers and novelty items as specified in West Virginia Code, §29-3-23, model rockets and model rocket engines, designed, sold and used for the purpose of propelling recoverable acro models and shall not include toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with the United States Department of Transportation regulations for packing and shipping of toy paper or plastic caps are used and toy paper or plastic caps manufactured as provided therein, the sale and use of which shall be permitted at all times. Each package containing toy paper or plastic caps offered for retail sale shall be labeled to indicate the maximum explosive content per cap.

#### 14.5. Unlawful Sale, Possession or Use of Fireworks; Permit for Public Display (W. Va. Code §29-3-24)

14.5.1. Except as provided in this subsection, no person, firm, co-partnership or corporation shall offer for sale, possess, expose for sale, sell at retail, keep with intent to sell at retail, or use or explode any fireworks. The granting of permits for supervised displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals shall be in accordance with the National Fire Codes as adopted in Section 4 of this Rule. ~~The State Fire Marshal may charge a fee of ten dollars to each applicant requesting a license to be a pyrotechnic operator as set forth in this rule.~~ The State Fire Marshal shall charge a scaled fee for all applications requesting permits to establish a pyrotechnics display as provided in this section. All fees required to be paid by the provisions of this section as set forth in the rule of the Fire Commission, Fee for Services Rendered, 103CSR2 shall be paid to the State Fire Marshal and thereafter deposited by him or her into a special account for the operation of the State Fire Commission. The permits may be granted upon application to State Fire Marshal and after approval of the local

police and fire authorities of the community where the display is proposed to be held and the filing of a bond by the applicant as required by law. Every display shall be handled by a competent operator licensed or certified as to competency by the State Fire Marshal and shall be of composition, and character, and located, discharged or fired in a manner that in the opinion of the chief of the fire department, after proper inspection, and of the chief of police as to not be hazardous to property or endanger any person or persons. After the privilege has been granted, sales, possessions, use and distribution of fireworks for the display are lawful for that purpose only. No permit granted under this subsection is transferable.

14.5.2. The governing body or chief executive authority of the municipality shall require a bond from the licensee in a sum not less than one thousand dollars conditioned on compliance with the provisions of this section and the rules of the State Fire Commission. No municipality is required to file a bond.

14.5.3. Before any permit is issued for a pyrotechnic display, the person, firm or corporation making application for the permit shall furnish proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of that person, firm or corporation or any agent or employee thereof, in an amount, character and form the State Fire Marshal determined as necessary for the protection of the public.

#### 14.6. Necessity of License for Electrical Work

14.6.1. No electrical work may be performed, offered or engaged in for compensation or hire within the State of West Virginia by any person, unless that person possesses a valid license issued by the State Fire Marshal in accordance with West Virginia Code §29-3B-2.

#### 14.7. Necessity of NICET Certification for Fire Protection and Fire Alarm Systems

14.7.1. No fire protection and fire alarm system maintenance, repair or inspection work may be performed, offered or engaged in for compensation or hire within the State of West Virginia by any company unless the company maintains at least one (1) employee possessing a valid certificate of competency issued by the National Institute of Certification in Engineering Technologies (NICET). All companies shall be registered with the State Fire Commission and shall provide annual information on NICET certificate holders employed by their company for the purpose of maintenance, repair or inspection activities.

14.7.2. All fire protection extinguishment devices or systems not covered in 14.7.1 shall adhere to the following: No fire protection equipment or system installation, maintenance, repair or inspection work may be performed, offered or engaged in for compensation or hire within the State of West Virginia by any company unless the company maintains at least one (1) employee possessing a valid certificate of competency issued by the equipment or system manufacturer. All companies shall be registered with the State Fire Commission and shall provide annual information on certificate holders employed by their company for the purpose of installation, maintenance, repair or inspection activities.

#### 14.8. Residential Board and Care Occupancies

14.8.1. Application: All facilities classified as residential board and care occupancies shall conform to the Life Safety Code, NFPA 101, requirements except as modified under this subsection.

This subsection does not apply to facilities with less than four (4) residents.

14.8.2. Resident sleeping rooms shall be located on first and second floors unless the facility is provided with a sprinkler system meeting the requirements of NFPA 13, Standard for Sprinkler Systems.

14.8.3. Provide at least two (2) approved remote exits from each floor; at least one (1) exit shall be a door directly to the

outside without traversing any corridor or space exposed to an unprotected vertical opening.

14.8.4. Vertical Openings shall be properly enclosed on all levels above grade with hour fire rated construction. If used as a primary means of exiting all levels shall be properly enclosed with 1 hour fire rated construction.

14.8.5. Doors shall be side-hinged swinging at least 32 inches wide when located in means of egress. Bathroom doors may be 24 inches wide.

14.8.6. Existing Stairs shall be at least Class B.

14.8.7. Hazardous Areas shall be provided with one hour fire-rated separation or provided with automatic sprinkler protection and smoke tight. Doors shall be self-closing.

14.8.8. Interior Finish of walls and ceilings shall be at least Class C throughout.

14.8.9. Fire Alarm:

(a) An electrically supervised fire alarm system shall be provided and meet the requirements of Subsections 11.1 & 11.6 of this Rule.

(b) Individual sleeping rooms shall be provided with a single station smoke alarm detector hardwired in accordance with NFPA 72, National Fire Alarm Code.

14.8.10. An approved automatic sprinkler system is required in all residential board and care facilities.

14.8.11. Corridor Walls shall be at least twenty (20) minute fire-rated and smoketight.

14.8.12. Electrical System shall meet the National Electric Code.

14.8.13. Each sleeping room shall be provided with at least one (1) outside window for rescue and ventilation and shall meet the requirement for windows in one and two family dwellings of the Life Safety Code. A door

directly to the outside from each sleeping room does not require an outside window.

14.8.14. Any carpet located in the facility shall meet the requirements of Section 7 of this Rule for Residential Occupancies.

14.8.15. No door in any means of egress shall be locked against egress when the building is occupied.

14.8.16. Every bathroom door lock shall be designed to permit opening of the locked door from the outside in an emergency.

14.8.17. Every closet door latch shall be such that it can be readily opened from the inside in case of emergency.

14.8.18. No stove or combustion heater shall be located as to block escape in case of fire arising from the malfunction of the stove or heater.

14.8.19. Impractical to evacuate residents in small facilities shall be located in rooms at grade with direct exiting to the outside. The corridor room door shall be 20 minute fire rated construction or its equivalent.

14.9. Storage of DOT Classified Fireworks Wholesale Distributors

14.9.1. For the purposes of this subsection, the term "facility" means any building, igloo, barn, trailer, semitrailer or other mobile property.

14.9.2. Storage of Fireworks: All new and existing storage facilities for wholesale fireworks distribution in accordance with W. Va. Code §29-3-25 shall meet the following requirements:

14.9.2.1. Each storage facility shall be of fire resistive construction;

14.9.2.2. Each storage facility containing 1000 pounds or more of fireworks shall have a complete automatic sprinkler system installed in accordance with NFPA 13, Installation of Sprinkler Systems;

14.9.2.3. A storage facility shall not be located within a residential area;

14.9.2.4. A storage facility shall meet all distance requirements set forth in NFPA 1124;

14.9.2.5. Storage or sale permits shall be issued by the State Fire Marshal's Office. Permits will be issued only upon verified compliance of this rule and payment of required fee;

14.9.2.6. An owner or operator shall immediately notify the Fire Marshal's Office within 24 hours of any lost, stolen or unaccounted for fireworks;

14.9.2.7. Smoking shall not be permitted in the storage facility or within 50 feet of the storage facility. Conspicuous signs indicating "Warning - No Smoking" shall be posted at frequent intervals throughout the storage facility;

14.9.2.8. No fireworks shall be sold to any West Virginia resident;

14.9.2.9. A fire alarm system with complete smoke detection shall be installed throughout the storage facility in accordance with this Rule;

14.9.2.10. Each display area shall contain only inert fireworks and shall be secured to prevent unauthorized access to the display area;

14.9.2.11. All sales shall be recorded and shall include the name, address, city, state and zip code, business license number and tax department number of each purchase;

14.9.2.12. A daily inventory of fireworks shall be maintained for each facility;

14.9.2.13. All vehicles transporting fireworks from a distribution facility shall be placarded in accordance with U.S. DOT requirements. If less than 1000 pounds is being transported, a placard of Class C Explosives is

required. If more than 1000 pounds is being transported, a placard of Class B Explosives is required. Each vehicle used to transport fireworks shall meet the requirements of NFPA 1124, Code for the Manufacture, Transportation and Storage of Fireworks;

14.9.2.14. Each Fire Department providing emergency services to any storage facility shall be notified in writing of the existence of the storage facility. The notice shall include information as to the type of explosives and explosive hazards that are stored at the storage facility. Pre-fire planning shall be completed by the fire department prior to operating the facility;

14.9.2.15. The land surrounding each storage facility shall be kept clear of combustibles for a distance of at least 25 feet on all sides;

14.9.2.16. Each storage facility shall be securely locked in accordance with NFPA 495, Explosive Material Code.

14.9.2.17. All electrical wiring and fixtures shall meet the requirements of the National Electrical Code, Class II, Group E, Division I locations;

14.9.2.18. All Heating, Ventilation and Air Conditioning shall meet the requirements of this Rule. No open flame heating units are permitted; and

14.9.2.19. Each storage facility shall be separated from inhabited buildings, passenger railways, public highways and other storage buildings according to the distance specified in NFPA 1124, Code for the Manufacture, Transportation and Storage of Fireworks.

14.10. Stopping, Standing or Parking Prohibited in Specified Areas.

14.10.1. No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or

traffic-control device, in any of the following places:

(A) Within fifteen feet of a fire hydrant; or

(B) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of the entrance when properly sign-posted.

#### 14.11. Crossing Fire Hose

No person shall drive a streetcar or vehicle over any unprotected hose of a fire department when it is laid down on any street, private driveway, or streetcar track, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

#### 14.12. Emergency Vehicle Permits

14.12.1. Authorization for all fire department vehicles and firefighters to operate Class A vehicles shall be designated by their fire chief and the State Fire Marshal's Office. Vehicles authorized by WV Code §17C-15-26 shall have red flashing warning lights and an audible signaling device, such as a siren, whistle or bell capable of emitting sound audible from a distance of not less than 500 feet.

14.12.2. Upon receipt of written notification from the Fire Chief of the local fire department to the State Fire Marshal requesting that an Emergency Vehicle Permit be revoked, the State Fire Marshal shall cause the permit to be revoked.

#### 14.13. Correctional or Detention Facilities

All new correctional or detention facilities as defined in the Life Safety Code shall be protected throughout with a complete automatic sprinkler system in accordance with NFPA-13, Standard for Sprinkler Systems.

#### 14.14. Explosives Amendment to NFPA 495, Explosive Materials Code

14.14.1. As soon as practical after all loaded blast holes (shot) are linked, they shall be

immediately connected to a source of ignition and fired by a person legally permitted to do so.

14.14.2. Pre-loading blast holes (shots) to be fired at a later time are prohibited. In an emergency situation, this prohibition may be waived by the State Fire Marshal.

14.14.3. Section 4.6.2 of the National Fire Protection Association (NFPA) 495, Explosive Material Code, the provisions of which are adopted by reference in subsection 4.4 of this rule, is amended to provide that persons 18 years and older may be issued a Class G Special "Helper" permit to use explosives.

#### 14.15. Fire Safety Separation Requirements for Mobile Home Sites

14.15.1. No portion of a manufactured home, excluding the tongue, shall be located closer than 3 m (10ft) side to side, 2.4 m (8 ft) end to side, or 1.8 m (6 ft) end to end horizontally from any other manufactured home or community building unless the exposed composite walls and roof of either structure are without openings and constructed of materials that will provide a 1-hour fire resistance rating or the structures are separated by a 1-hour fire-rated barrier.

14.15.2. Manufactured homes shall not be positioned vertically, stacked with one over the other, in whole or in part, unless the structure is designed and approved for such installation and permitted by the authority having jurisdiction.

#### 14.16 Propane Gas Training Program Certification

14.16.1 Any person who installs or maintains liquefied petroleum gas systems shall complete training standards and qualifications as established by the National Propane Association Certified Employee Training Program.

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472	Competence of Responders to Hazardous Materials/Weapons of Mass Destruction Incidence-2008	Vol 9
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55	Compressed Gases and Cryogenic Fluids-2005	Vol 4
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306	Control of Gas Hazards on Vessels-2009	Vol 9
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288	Floor Fire Door Assemblies, Fire Tests of-2007	Vol 9
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70	National Electrical Code@-2008	Vol 5
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1982	Personal Alert Safety Systems (PASS)-2007	Vol 14
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505	Powered Industrial Trucks Including Type Designations, Areas of Use, Maintenance, And Operations-2006	Vol 10
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326	Safeguarding Tanks and Containers-2005	Vol 9
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204	Smoke and Heat Venting-2007	Vol 8

105	Smoke Door Assemblies and Other Opening Protectives-2007	Vol 8
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36	Solvent Extraction Plants-2004	Vol 3
33	Spray Application Using Flammable or Combustible Materials-2007	Vol 3
1964	Spray Nozzles-2008	Vol 12
13D	Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes-2007	Vol 2
13R	Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height-2007	Vol 2
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77	Static Electricity-2007	Vol 16
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853	Stationary Fuel Cell Power Systems-2007	Vol 11
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385	Tank Vehicles for Flammable and Combustible Liquids-2007	Vol 9
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51B	Welding, Cutting, Other Hot Work-2009	Vol 4
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1051	Wildland Fire Fighter Professional Qualifications-2007	Vol 12
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## APPENDIX B - SPRINKLER PROTECTION &amp; AREA LIMITATION

Type of Construction	BUILDING HEIGHT				
	1 Story	2 Story	More than 2 Stories and Up to 40 ft.	More than 40 feet	More than 75 feet
Type I					
443					
Fire Resistive	50,000	45,000	15,000	Sec. 10-High Rise	Sec. 10-High Rise
332					
Fire Resistive	40,000	30,000	10,000	Sec. 10-High Rise	Sec. 10-High Rise
Type II					
222					
Protected Non-Com.	35,000	25,000	10,000	Sec. 10-High Rise	Sec. 10-High Rise
111					
Protected Limited Combustible	30,000	20,000	8,000	Sec. 10-High Rise	Sec. 10-High Rise
000					
Unprotected Limited Unprotected Non-Com.	12,000	8,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
Type III					
211					
Protected Ordinary	10,000	6,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
200					
Non-Protected Ordinary	8,000	4,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
Type IV					
2HH					
Heavy Timber	9,000	6,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
Type V					
111					
Protected Wood Frame	8,000	4,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
000					
Non-Protected Wood Frame	6,000	3,000	NOT PERMITTED	NOT PERMITTED	NOT PERMITTED

## Notes to Table:

(1) The word "area" means that area enclosed by exterior or foundation walls, fire walls, or a combination of exterior or foundation walls. A fire wall shall be constructed in accordance with NFPA 221, Standard for Fire Walls and Fire Barrier Walls, with a minimum of a 2 hour fire rating. Buildings shall only be separated by one (1) two hour fire wall and areas shall be divided as equally as possible.

(2) The phrase "not permitted" means that buildings of these heights are not permitted for the type of construction indicated.

(3) The phrase "Section 10-High Rise" means that the building shall also comply with Section 10 of this Rule.

(4) Types of building construction indicated in the chart are located in NFPA 220, Standard on Types of Building Construction.

(5) Exception: Automatic sprinklers shall not be required in open parking structures as defined in NFPA 88A of Type I or Type II construction that are less than 40 feet in height as measured per 10.01.

**QUESTIONNAIRE**

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: July 21, 2009

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) State Fire Commission  
1207 Quarrier Street, 2nd Floor  
Charleston, West Virginia 25301

LEGISLATIVE RULE TITLE: State Fire Code

1. Authorizing statute(s) citation 29-3-5

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
May 14, 2009

b. What other notice, including advertising, did you give of the hearing?  
Sent to various state newspapers (See Attached)  
Agency Website

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
June 16 2009

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached XX No comments received \_\_\_\_\_

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

July 21, 2009

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

Sterling Lewis, Jr. State Fire Marshal 558-2191/

558-2537/Sterling.Lewis@wv.gov

Joe Leake Deputy Fire Marshal 558-2191 / 558-2537/Clarence.J.Leake@wv.gov

Tony Carrico Deputy Fire Marshal 558-2191 / Anthony.W.Carrico@wv.gov

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- 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)

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.

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b. Date of hearing or comment period:

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c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

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d. Attach findings and determinations and reasons:

Attached 

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The State Fire Commission will hold two public meetings on June 16, 2009. The first meeting convenes at 10:00 AM dealing with the adoption of the 2009 National Fire Codes. The second meeting convenes at 1:00 PM dealing with the adoption of the 2009 ICC Codes (International Building Code, International Residential Code and others currently in effect). The meeting location is the State Fire Marshal's Office at 1207 Quarrier Street 2<sup>nd</sup> Floor, Charleston, West Virginia.

Public comment period (written comments) for the adoption of both the 2009 National Fire Codes and 2009 ICC Codes ( International Building Code, International Residential Code and others currently in effect) ends at 4:00 PM on June 16, 2009.

All interested parties are encouraged to attend. A Court Reporter will be present and comments will be accepted in written format.

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

West Virginia Daily News  
P. O. Box 471  
Lewisburg, WV 24901-0471

The Shepherdstown Chronicle  
P. O. Box 2088  
Shepherdstown, WV 25443

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

Parkersburg Sentinel  
P. O. Box 1787  
Parkersburg, WV 26101

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

Times-West Virginian  
P. O. Box 2530  
Fairmont, WV 26555

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

Weirton Daily Times  
114 Lee Avenue  
Weirton, WV 26062

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

Wheeling News-Register  
1500 Main Street  
Wheeling, WV 26003

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

Herald Dispatch  
P. O. Box 2017  
Huntington, WV 25720

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

The Register Herald  
P. O. Box P or R  
Beckley, WV 25801

STATE FIRE COMMISSION

State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

Clarksburg Telegram  
324 Hewes Avenue  
Clarksburg, WV 26301-2744

STATE FIRE COMMISSION

State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

The Dominion Post  
1251 Earl Core Road  
Morgantown, WV 26505-6298

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

The Charleston Gazette  
1001 Virginia St. East  
Charleston, WV 25301

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

The Inter-Mountain  
P. O. Box 1339  
Elkins, WV 26241

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarter Street, Second Floor  
Charleston, West Virginia 25301

Bluefield Daily Telegraph  
P. O. Box 1599  
Bluefield, WV 24701

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarter Street, Second Floor  
Charleston, West Virginia 25301

Pocahontas Times  
810 Second Avenue  
Martinton, WV 24954

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

The Moorefield Examiner  
P. O. Box 380  
Moorefield, WV 26836

STATE FIRE COMMISSION  
State Fire Marshal  
1207 Quarrier Street, Second Floor  
Charleston, West Virginia 25301

Mineral Daily News-Tribune  
P. O. Box 879  
Keyser, WV 26726



**AMENDMENT TO THE PROPOSED STATE FIRE CODE  
FROM THE INITIAL FILING TO THE AGENCY APPROVED FILING:**

**THE ADMENDMENT ADDED SECTION 14.6 WHICH ADDRESSES PROPANE GAS TRAINING PROGRAM WHICH IS A RESULT OF COMPLIANCE WITH H.B. 2968. THIS BILL MANDATED TRAINING STANDARDS AND QUALIFICATIONS FOR PERSONS WHO INSTALL OR MAINTAIN LIQUEFIED PETROLEUM GAS SYSTEMS AS ESTABLISHED BY THE NATIONAL PROPANE GAS ASSOCIATION'S CERTIFIED EMPLOYEE TRAINING PROGRAM.**



## STATE FIRE CODE COMMENTS

1. BEN ROY – NFPA
2. PAUL LINGER – MARION COUNTY BOARD OF EDUCATION
3. TONY CARRICO – WV FIRE MARSHAL'S OFFICE
4. JAMES WILLIAMS – MARION COUNTY BOARD OF EDUCATION
5. BOB CANNON – WV CODE OFFICIALS
6. KEN TYREE – WV FIRE MARSHALS ASSOC.
7. DON IVERSON – NATIONAL ELECTRICAL MANUFACTURERS ASSOC.
8. MARK CONOY – BROOKS EQUIPMENT



The Department of Military Affairs and Public Safety

Joe Manchin III, Governor

Charles L. Eversole  
Chairman  
Bill L. Spencer  
Vice Chairman  
Chuck Runyon  
Secretary

**STATE FIRE COMMISSION**  
1207 Quarrier St, 2<sup>nd</sup> Floor  
Charleston, WV 25301

Phone: (304) 558-2191  
Fax: (304) 558-2537

July 13, 2009

Mr. Ben Roy  
National Fire Protection Association  
One Batterymarch Park  
Quincy, MA 02169

Re: Comments towards the proposed 2009 State Fire Code


Dear Mr. Roy:

We are in receipt of your comments submitted prior to the deadline of June 16<sup>th</sup>, 2009 at 4:00pm. We thank you for your interest in the Fire Codes by offering your full support of the new codes.

We have shared your comments with the members of the Commission and on June 29<sup>th</sup> at a special meeting, the Commission approved the Codes with the required rule changes as presented and we will recommend them to the Legislature in the 2010 session for adoption.

Sincerely,

**WV State Fire Commission**



Ted A. Shriver AIA, Commissioner  
Acting Code Committee Chairman

/tas

**National Fire Protection Association**  
***FIREfax***<sup>®</sup>  
***Priority Communication***  
***via facsimile***



**To: Nancy Olson**  
**WV Fire Commission**

**Fax No. 304.558.2537**  
**Date: 6/15/09**

**From: Ben Roy**  
**NFPA Mid - Atlantic Regional Manager**

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**Message/Special Instructions:**

**Nancy -**  
**Please find attached additional testimony that I**  
**would like put on the record at tomorrow's Public**  
**Hearing regarding updating the Fire Prevention**  
**Code.**

**Thanks for your help.**

**Best regards,**  
**Ben**

  2   Page(s) follow this cover page.  
 If all are not received, call sender at 302.227.3232.  
**To Reply via Fax, Dial 302.227.9350.**

6/15/2009 12:04 PM

**Testimony of Ben Roy**  
**National Fire Protection Association**  
**Submitted to the**  
**West Virginia Fire Commission**  
**Public Hearing**  
**June 16, 2009**



Good Morning -- My name is Ben Roy and I am the Mid-Atlantic Regional Manager for the National Fire Protection Association (NFPA).

You currently have before you a proposal submitted by the State Fire Marshal to update your current State Fire Prevention Code (SFPC) to the 2009 edition of the National Fire Codes (NFC) as published by NFPA. This edition of the NFC includes the 2008 edition of the National Electric Code and the 2009 editions of both NFPA 1, Fire Prevention Code and NFPA 101, Life Safety Code, as well as many of the most current codes and standards published by NFPA.

This proposal is made to update the current edition of the SFPC which relies on an earlier edition of the NFC. In other words, the proposal before you is to update your existing code to the most current edition, utilizing the latest fire prevention technology available.

NFPA lauds this proposal and fully supports the efforts of the State Fire Marshal to have the most modern, up-to-date SFPC available to the citizens of West Virginia.

I would like to offer several reasons why you should continue to adopt NFPA's Fire Prevention Code, the Life Safety Code, the National Electric Code, and the National Fire Codes.

NFPA has been developing fire and life safety standards for over a century, using an ANSI approved Consensus based, Codes development process. This means these documents were developed by committees representing various interests. Code enforcement officials, the fire service, users, developers, manufacturers, the insurance industry, and other groups all participate in the NFPA process. No single group can determine the outcome, but rather it takes true consensus building to develop the final document. The result of this process is a fair, equitable, and reasonable standard. Further, NFPA Codes and Standards are approved by ANSI as National Standards.

West Virginia's State Fire Prevention Code has been based on the NFPA Codes and Standards, particularly the Life Safety Code and the Fire Prevention Code, for many years. Contractors, builders, material suppliers, users of the code and code enforcement officials are all familiar with these long term requirements. Any change from utilizing NFPA documents would certainly result in confusion to the citizens of West Virginia, the users of the code, and the code enforcers.

Page 2

Currently, there are over 110 code enforcers in West Virginia who have completed free training and have received complimentary code books on the '09 editions of NFPA 1, Fire Prevention Code and NFPA 101, Life Safety Code. These code enforcers are ready to begin enforcement of the proposed updated State Fire Prevention Code as soon as it is adopted. Further, NFPA is in the process of establishing additional free code enforcer training in other areas of the proposed replacement SFPC.

NFPA offers on-going field and engineering support to those States that adopt our codes. This support includes the aforementioned free code enforcer training and the free issuance of code books to those completing the training. We also offer code writing services to those jurisdictions who feel there is a conflict between some of the NFPA language and that of other codes, ordinances, or laws used by the jurisdiction. These services help to develop language that will harmonize the various codes and standards. We have a staff of probably the best engineers in the fire and life safety disciplines available to assist those jurisdictions who adopt our codes. Finally, we provide several copies of our codes and standards for review in the codes development process.

We at NFPA are proud of our long standing partnership with West Virginia and count your state as one of the premier leaders in the development, implementation, and enforcement of a Statewide Fire Prevention Code.

We look forward to continuing that partnership as you adopt and implement the updated State Fire Prevention Code.



The Department of Military Affairs and Public Safety

Joe Manchin III, Governor

Charles L. Eversole  
Chairman  
Bill L. Spencer  
Vice Chairman  
Chuck Runyon  
Secretary

**STATE FIRE COMMISSION**  
1207 Quarrier St, 2<sup>nd</sup> Floor  
Charleston, WV 25301

Phone: (304) 558-2191  
Fax: (304) 558-2537

July 13, 2009

Mr. Paul W. Linger  
c/o Marion County Board of Education  
1205 Fleming Avenue  
Fairmont, WV 26554

Re: Comments towards the proposed 2009 State Fire Code

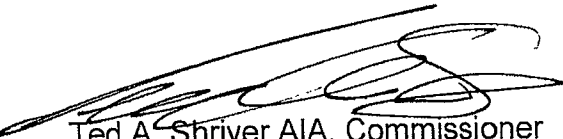
Dear Mr. Linger:

We are in receipt of your comments submitted prior to the deadline of June 16<sup>th</sup>, 2009 at 4:00pm. We thank you for your interest in the Fire Codes specifically the NEC2008 as it relates to ACI breakers.

We have shared your comments with the members of the Commission and on June 29<sup>th</sup> at a special meeting, the Commission approved the Codes with the required rule changes as presented and we will recommend them to the Legislature in the 2010 session for adoption.

Sincerely,

**WV State Fire Commission**



Ted A. Shriver AIA, Commissioner  
Acting Code Committee Chairman

/tas



June 14, 2009

1205 Fleming Ave.  
Fairmont, WV 26554

WV State Fire Commission  
1207 Quarrier St. (2<sup>nd</sup> Fir.)  
Charleston, WV 25301

Dear Sirs:

This is in reference to adoption of the 2008 National Electric Code.

I am a journeyman electrician employed by the Marion County Board of Education. (affiliation for identification only) I am an electrical contractor and owner of Linger Sales and Service. I have been installing ACI breakers the past two years.

When the NEC2008 was issued, it was evident to me that it contained provisions that could make schools safer. I began installing the NEC2008 to govern our new and maintenance wiring.

Areas of the code of particular interest to me are:

680.12-680.71 Swimming Pools, Hot Tubs, Garden Tubs, GFCI Protection, and grounding of swimming pools.

310.15(B)(c) Where conductors or cables are installed in conduits exposed to direct sunlight on or above rooftops. The adjustments shown in table 310.25(2)(B)(c) shall be added to the outdoor temperature to determine the applicable ambient temperature...

700.6© Automatic Transfer Switches shall be electrically operated and mechanically held. Automatic transfer switches, rated 600 VAC and below, shall be listed for emergency system use.

I urge the Commission to adopt NEC2008 so that these and other safety provisions become the norm for the entire state. Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul W. Linger". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Paul W. Linger



RECEIVED

JUN 10 2009

STATE FIRE MARSHAL  
Inspection Division

State of West Virginia  
Department of Military Affairs and Public Safety

Sterling Lewis, Jr.  
State Fire Marshal

Joe Manchin III, Governor

Phone: (304) 558-2191

Fax: (304) 558-2537

STATE FIRE MARSHAL'S OFFICE

1207 Quarrier St, 2<sup>nd</sup> Floor  
Charleston, WV 25301

June 10, 2009

State Fire Commission  
1207 Quarrier Street, 2<sup>nd</sup> Floor  
Charleston, WV 25301

RE: CSR 87-1 "State Fire Code"

I am writing this body to inform them of a necessary rule change that must be adopted to be in compliance with H.B. 2968 that was passed by the West Virginia Legislature during the 2009 Regular Session.

The bill adds a section (5c) to Chapter 29, Article 3, which states:

"(a) The State Fire Commission shall, on or before July 1, 2009, propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to provide:

(1) Standard safe practices for the design, construction, location, installation, maintenance and operation of liquefied petroleum gas systems, as established by the National Fire Protection Association Standard 58; and

(2) Training standards and qualifications for persons who install or maintain liquefied petroleum gas systems as established by the National Propane Gas Association's Certified Employee Training Program.

(b) The State Fire Commission may establish work groups and seek input in the rulemaking process from groups or individuals with an interest in any aspect of the operation or use of liquefied petroleum gas systems."

In order to comply with subsection (a)(2), a new section should be added to the State Fire Code to mandate the specific training and qualifications for persons installing or maintaining liquefied petroleum gas systems. The requirement in subsection (a)(1) is automatically resolved by the adoption of NFPA 58 by reference.

Respectfully Submitted,

  
Anthony W. Carrico, DSFM



The Department of Military Affairs and Public Safety

Joe Manchin III, Governor

Charles L. Eversole  
Chairman  
Bill L. Spencer  
Vice Chairman  
Chuck Runyon  
Secretary

**STATE FIRE COMMISSION**  
1207 Quarrier St, 2<sup>nd</sup> Floor  
Charleston, WV 25301

Phone: (304) 558-2191  
Fax: (304) 558-2537

July 13, 2009

Mr. Tony Carrico, DSFM  
WV State Fire Marshal's Office  
1207 Quarrier St., 2<sup>nd</sup> Floor  
Charleston, WV 25301

Re: Comments towards the proposed 2009 State Fire Code


Dear Mr. Carrico:

We are in receipt of your comments submitted prior to the deadline of June 16<sup>th</sup>, 2009 at 4:00pm. We thank you for your interest in the Fire Codes by offering your comments in regards to a required rule change.

We have shared your comments with the members of the Commission and on June 29<sup>th</sup> at a special meeting, the Commission approved the Codes with the required rule changes as presented and we will recommend them to the Legislature in the 2010 session for adoption.

Sincerely,

**WV State Fire Commission**



Ted A. Shriver AIA, Commissioner  
Acting Code Committee Chairman

/tas



The Department of Military Affairs and Public Safety

Joe Manchin III, Governor

Charles L. Eversole  
Chairman  
Bill L. Spencer  
Vice Chairman  
Chuck Runyon  
Secretary

**STATE FIRE COMMISSION**  
1207 Quarrier St, 2<sup>nd</sup> Floor  
Charleston, WV 25301

Phone: (304) 558-2191  
Fax: (304) 558-2537

July 13, 2009

Mr. James F. Williams  
622 Jo Harry Drive  
Fairmont, WV 26554

Re: Comments towards the proposed 2009 State Fire Code

Dear Mr. Williams:

We are in receipt of your comments submitted prior to the deadline of June 16<sup>th</sup>, 2009 at 4:00pm. We thank you for your interest in the Fire Codes specifically the NEC2008.

We have shared your comments with the members of the Commission and on June 29<sup>th</sup> at a special meeting, the Commission approved the Codes with the required rule changes as presented and we will recommend them to the Legislature in the 2010 session for adoption.

Sincerely,

**WV State Fire Commission**

Ted A. Shriver AIA, Commissioner  
Acting Code Committee Chairman

/tas

8-Jun-2009  
622 Jo Harry Dr.  
Fairmont, WV 26554



WV State Fire Commission  
1207 Quarrier St., (2nd Flr.)  
Charleston, WV 25301

Dear Sirs:

This is in reference to adoption of the 2008 National Electric Code.

I am a journeyman electrician employed by the Marion County Board of Education. (Affiliation for identification only.) I speak for myself, not for the board or for any of its management.

When the NEC2008 was issued, it was evident to me that it contained provisions that could make schools safer. I immediately began using the NEC2008 to govern our new and maintenance wiring. Areas of the code of particular safety interest to me are:

200.2(B) The continuity of a grounded conductor shall not depend on a connection to a metallic enclosure, raceway, or cable armor.

210.4(A) .... All conductors of a multiwire branch circuit shall originate from the same panelboard....  
210.4(D) The ungrounded and grounded conductors of each multiwire branch circuit shall be grouped by wire ties or similar means in at least one location within the panelboard ....

210.8(B) all 125-volt, single-phase, 15- and 20-ampere installed in locations specified in (1) through (5) shall have ground-fault circuit-interrupter protection for personnel: (1) Bathrooms, (2) Kitchens, (3) Rooftops, (4) Outdoors, (5) Sinks.

310.15(B)(c) ...Where conductors or cables are installed in conduits exposed to direct sunlight on or above rooftops, the adjustments shown in table 310.25(2)(B)(c) shall be added to the outdoor temperature to determine the applicable ambient temperature....

406.8(B) 15- and 20-ampere, 125- and 250-volt receptacles installed in wet locations shall have an enclosure that is weatherproof whether or not the attachment plug is inserted....

410.130(G) .... fluorescent luminaires that utilize double-ended lamps and contain ballast(s) shall have a disconnecting means either internal or external to each luminaire....

422.52 Electric drinking fountains shall be protected with ground-fault circuit-interrupter protection

I urge the Commission to adopt NEC2008 so that these (and other) safety provisions become the norm for the entire state. Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read "James F. Williams".

James F. Williams



The Department of Military Affairs and Public Safety

Joe Manchin III, Governor

Charles L. Eversole  
Chairman  
Bill L. Spencer  
Vice Chairman  
Chuck Runyon  
Secretary

**STATE FIRE COMMISSION**

1207 Quarrier St, 2<sup>nd</sup> Floor  
Charleston, WV 25301

Phone: (304) 558-2191  
Fax: (304) 558-2537

July 13, 2009

Mr. Bob Cannon  
WV Code Officials Association  
203 South Eisenhower Drive  
Beckley, WV 25802

Re: Comments towards the proposed 2009 State Fire Code

Dear Mr. Cannon:

We are in receipt of your comments submitted prior to the deadline of June 16<sup>th</sup>, 2009 at 4:00pm. We thank you for your interest in the Fire Codes by offering your support of the new codes.

We have shared your comments with the members of the Commission and on June 29<sup>th</sup> at a special meeting, the Commission approved the Codes with the required rule changes as presented and we will recommend them to the Legislature in the 2010 session for adoption.

Sincerely,

**WV State Fire Commission**



Ted A. Shriver AIA, Commissioner  
Acting Code Committee Chairman

/tas

**2009 BUILDING & FIRE CODE ADOPTION RECOMMENDATIONS**

The WV COA Board of Directors, by unanimous vote at its 6/10/09 meeting endorsed the following recommendations for the 2009 adoption of the State Building and Fire Codes:

## Fire Code

1. Adoption of the **2008 NFPA 70/NEC, without amendment.** Arc fault protectors on all circuits and tamper resistant receptacles are not a major cost factor per new residence (less than \$1000 in the average \$200,000 home) compared with the safety benefits.
2. Delete: **NFPA 5000** from Title 87 Series 1, Fire Code, Section 87-1-4, Section 4.1, line 8 & 9. NFPA 5000 is not the adopted WV State Building Code and not relevant to the State Fire Code.

## Building Code

1. ADD a new **Subsection 1.6** to 87-4-1 GENERAL (Legislative Rules)

**1.6 Enforcement: Enforcement of the State Building Code by all adopting counties and municipalities shall be consistent and uniform. The State Fire Commission shall determine the standards of enforcement.** *(Note: WV 29-35b-(e) grants the FC authority ... "determines compliance with the state building code by officials of the state, counties, municipalities and political subdivisions of the state." Further, 29-3-5b-(d) authorizes the FC to "establish advisory boards as it deems appropriate to encourage representative participation in subsequent rulemaking from groups or individuals with an interest in any aspect of the state building code or related construction or renovation practices."*

2. ADD adoption of the 2008 NFPA 70/NEC, without amendment, as part of the Building Code. Arc fault protectors and tamper resistant receptacles are not a major cost factor per new residence (less than \$1000 in the average \$200,000 home) compared with the safety benefits.

3. Adoption of the 2009 IBC with the following amendment:

DELETE: 4.1.1.A Unnecessary

CHANGE: 4.1.1.B Section 112 to **Section 112.3** *This corrects an error in the 5/15/06 Title 87, Series 4, that deleted the entire Section 112 instead of sub section 112.3 The error deleted the authority for the Board of Appeals.*

Include adoption of Appendix G **Flood Resistant Construction.** *This affects only municipalities and counties who have adopted a flood plain ordinance by identifying requirements, variances and conditions that simplify building code compliance for new or renovated structures within a flood plain. It has no effect on municipalities and counties without a flood plain ordinance.*

4. Adoption of the 2009 IRC with the following amendment:

ADD: **SPRINKLERS FOR NEW ONE & TWO FAMILY DWELLINGS SHALL NOT BE REQUIRED PRIOR TO ADOPTION OF THE 2012 IRC.**

*This extends the ICC effective date of 2011 to 2012 in West Virginia. It allows the ICC code adoption process to more effectively deal with water flow and pressure issues or alternate technology to make residential sprinklers more feasible in WV, where adequate water supply and pressure are significant issues in most areas of the state.*

CHANGE Table R301.1(1) GROUND SNOW LOAD to **LIVE LOAD/ROOF SNOW LOAD OR OR GROUND SNOW LOAD**

*This eliminates confusion for local jurisdictions and design professionals, simplifies the design requirements for 30 psf live load and roof snow load. Comparable ground snow load calculations are in the 20 psf range.*

DELETE 2006 amendment to Section G2415.9 Minimum Burial Depth - Unnecessary

DELETE 2006 amendment to Sections R311.5.3.2 & 2 Maximum Riser Height and Tread Depth - Unnecessary

DELETE 2006 amendment to Section R311.4.3 Landings at doors - Unnecessary

DELETE 2006 amendment to Section R403.1.7.1 Building clearances from ascending slopes - Unnecessary

DELETE 2006 amendment to Section R403.1.7.2 Footing setback from descending slope surfaces - Unnecessary

DELETE 2006 amendment to Chapter 11 Energy Efficiency Section N1101, pages 4-8 - Unnecessary

5. Adoption of the 2009 IPC, IMC, IFGC (2006 amendment to Section 404.9 unnecessary) & IECC without amendments.

6. Adoption of the 2009 IPMC. This code may be rejected at the option of the local jurisdiction or may be adopted by the local jurisdiction without adopting the other national codes and standards listed in this section.

7. Adoption of the 2009 IEBC without amendment. The 2006 amendments are unnecessary.

8. Adoption of the 2003 ICC/ANSI A 117.1 Accessible and Usable Building and Facilities – unchanged from 2006

9. Adoption of the 2009 IFC as a part of the State Building Code, pending receipt and review of the 2009 printed edition. This code is a significant tool for design professionals and code officials, combining the applicable NFPA standards into one publication. As a building code element **IT HAS NO EFFECT ON THE STATE FIRE CODE.** Also, the Legislative Rule, Title 87, Series 4, Section 87-4-3 Sub Section 3.1 specifies “Whenever there is a conflict between the State Fire Code and the State Building Code the State Fire Code takes precedence.” A review of the 2009 edition can determine, identify and eliminate any such conflicts prior to adoption. WVCOA will provide all necessary administrative assistance to the FM Staff.

10. Change 87-4-5 Exceptions -- Group U utility structure ...150 sq. ft. to **200 sq. ft.** – consistent with IRC and IBC provisions exempting 200 sq. ft. utility structures.

11. Change all applicable addresses etc, upon review of the 2009 printed editions. Again WVCOA will provide any assistance desired by the FM staff.



The Department of Military Affairs and Public Safety

Joe Manchin III, Governor

Charles L. Eversole  
Chairman  
Bill L. Spencer  
Vice Chairman  
Chuck Runyon  
Secretary

**STATE FIRE COMMISSION**  
1207 Quarrier St, 2<sup>nd</sup> Floor  
Charleston, WV 25301

Phone: (304) 558-2191  
Fax: (304) 558-2537

July 13, 2009

Mr. Ken Tyree  
Fire Marshals Association of WV  
PO Box 2052  
Charleston, WV 25301-1700

Re: Comments towards the proposed 2009 State Fire Code

Dear Mr. Tyree:

We are in receipt of your comments submitted prior to the deadline of June 16<sup>th</sup>, 2009 at 4:00pm. We thank you for your interest in the Fire Codes especially the NFPA 90 and NEC2008 which includes arc fault breakers and tamper resistant receptacles by offering your full support of the new codes.

We have shared your comments with the members of the Commission and on June 29<sup>th</sup> at a special meeting, the Commission approved the Codes with the required rule changes as presented and we will recommend them to the Legislature in the 2010 session for adoption.

Sincerely,

**WV State Fire Commission**

A handwritten signature in black ink, appearing to read "Ted A. Shriver".

Ted A. Shriver AIA, Commissioner  
Acting Code Committee Chairman

/tas

# FIRE MARSHALS ASSOCIATION OF WEST VIRGINIA (FMAWV), INC.



Good Morning,

I'm Ken Tyree, a Lieutenant with the Charleston Fire Department with 15 years of service of which 13 ½ years has been in Fire Prevention as a fire inspector, plans reviewer, and fire code enforcer.

I'm also the President of the Fire Marshals Association of West Virginia (FMAWV) Inc. whose membership encompasses over 100 active members of the fire service. Our members come from departments and services throughout this state to include members of the State Fire Marshals office, Municipal and Volunteer Fire Departments throughout this great State, from the ranks of Firefighter up through Fire Chief. The fire marshals association is a chapter of the International Fire Marshals Association whose mission is to: *"Aid in the preservation of life and property by advocating, promoting, and providing leadership in the prevention or mitigation of fire, explosions, and other related hazardous conditions"*.

The office I hold as president of this association is a non paid position so, I come to you today as one whose concern is for the safety of all West Virginians.

As president of this association, I respectfully ask this commission to send forth a recommendation to the legislative service to adopt the NFPA National Fire Codes as a part of the State Fire Code. As hopefully you are aware this state has set precedence hard to match when it comes to safety of the people here in West Virginia. This state has adopted the NFPA codes as a part of its state fire code for at least the past 30 years. This state not only this commission should be proud of that fact. NFPA has provided codes and standards that cannot be matched when it comes to the fire and life safety of West Virginians. It shall be noted that fire service personnel in this state have been continually provided training from NFPA to insure that fire code enforcers in this state provide those they serve with solid data to answer concerns of fire and life safety. It shall be noted that in March and April of this year, NFPA provided over 100 fire service personnel training on NFPA 101, Life Safety Code and NFPA 1, Fire Code in preparation of the proposed adoption in 2010. *2009 Edition*

This association also respectfully ask this commission to send forth a recommendation to adopt NFPA 70, National Electrical Code (NEC), 2008 Edition as a part of the State Fire Code which shall include the requirements of Arc Fault Circuit Interrupters (AFCI) and the requirement for Tamper Resistant Electrical Receptacles.

As I understand the Fire Commission's mission to *"PROVIDE, THROUGH LEADERSHIP, THE BEST POSSIBLE FIRE PREVENTION, LEGISLATION, EDUCATION,*

*TRAINING, STANDARDS AND RESOURCE ALLOCATION.*" Home fire safety always needs to be the priority of every citizen including public officials. These codes would provide another tool to use in the fight against home fires.

In my opinion, the expanded use of AFCIs could prevent fires and save lives. According to the U.S. Fire Administration data each year in the United States electrical problems cause about 70,000 fires resulting in 485 deaths and \$868 million in property loss. Our association also supports the installation requirement of Tamper Resistant Electrical Receptacles which will help to prevent electrical shock of children. Based on National Fire Protection Association findings approximately 2400 children suffer severe shock and burns as a result of sticking items into the slots of electrical receptacles. Please send forth a recommendation of support to include these two potentially vital electrical requirements.

Sincerely,

Kenneth E. Tyree Jr.  
President  
Email @ [ken.tyree@charlestonfire.com](mailto:ken.tyree@charlestonfire.com)  
Phone: (304) 348-8058

6/16/09  
(Date)

Attached Documents:

- 1) NFPA Fact Sheet titled: Arc-Fault Circuit Interrupters
- 2) NFPA Fact Sheet titled: Tamper Resistant Electrical Receptacles



## Fact Sheet

# Arc-Fault Circuit Interrupters

### What are Arc-Fault Circuit Interrupters (AFCIs)?

The 2008 *National Electrical Code® (NEC®)* requirement for AFCI protection considerably expands this fire prevention technology to the majority of circuits installed in new and renovated homes. The type of AFCI currently available commercially is a next-generation circuit breaker that not only provides the conventional safety functions, but its advanced design also rapidly detects potentially dangerous arcs and disconnects power in the circuit before a fire can start. Fire safety officials throughout the U.S. endorse AFCIs as a significant step forward in electrical fire safety.

### Why should they be installed in homes?

AFCIs will save lives and make homes safer. According to the U.S. Fire Administration, each year home electrical problems cause about 70,000 fires, resulting in 485 deaths and \$868 million in property loss.

### Why mandate AFCIs for newer homes when statistics show the majority of problems have occurred in older homes?

Fire safety officials recommend the use of AFCIs in all dwellings. While it is true that fire statistics in many cases are derived from older dwellings, damage to appliance cords or to wires hidden in a wall can occur regardless of the home's age. In addition, incorrectly performed electrical installations can occur in both new and old homes. As technology evolves and the *NEC* is revised, the enhanced level of safety is typically required only in new construction that is subject to the latest adopted edition. Homes wired per the 2008 *NEC* will have the majority of their circuits protect by AFCIs for the life of the electrical system.

### How do you know AFCIs will prevent fires and save lives?

Since 1999, AFCIs have been thoroughly field-tested. Underwriters Laboratories, the National Association of State Fire Marshals (NASFM), the U.S. Consumer Product Safety Commission, and many other experts have found AFCIs to be reliable and effective. By eliminating a significant source of electrically related fires, future statistics will demonstrate a reduction in fires of electrical origin.

### Are AFCIs expensive?

The cost of the enhanced protection is directly related to the size of the dwelling and the number of circuits installed. Current retail prices of AFCI-type circuit breakers at several national building supply chains are in the range of \$35 to \$40 per unit. Even for larger homes with more circuits, the cost increase is insignificant compared to the total cost of the home, particularly when the increased level of safety is factored.

### Do AFCIs interfere with smoke alarms and appliances, and trip unnecessarily?

AFCIs do not interfere with power supply reliability. These state-of-the-art devices identify problems that current circuit breakers are not designed to protect against, which can result in what appears to be an unexplained circuit breaker trip. By actually identifying these problems, residents are safer.

### What is the *NEC*?

The *NEC* is the *National Electrical Code*. The *NEC's* mission is to provide practical safeguards from the hazards that arise from using electricity. It is the most widely adopted safety code in the United States and the world, and it is the benchmark for safe electrical installations. The *NEC* is an evolving document, developed through an open consensus process. A new edition is issued every three years.

For more information, visit [www.nfpa.org](http://www.nfpa.org).



## **Tamper-Resistant Electrical Receptacles**

### **What are tamper-resistant electrical receptacles and what is the new requirement?**

The 2008 *National Electrical Code® (NEC®)* will require new and renovated dwellings to have tamper-resistant (TR) receptacles. These receptacles have spring-loaded shutters that close off the contact openings, or slots, of the receptacles. When a plug is inserted into the receptacle, both springs are compressed and the shutters then open, allowing for the metal prongs to make contact to create an electrical circuit. Because both springs must be compressed at the same time, the shutters do not open when a child attempts to insert an object into only one contact opening, and there is no contact with electricity. Tamper-resistant receptacles are an important next step to making the home a safer place for children.

### **Why require tamper-resistant electrical receptacles?**

Each year, approximately 2,400 children suffer severe shock and burns when they stick items into the slots of electrical receptacles. It is estimated that there are six to 12 child fatalities a year related to this.

### **If homeowners do not have children, are TR receptacles required?**

Yes. Owners or tenants of homes and apartments change frequently. In addition, exposure to electrical shock and burn accidents are not limited to a child's own home. Children visit homes of relatives and friends who don't have children of their own. This requirement ensures all new homes and apartments are safe for children, whether the home is their own or they are there on a temporary basis.

### **Do TR receptacles require greater insertion strength than standard receptacles?**

TR receptacles require comparable force to other receptacles. The insertion force may vary depending on the newness of the device to the shape or style of the plug being inserted.

### **Are TR receptacles costly?**

No. The projected cost of a TR receptacle adds about \$0.50 to the cost of an unprotected receptacle. Based on current statistics, the average home has about 75 receptacles resulting in an overall added cost of under \$40. This amount may vary slightly based on the type and style of TR receptacle used. This minimal increase in cost buys a significant increase in electrical safety for children.

### **Shouldn't people accept responsibility for their children and teach their children not to stick items in receptacles?**

Accidents involving children and receptacles cannot be blamed entirely on poor parenting. They involve people who look away for a moment, only to face undue tragedy and pain as the result of a child's curiosity. The *NEC's* mission is to provide electrical safety in the home. TR receptacles are a simple and easy way to protect children from serious injuries that continue to happen every year.

### **Why are TR receptacles preferred over products such as receptacles with caps or with sliding receptacle covers?**

Receptacle caps may be lost and also may be a choking hazard for some ages. Children can learn to defeat sliding receptacle covers when they watch their parents. TR receptacles provide security against the insertion of objects other than cord plugs into the energized parts.

### **What is the *NEC*?**

The *NEC* is the *National Electrical Code*. The *NEC's* mission is to provide practical safeguards from the hazards that arise from using electricity. It is the most widely adopted safety code in the United States and the world, and it is the benchmark for safe electrical installations. The *NEC* is an evolving document, developed through an open consensus process. A new edition is issued every three years.

**For more information, visit**



The Department of Military Affairs and Public Safety

Joe Manchin III, Governor

Charles L. Eversole  
Chairman

Bill L. Spencer  
Vice Chairman

Chuck Runyon  
Secretary

**STATE FIRE COMMISSION**

1207 Quarrier St, 2<sup>nd</sup> Floor  
Charleston, WV 25301

Phone: (304) 558-2191  
Fax: (304) 558-2537

July 13, 2009

Mr. Don Iverson  
National Electrical Manufacturers Association (NEMA)  
1300 North 17<sup>th</sup> Street  
Suite 1752  
Rosslyn, VA 22209

Re: Comments towards the proposed 2009 State Fire Code

Dear Mr. Iverson:

We are in receipt of your comments submitted prior to the deadline of June 16<sup>th</sup>, 2009 at 4:00pm. We thank you for your interest in the Fire Codes especially the NFPA 90 and NEC2008 which includes arc fault breakers and tamper resistant receptacles by offering your full support of the new codes.

We have shared your comments with the members of the Commission and on June 29<sup>th</sup> at a special meeting, the Commission approved the Codes with the required rule changes as presented and we will recommend them to the Legislature in the 2010 session for adoption.

Sincerely,

**WV State Fire Commission**



Ted A. Shriver AIA, Commissioner  
Acting Code Committee Chairman

/tas

Testimony of Don Iverson  
National Electrical Manufacturers Association  
To the  
State of West Virginia Fire Commission  
June 16, 2009

RECEIVED

JUN 16 2009

STATE FIRE MARSHAL  
Administration

I am Don Iverson, Midwest Field Representative for the National Electrical Manufacturers Association (NEMA). I am submitting this testimony in support of the adoption of the 2008 NEC.

The NEC focuses on the proper installation of electrical equipment to protect people and property from the hazards that arise from the use of electricity. The NEC revises on a 3 year cycle and employs a thorough public process and review by representatives of the fire and electrical safety community, as well as representatives from the National Association of Home Builders (NAHB).

The NEC is considered the road map for electrical safety throughout the world. Today, the NEC serves as the basis for electrical codes in all 50 states. According to a recent survey, 23 states have adopted the 2008 NEC and several other states are in the process of doing the same. This makes the NEC the most widely used and adopted code for electrical installations and the most widely adopted construction code in the world.

The NEC code panels are made up of volunteers from the National Electrical Contractors Association (NECA); the International Brotherhood of Electrical Workers (IBEW); the International Association of Electrical Inspectors (IAEI); National Association of Homebuilders (NAHB); the Independent Electrical Contractors (IEC); and many other professionals.

Here are several of the changes to the 2008 NEC:

- **Tamper-Resistant receptacles (TRR);** TRRs are aimed at protecting young children from accidental contact with energized parts of the electrical outlets. Each year approximately 2,400 children suffer severe shock and sometimes burn when they stick items into the slots of electrical receptacles.
- **Expansion of ground-fault circuit interrupter protection;** by expanding these very effective devices will aid in protecting the users of electrical appliances against shock hazards.
- **Expansion of arc-fault circuit interrupter protection (AFCI);** The 2008 NEC expands the areas within the home required to have AFCI protection. These devices advance the cause of electrical safety by providing early detection of arcing-faults concealed within the walls and ceilings of wiring systems. The combination AFCI device will respond to damaged appliance cords a known cause of many house fires.

Total cost of these previously noted safety requirements were broken down to three homes. This study was completed by the Ohio Chapter of the International Association of Electrical Inspectors were as follows;

900 square foot home = \$160.18  
1,700 square foot home = \$205.27  
2,100 square foot home = \$241.36

The relatively insignificant cost increase proves that safety, not economics, needs to be the driving force in establishing new building code requirements.

It is clear there is strong support for the adoption of the 2008 NEC without amendments in West Virginia, as evident by the fire and electrical safety advocates present here today. Additionally, AFCI expansion has the full support of the national fire and electrical safety organizations, including the National Fire Protection Association (NFPA), the National Association of State Fire Marshals, the International Association of Electrical Inspectors (IAEI), and the U.S. Consumer Product Safety Commission (CPSC). In fact, the CPSC believes that the AFCI device, if installed in all homes, could prevent more than 50 percent of electrical fires that occur annually.

In conclusion, NEMA respectfully asks the State of West Virginia to support the adoption of the 2008 National Electric Code (NEC). This adoption would provide a great benefit to the citizens of West Virginia by increasing the electrical safety of new buildings constructed in the state.



The Department of Military Affairs and Public Safety

Joe Manchin III, Governor

Charles L. Eversole  
Chairman  
Bill L. Spencer  
Vice Chairman  
Chuck Runyon  
Secretary

**STATE FIRE COMMISSION**

1207 Quarrier St, 2<sup>nd</sup> Floor  
Charleston, WV 25301

Phone: (304) 558-2191  
Fax: (304) 558-2537

July 13, 2009

Mr. Mark T. Conroy  
Brooks Equipment  
1313 Belmont Street  
Brockton, MA 02301

Re: Comments towards the proposed 2009 State Fire Code

Dear Mr. Roy:

We are in receipt of your comments submitted prior to the deadline of June 16<sup>th</sup>, 2009 at 4:00pm. We thank you for your interest in the Fire Codes.

We have shared your comments with the members of the Commission and on June 29<sup>th</sup> at a special meeting, the Commission approved the Codes with the required rule changes as presented and we will recommend them to the Legislature in the 2010 session for adoption.

Sincerely,

**WV State Fire Commission**



Ted A. Shriver AIA, Commissioner  
Acting Code Committee Chairman

/tas

1313 Belmont Street  
Brockton, MA 02301

TELEPHONE  
774.274.7461

mailto:info@brooks-equipment.com  
www.brooks-equipment.com



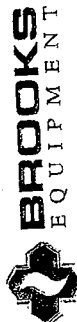
**BROOKS**  
EQUIPMENT

1313 Belmont St  
Brockton, MA 02301

RECEIVED

JUN 15 2009

STATE FIRE MARSHAL  
REG. & LICENSING



MARK T. CONROY  
Senior Engineer,  
Technical Services

June 11, 2009

Deputy Fire Marshal Anthony W. Carrico  
West Virginia State Fire Commissioner  
1207 Quarrier St, 2<sup>nd</sup> Floor  
Charleston, West Virginia 25301

Dear Deputy Fire Marshal Carrico,

Thanks for taking the time to speak to me by phone today and provide updated documents by email. As we discussed, I am submitting a public comment on the proposed changes to the West Virginia Fire Code (Title 87) which are due on June 16, 2009. Please consider the following as a public comment.

The following are my recommended changes to Title 87 so that it will match Title 103:

14.7. Necessity of NICET Certification for Fire Protection Sprinkler and Fire Alarm Systems

14.7.1. No fire protection sprinkler and fire alarm system maintenance, repair or inspection work may be performed, offered or engaged in for compensation or hire within the State of West Virginia by any company unless the company maintains at least one (1) employee possessing a valid certificate of competency issued by the National Institute of Certification in Engineering Technologies (NICET). All companies shall be registered with the State Fire Commission and shall provide annual information on NICET certificate holders employed by their company for the purpose of maintenance, repair or inspection activities.

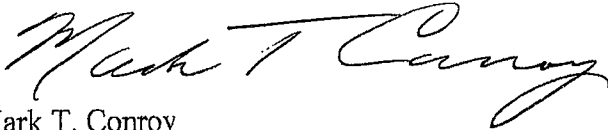
14.7.2. ~~All fire protection extinguishment devices or systems not covered in 14.7.1 shall adhere to the following: No fire protection equipment or system installation, maintenance, repair or inspection work may be performed, offered or engaged in for~~

~~compensation or hire within the State of West Virginia by any company unless the company maintains at least one (1) employee possessing a valid certificate of competency issued by the equipment or system manufacturer. All companies shall be registered with the State Fire Commission and shall provide annual information on certificate holders employed by their company for the purpose of installation, maintenance, repair or inspection activities.~~

The reason for my recommended changes is that the documents are currently in conflict. Making the changes as I've suggested will correlate these two documents. Since Title 103 is a fairly recent document, other improvements could be made to Title 87. In my opinion, the above changes are necessary as a minimum so that the two documents are not in conflict.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "Mark T. Conroy". The signature is written in black ink and is positioned above the typed name and contact information.

Mark T. Conroy  
Senior Engineer, Technical Services  
774-274-7461  
mconroy@brooksequipment.com

THE DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY  
OFFICE OF THE FIRE MARSHAL

IN RE: Fire Code Public Hearing

2009 JUL 21 AM 11:25  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

FILED

Transcript of proceedings taken on the 16<sup>th</sup> day of June, 2009, at 10:00 a.m., before Francis A. Guffey, II, Hearing Examiner, at the State Fire Commission, Litton Building, 1207 Quarrier Street, Charleston, West Virginia, before Pamela Wood, Certified Court Reporter, duly certified by the West Virginia Supreme Court of Appeals, and Notary Public in and for the State of West Virginia.

**PHYLLIS HAYNES EDENS, CCR, INC.**

**CERTIFIED COURT REPORTERS**

Post Office Box 13337

Charleston, West Virginia 25360

(304) 984-3531 WEST VIRGINIA (800) 248-3531

BEFORE: FRANCIS A. GUFFEY, II, ESQUIRE  
165 Lakeshore Drive  
Charleston, West Virginia 25313

APPEARANCES

ON BEHALF OF THE STATE FIRE COMMISSION:

STERLING LEWIS, JR.  
West Virginia State Fire Marshal

Joe Leake  
Carol Nolte  
Rudy Raynes

PUBLIC REGISTRATION AT FIRE CODE PUBLIC HEARING:

Paul W. Linger, IA EI  
Don Iverson, NEMA  
Jack Jamison, WVIA EI  
Ken Tyree, FMAWV  
Mike Reel, WVAHI  
Ted Shriner, WV Architects  
Bob Cannon, WVCOA  
Tim Flinn, PED  
Ernie Hedrick, Nitro Fire Department  
Ron King, Nitro Fire Department

## I N D E X

<u>Statements given by:</u>	<u>Page</u>
Don Iverson	5
Jack Jamison	9
Ken Tyree	10
Bob Cannon	14
Paul Linger	15

Attachments:

Registration Sheet	
Typed statement of Anthony W. Carrico	
Typed statement of Ben Roy	
Type statement of Paul Linger	
Typed statement of James Williams	
Typed statement of Ken Tyree	
Typed statement of Don Iverson	
Typed statement of Bob Cannon	

Reporter's Certificate.....	17
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1 HEARING EXAMINER GUFFEY: The time is ten  
2 o'clock. We will begin the public hearing on the NFPA  
3 Code, the adoption of. Our court reporter is Pam Wood.

4 If you would like to make testimony,  
5 please set in this chair right here, speak into that  
6 microphone right there. Speak distinctly. Speak slowly on  
7 the really technical stuff.

8 There's not going to be any debate or any  
9 rebuttals. Say what you have to say and that's it.

10 The written comment period ends at four  
11 o'clock today. So if you don't have your comments in, get  
12 them in before it's too late.

13 I have written comments here so far from  
14 Ben Roy of the National Fire Protection Association.

15 MR. ROY: I will just put them in.

16 HEARING EXAMINER: Okay. Thank you.

17 Anthony Carrico, Deputy State Fire Marshall. Paul W.  
18 Linger and James F. Williams. I need to get copies of  
19 these for the court reporter. I will not read these  
20 verbatim. They will be in the record. I can give you a  
21 heads-up.

22 Tony Carrico wrote about some minor  
23 changes we're going to have to make in rules, training

1 standards and qualifications, National Propane Gas  
2 Association, Certified Employee Training Program.

3 Ben Roy is supporting the adoption of the  
4 2007 addition of the NFPA 1 Fire Prevention Code.

5 Mr. Williams is writing about the  
6 adoption of arc-fault circuit breakers and other stuff.

7 And Mr. Linger is writing about arc-fault  
8 circuit breakers.

9 Okay. First on the list, Don Iverson  
10 representing NEMA.

11 Don, come on up and tell us what you  
12 think, and by the way, there will be no rebuttal. The  
13 first time through is it.

14 MR. IVERSON: I'd like to make this testimony to  
15 be for both this hearing as well as the Residential IRC  
16 meeting, also.

17 I am Don Iverson, Midwest Field  
18 Representative for the National Electrical Manufacturer's  
19 Association. I am submitting this testimony in support of  
20 the adoption of the 2008 NEC.

21 The NEC focuses on the proper  
22 installation of electrical equipment to protect people and  
23 property from the hazards that arise from the use of

1 electricity.

2           The NEC revises on a three-year cycle and  
3 employs a thorough public process in review by  
4 representatives of the fire and electric community, as well  
5 as representatives of the Home Builders Association.

6           The NEC is considered the road map for  
7 electrical safety throughout the world. Today, the NEC  
8 serves as a basis of electrical codes in all 50 states.

9           According to a recent survey, 23 states  
10 have adopted the 2008 NEC and several other states are in  
11 the process of doing the same. This makes the NEC the most  
12 widely used in adopted code by electrical installations and  
13 the most widely adopted code in the world.

14           The NEC code panel are made up of  
15 volunteers from the National Electric Contractors'  
16 Association, The International Brotherhood of Electrical  
17 Workers, the International Association of Electrical  
18 Inspectors, as well as The National Association of Home  
19 Builders, and the independent electrical contractors, and  
20 many other professionals.

21           Here are several of the changes to the  
22 2008 NEC. Tamper-resistant receptacles are aimed at  
23 protecting young children from an accidental contact with

1 energized parts of electrical outlets. Each year  
2 approximately 2,400 children suffer severe shock and  
3 sometimes burns when they stick items into the slots of  
4 electrical receptacles.

5 Expansion of ground-fault circuit  
6 interruptors. By expanding these very effective devices  
7 will aid in protecting the uses of electrical appliances  
8 against shock hazards.

9 Expansion of arc-fault circuit  
10 interruptors. The 2008 extends the areas within the homes  
11 required to have AFCI protection. These devices advance  
12 the cause of electrical safety by providing early detection  
13 of arc-faults concealed within the walls and ceilings of  
14 wiring systems.

15 The combination arc-fault device will  
16 respond to damage of appliance cords, known cause of many  
17 house fires.

18 Today the cost of these previously noted  
19 safety requirements are broken down in three homes. This  
20 study was completed by the Ohio Chapter of The  
21 International Association of Electrical Inspectors, were as  
22 follows:

23 A 900 square foot home, additional cost

1 would be \$160.18. A 1,700 square foot home would be  
2 \$205.27, and a 2,100 square foot home would be \$241.36.

3 The relatively insignificant cost  
4 increase provides the safety, not economics need to be the  
5 driving force in establishing new building code  
6 requirements.

7 It is clear there is strong support for  
8 this adoption of the 2008 NEC without amendments in West  
9 Virginia. As evident by the fire electric safety advocates  
10 present here today, additionally AFCI expansion has the  
11 full support of the national fire and electrical safety  
12 organizations including the National Fire Protection  
13 Agency, The National Association of State Fire Marshals and  
14 International Association of Electrical Inspectors.

15 The Consumer Product Safety Commission,  
16 in fact, the CPSC believes that the AFCI device if  
17 installed in all homes, could prevent 50 percent of the  
18 electrical fires that occur annually.

19 In conclusion, NEMA respectfully asks the  
20 state of West Virginia to support the adoption of the 2008  
21 National Electric Code. This adoption will provide a great  
22 benefit to the citizens of West Virginia by increasing the  
23 electrical safety of new buildings constructed in the

1 state.

2 HEARING EXAMINER: Thank you, Don. Again, that  
3 was Don Iverson.

4 Next on the agenda is Jack Jamison

5 MR. JAMISON: I'm Jack Jamison. Today I'm  
6 representing the West Virginia Division of the  
7 International Association of Electrical Inspectors, Ohio  
8 Chapter.

9 And to expand upon Don's previous  
10 testimony, in West Virginia we had three civilian deaths  
11 and four civilian injuries associated with electrical  
12 fires. In addition, there were eight firefighters that  
13 received injuries in these fires that could be contributed  
14 to electrical source of ignition, and these contributed to  
15 6.8 million dollars worth of property damage.

16 We feel that arc-fault breakers could  
17 eliminate 50 percent or more of the electrical fires that  
18 had a source of electricity as the ignition source.

19 Tamper-resistant receptacles have about  
20 seven children injured per day. This seems like a low  
21 number, but if one of these children were near and dear to  
22 us, we would have a different opinion of this.

23 So the West Virginia International

1 Association of Electrical Inspectors is entirely behind the  
2 adoption of the '08 NEC without deletions or amendments.

3 The cost of arc-fault breakers and  
4 tamper-resistant receptacles for an average home running  
5 approximately \$200,000 would be one-quarter of 1 percent.  
6 Arc-fault breakers can be purchased for approximately \$25  
7 to \$30 each in groups, and tamper-resistance receptacles  
8 are going to add less than \$1 per receptacle to the cost.  
9 Thank you.

10 HEARING EXAMINER: Jack, we appreciate that.  
11 The next on the list is Lieutenant Ken Tyree of the  
12 Charleston Fire Department. Come on up, Ken.

13 MR. TYREE: Good morning. I'm Ken Tyree, a  
14 Lieutenant with the Charleston Fire Department with 15  
15 years of service, of which 13-1/2 have been in fire  
16 prevention as a fire inspector, plans reviewer and fire  
17 code enforcer.

18 I'm also the President of the Fire  
19 Marshals Association of West Virginia, whose membership  
20 encompasses over 100 active members of the fire service.  
21 Our members come from departments and services throughout  
22 the state to include members of the State Fire Marshal's  
23 Office, municipal and volunteer fire departments throughout.

1 this great state, from the ranks of firefighter up through  
2 fire chief.

3 The Fire Marshals Association is a  
4 chapter of the International Fire Marshal Association whose  
5 mission is to aid in the preservation of life and property  
6 by advocating, promoting and providing leadership in the  
7 prevention or mitigation of fire, explosions and other  
8 related hazardous conditions.

9 The office I hold as President of this  
10 association is a non-paid position. So I come to you today  
11 as one whose concern is for the safety of all West  
12 Virginians, and I would like to be put on record that the  
13 testimony I share this morning also be a part of my  
14 testimony that I'll give this afternoon in behalf of the  
15 building code.

16 As President of this association I  
17 respectfully ask this Commission to send forth a  
18 recommendation to the legislative service to adopt the NFPA  
19 National Fire Codes, 2009 Edition, as a part of the State  
20 Fire Code.

21 As hopefully you are aware, this state  
22 has set a precedent that's hard to match when it comes to  
23 the safety of the people here in West Virginia. This state

1 has adopted the NFPA codes as a part of its state fire code  
2 for at least the past 30 years.

3 Not only should this commission should be  
4 proud of that fact. NFPA has provided codes and standards  
5 that cannot be matched when it comes to fire and life  
6 safety of West Virginians.

7 It shall be noted that fire service  
8 personnel in this state have been continually provided  
9 training from NFPA to ensure that fire code enforces in  
10 this state provide those they serve with solid data to  
11 answer concerns of fire and life safety.

12 It shall be noted that in March and April  
13 of this year, NFPA provided over 100 fire service personnel  
14 training on NFPA 101, Life Safety Code, and NFPA 1, Fire  
15 Code, in preparation of the proposed adoption in 2010.

16 This association also respectfully asks  
17 this commission to send forth a recommendation to adopt the  
18 NFPA 70, National Electrical Code, 2008 edition, as a part  
19 of the State Fire Code, which shall include the  
20 requirements of Arc-Fault Circuit Interrupters, or AFCI's,  
21 and the requirement for Tamper-Resistant Electric  
22 Receptacles.

23 As I understand, the Fire Commission's

1 mission is to provide through leadership the best possible  
2 fire prevention legislation, education, training, standards  
3 and resource allocation.

4 Home fire safety always needs to be the  
5 priority of every citizen including public officials.  
6 These codes would provide another tool to use in the fight  
7 against home fires.

8 In my opinion, the expanded use of AFCI's  
9 could prevent fires and save lives.

10 According to the US Fire Administration  
11 data each year in the United States electrical problems  
12 cause about 70,000 fires, resulting in 485 deaths and 868  
13 million dollars in property loss.

14 Our association also supports the  
15 installation of tamper-resistant electrical receptacles  
16 which will help to prevent electrical shock of children.

17 Based on the National Fire Protection  
18 Association's findings, approximately 2,400 children suffer  
19 severe shock and burns as the result of sticking items into  
20 slots of electric receptacles.

21 Please send forth a recommendation of  
22 support to include these two potentially vital electrical  
23 requirements.

1 I have two documents attached to what  
2 I've turned in. It's NFPA fact sheet titled "Arc-Fault  
3 Circuit Interrupters," and NFPA fact sheet titled "Tamper-  
4 Resistant Electrical Receptacles." Thank you.

5 HEARING EXAMINER: Thank you, Ken. Bob Cannon,  
6 chief building code official, city of Beckley. Welcome,  
7 Bob.

8 MR. CANNON: Thank you. I'm Bob Cannon. I'm  
9 the Chief of Code Enforcement for the city of Beckley and  
10 for Raleigh County and the President of the West Virginia  
11 Code Officials Association.

12 I'd like to offer this testimony in  
13 strongest support for the total adoption of NFPA 70, the  
14 National Electric Code, 2008 Edition, in its entirety and  
15 without any amendments whatsoever. The document stands  
16 alone as a testimony to the effectiveness of building  
17 safety in the building construction industry as it is and  
18 we strongly urge the Fire Commission to adopt it in that  
19 manner. Thank you.

20 HEARING EXAMINER: Thank you, Bob. Tim Flinn.

21 MR. FLINN: I'm all right.

22 HEARING EXAMINER: I have no one else here  
23 wishing to speak?

1 MR. LINGER: I would like to, but I didn't check  
2 the box.

3 HEARING EXAMINER: Well, Paul, I'll put your  
4 name down as a yes and you come on up and speak.

5 MR. LINGER: Thank you.

6 My name is Paul Linger. I am a member of  
7 the Executive Committee of the National Association of  
8 Electrical Inspectors for the Ohio Chapter for the West  
9 Virginia Division.

10 I also am employed as the electrician for  
11 Marion County Schools in Fairmont, West Virginia.

12 I am here in support of the 2008 adoption  
13 of the NFPA 70, the National Electric Code as it stands and  
14 the National Fire Code as it stands.

15 We presently, in Marion County school  
16 system, since the 2008 came out, have put it in place and  
17 have been using it, and the West Virginia State Fire  
18 Marshal, if you would look at the journeyman test, the  
19 apprentice test, the master's test now is given out of the  
20 2008 National Electric Code.

21 I support the adoption of this code.

22 Thank you.

23 HEARING EXAMINER: Thank you, Paul.

1 Anyone else?

2 (No response.)

3 HEARING EXAMINER: Okay. Hearing no further  
4 comments, we will close the public meeting, the public  
5 hearing on Life Safety Codes, Electrical Codes, and we will  
6 start again at one o'clock and talk about building codes.

7 Thank you all. We appreciate your  
8 participation.

9 (WHEREUPON, the hearing was concluded.)

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REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA  
COUNTY OF KANAWHA to-wit:

I, Pamela I. Wood, Certified Court Reporter and Notary Public in and for the State of West Virginia, duly commissioned and qualified, do hereby certify that the foregoing proceedings were duly taken by me and before me at the time and place.

do further certify that the said proceedings were written out in full and transcribed into the English language under my supervision; that this is a true record of the proceedings held in this matter.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which the proceedings were held; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.

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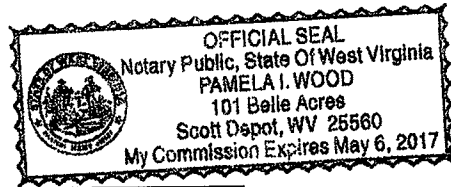
Given under my hand this 16th day of June

2009

My commission expires May 6, 2017.

*Pamela I. Wood*

PAMELA I. WOOD - CCR - NOTARY PUBLIC



Seal

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