

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #3

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

AGENCY: WV STATE FIRE COMMISSION TITLE NUMBER: 87

CITE AUTHORITY: 29-3-5

AMENDMENT TO AN EXISTING RULE: YES X NO

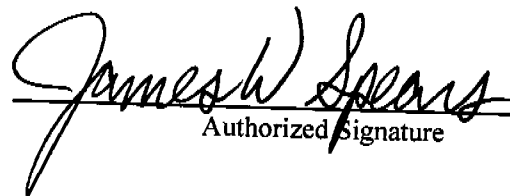
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

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.

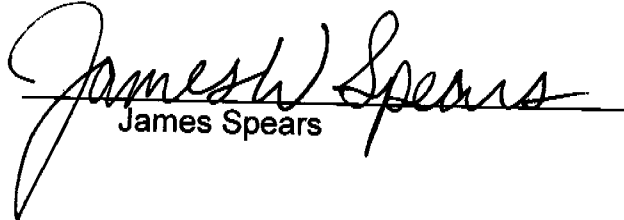

Authorized Signature

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WEST VIRGINIA
STATE FIRE CODE
TITLE 87, SERIES I

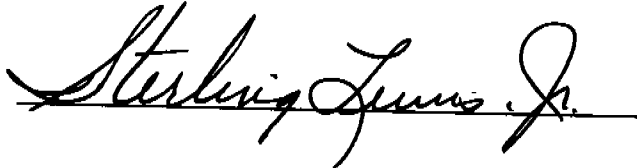
Rules
Of the West Virginia
State Fire Commission

Approved by Secretary, Department of Military Affairs and Public Safety


James Spears


Date

Approved by State Fire Commission




Date

STATE FIRE COMMISSION
1207 Quarrier Street, 2nd 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 2004/2005 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 2004/2005 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.

APPENDIX B

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: _____

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.

FISCAL YEAR			
Effect of Proposal	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
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
Equipment	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: 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: 18 May 05

Signature of Agency Head or Authorized Representative

James W. Spears

WEST VIRGINIA STATE FIRE CODE

Rules of the West Virginia State Fire Commission

SERIES I

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TITLE 87
LEGISLATIVE RULE
FIRE COMMISSION

SERIES 1
FIRE CODE

FILED
2005 JUL 20 P 12:57
OFFICE WEST VIRGINIA
SECRETARY OF STATE

§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 ~~provided~~ 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 ~~2000~~ 2004/2005 edition of "The National Fire Codes" and the ~~2000~~ 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 ~~2000~~ 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).

**Fire Commission
Legislative Rules
Series I**

Section 7.2.2

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.

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Series I**

Section 9.1

§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 - Any 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.

**Fire Commission
Legislative Rules
Series I**

Section 10.7

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.

**Fire Commission
Legislative Rules
Series I**

Section 11.1.6

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 utilizes 100% of outside air does not require duct detectors, unit 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.

**Fire Commission
Legislative Rules
Series I**

Section 11.1.13

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) Elevator Shafts	Fixed Temperature
(b) (a) Attic & Cockloft Spaces	Fixed Temperature
(c) (b) Storage Rooms	Rate of Rise
(d) (c) Furnace or boiler rooms	Fixed Temperature
(e) (d) Janitor Closets	Rate of Rise
(f) (e) Kitchens	Fixed Temperature
(g) (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.

**Fire Commission
Legislative Rules
Series I**

Section 11.2

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 ~~as provided in this section 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.

11.3. 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 Occupancies

11.4.1 A fire alarm system is required in every Health 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, ~~The National Fire Alarm Code, Chapter 2.~~

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 detector 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 detectors located at the entrances to bedrooms.

11.6.5.3 All new apartments shall have an approved self-contained smoke 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.

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Section 12.4

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 (l) 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 (l) 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.

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Section 13.5

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.

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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.

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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.

§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;

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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.

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Section 14.5

14.5. Unlawful Sale, Possession or Use of Fireworks; Permit for Public Display (WV 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, 87CSR5 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.

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Section 14.7

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 detector hardwired in accordance with NFPA 72, National Fire Alarm Code, Chapter 2.

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 ~~not be located within 2000 feet of any assembly, educational, health care or detention or correctional occupancies;~~ 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;

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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 ~~Chapter 5 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, ~~Chapter 6-6.1(g)~~;

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 ~~Table 2-6.5 of~~ 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.

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APPENDIX B - SPRINKLER PROTECTION & 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	<u>50,000</u>	<u>45,000</u>	<u>15,000</u>		
Fire Resistive	40,000	40,000	10,000	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	<u>35,000</u>	<u>25,000</u>	<u>10,000</u>		
Protected Non-Com.	30,000	20,000	8,000	Sec. 10-High Rise	Sec. 10-High Rise
111		<u>20,000</u>	<u>8,000</u>		
Protected Limited Combustible	30,000	15,000	5,000	Sec. 10-High Rise	Sec. 10-High Rise
000	<u>12,000</u>	<u>8,000</u>			
Unprotected Limited Unprotected Non-Com.	10,000	6,000		NOT PERMITTED	NOT PERMITTED
			Require Sprinklers		
Type III					
211	<u>10,000</u>				
Protected Ordinary	9,000	6,000		NOT PERMITTED	NOT PERMITTED
200	<u>8,000</u>				
Non-Protected Ordinary	7,000	4,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
			Require Sprinklers		
Type IV					
2HH					
Heavy Timber	9,000	6,000		NOT PERMITTED	NOT PERMITTED
Type V					
111	<u>8,000</u>				
Protected Wood Frame	7,000	4,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
000	<u>6,000</u>				
Non-Protected Wood Frame	5,000	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 20, 2005

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* WV State Fire Commission
1207 Quarrier Street, 2nd Floor,
Charleston, WV 25301
558-2191

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 18, 2005

b. What other notice, including advertising, did you give of the hearing?
Various newspaper notices (See Attached)
Email to Architects Association (See Attached)

c. Date of Public Hearing(s) *or* Public Comment Period ended:
June 21, 2005

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 20, 2005

- 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

Clarence Joe Leake, Deputy Fire Marshal

- 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.

N/A

b. Date of hearing or comment period:

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

d. Attach findings and determinations and reasons:

Attached

Joe Leake

From: Aric Margolis [aricaai@charter.net]
Sent: Thursday, June 02, 2005 9:34 AM
To: jleake@wvfiremarshal.org
Subject: FW: Public meeting-WV Fire and Building Code updates

This is the notice we received from AIA.

Aric L. Margolis
Associated Architects, Inc.
318 Lee St. W.
Suite 200
Charleston, WV 25302
Tel (304) 345-1811
Fax (304) 345-1813

From: "Roberta Guffey, Hon. AIA" <aiawv@newwave.net>
Date: Tue, 31 May 2005 15:47:03 -0400
To: "#AIA-RJG" <aiawv@newwave.net>
Subject: Public meeting-WV Fire and Building Code updates

-----Original Message-----

From: Fgcode@aol.com [mailto:Fgcode@aol.com]
Sent: Tuesday, May 31, 2005 3:43 PM
To: aiawv@newwave.net
Subject: Public meeting

The State Fire Commission will hold two public meetings on June 21, 2005. The first meeting convenes at 10:00am dealing with the 2005 NFPA Life Safety Code adoption. The second meeting will convene at 1:00pm dealing with the adoption of the latest editions of the IBC family of codes (2004 & 2005). The meeting location is the State Fire Marshal's Office at 1207 Quarrier Street, Second Floor Conference Room.

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

Francis A. Guffey, II, FAIA
Chair-Life Safety and Building Code Committees

6/2/2005

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 Quarrier Street, Second Floor
Charleston, West Virginia 25301

Bluefield Daily Telegraph

P. O. Box 1599

Bluefield, WV 24701

STATE FIRE COMMISSION

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

Pocahontas Times

810 Second Avenue

Marinton, 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



State of West Virginia
Department of Military Affairs and Public Safety
Joe Manchin III, Governor

Sterling Lewis, Jr.
State Fire Marshal

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

STATE FIRE MARSHAL'S OFFICE
1207 Quarrier St, 2nd Floor
Charleston, WV 25301

July 14, 2005

John Lovejoy, President
Lincoln County Firefighter's Association
P.O. Box 12
Spurlockville, West Virginia 25565

Mr. Lovejoy,

A regular meeting of the State Fire Commission was held on June 24, 2005. At this meeting proposed revisions to the current State Fire Code were discussed. Although your proposed change to the State Fire Code was not accepted your input is very much appreciated. It was decided to leave that section of the code, pertaining to submission of fire reports to the State Fire Marshal's Office, as is during this next cycle.

Thank you for your support of the State Fire Code. If this commission can be of assistance, please do not hesitate to contact us.

Charles L. Eversole

Charles L. Eversole, Chairman
State Fire Commission

**LINCOLN COUNTY FIREFIGHTER'S ASSOCIATION
P.O. BOX 12
SPURLOCKVILLE, WV 25565**

June 21, 2005

WV State Fire Commission
Building and Fire Code Committee
Commissioner Francis A. Guffy, II, Chairman
1207 Quarrier St., 2nd Floor
Charleston, WV 25301

RECEIVED

JUN 21 2005

STATE FIRE MARSHAL
ADMINISTRATION

Re: Proposed change to State Fire Code.

Dear Commissioner Guffy,

We respectfully propose that the Fire Commission delete section 87-1-2.1 from the State Fire Code (Title 87, Series 1) legislative rule.

As the reporting of fire incidents is required under WVSC 8-15-8a (a), the above listed fire code provision is an unnecessary and more stringent duplication of the statute.

Thank you for your consideration of our proposal.

Sincerely,



John Lovejoy, President



State of West Virginia
Department of Military Affairs and Public Safety
Joe Manchin III, Governor

Sterling Lewis, Jr.
State Fire Marshal

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

STATE FIRE MARSHAL'S OFFICE
1207 Quarrier St, 2nd Floor
Charleston, WV 25301

July 14, 2005

Bob Carubia, AIA
Assistant VP Facilities
WVU HSC Facilities Planning
P.O. Box 8233
Morgantown, West Virginia 26506-8233

Mr. Carubia,

A regular meeting of the State Fire Commission was held on June 24, 2005. At this meeting proposed revisions to the current State Fire Code were discussed. Although your proposed change to the State Fire Code was not accepted your input is very much appreciated. It was discussed that your particular situation is unique and not the norm for most of the health care facilities in West Virginia. That particular section of the fire alarm requirements is intended for main nurse's stations and not each and every workstation. Please contact the State Fire Marshal's Office to seek a solution to your situation.

Thank you for your support of the State Fire Code. If this commission can be of assistance, please do not hesitate to contact us.

Charles L. Eversole

Charles L. Eversole, Chairman
State Fire Commission



West Virginia University
HEALTH SCIENCES CENTER

RECEIVED
JUN 21 2005
STATE FIRE MARSHAL
ADMINISTRATION

June 20, 2005

Mr. Sterling Lewis
West Virginia State Fire Marshal
1207 Quarrier Street
Charleston, WV 25301

Dear Mr. Lewis,

As the West Virginia State Fire Code is being reviewed, please consider this formal request for a revision to Section 11.4.4.

This request is to delete "at all 24 hour nurse's stations" and to leave all other wording of current Section 11.4.4 as is currently written.

The reasoning for such a revision is based upon practical and financial considerations as follows:

The acuity levels of in-patients continues to increase and nursing practice responds by increasing nurse to patient ratios, creating more "stepdown" beds/units, providing more direct patient care at the patient's bedside and thereby decentralizing nursing care from the primary "nurse station". Mini nurse work areas have been considered "nurse stations" and each currently requires a fire alarm annunciator by the WV State Fire Code even though national codes like NFPA do not require such.

Based upon practical experience and detailed evaluation surveys during our monthly fire drill exercises at Ruby Memorial Hospital in Morgantown, we have found that our fire alarm announcements via the all building overhead page inform most persons, including the nurses wherever they may be, of the location of the fire alarm. In a facility that "defends in place", the overhead announcement appropriately puts everyone on alert.

We have also found that, even though we have fire alarm annunciators at nurse stations, the nurses rarely use fire alarm information from the annunciators [or even know where they are located] because they already know more directly the fire alarm situation from the overhead page.

Fire alarm annunciators cost approximately \$5,000 each when installed in a multiplex system. Just one of our nursing units contains six such annunciators that are rarely used.

Factoring in maintenance, this adds to the overall cost of providing health care however provides minimal value.

As an alternative to the proposed revision, please consider granting an exception to facilities that have an effective alternate means to notifying staff of a fire alarm, which is apparently the intent of the current WV State Fire Code.

Thanking you in advance for your consideration of this proposed revision.

Sincerely,

Bob Carubia, AIA
Assistant VP Facilities
WVU HSC Facilities Planning
and
Principal Member Technical Committee
Health Care Section NFPA 101

WVU HSC Facilities Planning

Phone: 304-598-4274
Fax: 304-598-4144

PO Box 8233
Morgantown, WV 26506-8233

Equal Opportunity/Affirmative Action Institution



State of West Virginia
Department of Military Affairs and Public Safety
Joe Manchin III, Governor

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State Fire Marshal

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

STATE FIRE MARSHAL'S OFFICE
1207 Quarrier St, 2nd Floor
Charleston, WV 25301

July 14, 2005

John W. Payne
International Code Council
1245 Sunbury Road, Suite 100
Westerville, Ohio 43081-9444

Mr. Payne

A regular meeting of the State Fire Commission was held on June 24, 2005. At this meeting proposed revisions to the current State Fire Code were discussed. Although your comments for proposed changes to the State Fire Code was only partially accepted your input is very much appreciated. It was decided to exclude NFPA 5000 and NFPA 900 from the State Fire Code. This can be found in 87-1-4.1 of the Code. It was also decided that the other codes you referenced continue to be included as part of the State Fire Code.

Thank you for your support of the State Fire Code. If this commission can be of assistance, please do not hesitate to contact us.

Charles L. Eversole

Charles L. Eversole, Chairman
State Fire Commission

Bay 4
John Payne AIA
1248 Southbury Rd
Colchester CT 06208
Westville

87CSR1

RECEIVED
JUN 21 2005
STATE FIRE MARSHAL
ADMINISTRATION

Fire Commission
Legislative Rules
Series I

Section 4.1

~~NFPA 5000, NFPA 900, NFPA 220, NFPA 501~~
~~NFPA 70E, NFPA 73, NFPA 90A, NFPA 90B~~
NFPA 54

§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 2000 2004/2005 edition of "The National Fire Codes" and the 2000 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), 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 2000 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.

WITHDRAWN BY Applicant

4.2.3. ~~National Standards and Codes Modification to NFPA 1031. Fire inspector I and II certifications and plans examiner certification testing shall be accepted as equal to the requirements of NFPA 1031.~~

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, *excepting* (NFPA 5000), NFPA 900, NFPA 225, NFPA 801, NFPA 10E, NFPA 231, §87-1-5 Sprinkler Protection and Area Limitations. NFPA 90A, NFPA 9BB, NFPA 94

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).

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318	Protection of Semiconductor Fabrication Facilities—2002	Vol 8	1720	Volunteer Fire Departments, Organization and Deployment—2004	Vol 11
1977	Protective Clothing and Equipment for Wildland Fire Fighting—2005	Vol 12	286	Wall and Ceiling Interior Finish—2000	Vol 7
1896	Protective Clothing for Medical Emergency Operations—2003	Vol 12	750	Water Mist Fire Protection Systems—2003	Vol 9
1976	Protective Ensemble for Proximity Fire Fighting—2000	Vol 12	15	Water Spray Fixed Systems—2001	Vol 2
1971	Protective Ensemble for Structural Fire Fighting—2000	Vol 11	1142	Water Supplies for Suburban and Rural Fire Fighting—2001	Vol 10
1951	Protective Ensemble for USAR Operations—2001	Vol 11	22	Water Tanks for Private Fire Protection—2003	Vol 2
1994	Protective Ensembles for Chemical/Biological Terrorism Incidents—2001	Vol 12	25	Water-Based Fire Protection Systems—2002	Vol 2
1201	Providing Emergency Services to the Public—2004	Vol 10	214	Water-Cooling Towers—2005	Vol 7
1035	Public Fire and Life Safety Educator Professional Qualifications—2005	Vol 10	51B	Welding, Cutting, Other Hot Work—2003	Vol 3
1051	Public Safety Telecommunicator Qualifications—2002	Vol 10	17A	Wet Chemical Extinguishing Systems—2002	Vol 2
			18	Wetting Agents—1995	Vol 2
			1808	Wildland Fire Apparatus—2001	Vol 11
			1051	Wildland Fire Fighter Professional Qualifications—2002	Vol 10
			1149	Wildland Fire Management—2003	Vol 10



State of West Virginia
Department of Military Affairs and Public Safety
Joe Manchin III, Governor

Sterling Lewis, Jr.
State Fire Marshal

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

STATE FIRE MARSHAL'S OFFICE
1207 Quarrier St, 2nd Floor
Charleston, WV 25301

July 14, 2005

Robert Cannon
P.O. Box 2514
Beckley, West Virginia 25802

Mr. Cannon

A regular meeting of the State Fire Commission was held on June 24, 2005. At this meeting proposed revisions to the current State Fire Code were discussed. Per your comments it was decided to exclude NFPA 5000 and NFPA 900 from the State Fire Code. This can be found in 87-1-4.1 of the Code.

Thank you for your support of the State Fire Code. If this commission can be of assistance, please do not hesitate to contact us.

Charles L. Eversole

Charles L. Eversole, Chairman
State Fire Commission



State of West Virginia
Department of Military Affairs and Public Safety
Joe Manchin III, Governor

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1207 Quarrier St, 2nd Floor
Charleston, WV 25301

July 14, 2005

To Whom It May Concern:

RE: Amendments to the Proposed State Fire Code

A regular meeting of the State Fire Commission was held on June 24, 2005. At this meeting proposed revisions to the current State Fire Code were discussed. As a result of the public hearing and comments received relative to the State Fire Code only one amendment was adopted. NFPA 5000 and NFPA 900 was excluded from the State Fire Code to satisfy the comments from the building code officials.

A handwritten signature in cursive script that reads "Charles L. Eversole".

Charles L. Eversole, Chairman
State Fire Commission

ORIGINAL

BEFORE THE WEST VIRGINIA STATE FIRE COMMISSION

RE: 2005 STATE FIRE CODE

TRANSCRIPT OF PROCEEDINGS had at the public hearing in the above referenced matter, held on 21st day of June, at 10:00 A.M. at the Office of the State Fire Marshall, 1207 Quarrier Street, Charleston, Kanawha County, West Virginia, pursuant to notice.

BEFORE: FRANCIS A. GUFFEY

PHYLLIS HAYNES EDENS
CERTIFIED COURT REPORTERS
2135 Kay Neva Lane
Charleston, West Virginia 25312
304-984-3531

I N D E X

APPEARANCES:

Francis Guffey	State Fire Commission
Sterling Lewis, Jr.	State Fire Marshal's Office
Terrance Lively	State Fire Marshal's Office
Joe Leake	State Fire Marshal's Office
Norman Fetterman	State Fire Marshal's Office
John Payne	International Code Council
Robert Cannon	City of Beckley
Robert Paulson	Spilman & Thomas

1 **MR. GUFFEY:** I will call this meeting of
2 the State Fire Commission public hearing the NFPA
3 Fire Codes to order. The court reporter is John
4 Berkhouse. Mr. Berkhouse is not a mind reader, so
5 if you speak, identify yourself first. He will
6 probably remember you after that. And, hopefully,
7 nobody breaks in on somebody else's conversation and
8 we can keep everything moving.

9 Attendees today are Robert Cannon, Chief
10 Building Code Official, City of Beckley; John Payne,
11 International Code Commission; Francis Guffey, State
12 Fire Commission; Terrance Lively, State Fire
13 Marshal's Office; Joe Leake, State Fire Marshal's
14 office; Sterling Lewis, State Fire Marshal's Office;
15 and Norm Fetterman, State Fire Marshal's Office.

16 If any others come in from time to time, we
17 will introduce them.

18 The purpose of our meeting is to accept
19 public comments to proposed new legislation that's
20 being brought forward for the NFPA -- latest version
21 of NFPA 2005.

1 I have received some comments, written.
2 One that I have gotten probably has already hit the
3 place; this is addressed to Sterling Lewis from Bob
4 Carubia. Let me pass that around. It concerns
5 enunciated nursing stations.

6 Additionally, I have gotten some
7 commentary from John Payne, who has gone through the
8 Rules and has made some additions and corrections.
9 A lot of it is housekeeping, as to the change from
10 one code to another code, to get rid of any language
11 that says BOCA and substitute IBC. It's sort of
12 what we did when we did the 2000 Codes, kind of went
13 through and annotated, and I understand that this is
14 the submission for the 2000 codes. Some of these
15 are pretty highly marked up, especially in the
16 residential category.

17 Speaking of that, I have requested that
18 someone from the home building community visit us at
19 this meeting and tell us if they have any problems.

20 **MR. LEAKE:** This is the Fire Code Hearing.

21 **MR. GUFFEY:** I know it's the Fire Code

1 hearing, but there are some things in here. We'll
2 bag that for later.

3 Joining us is Robert Paulson, who is an
4 attorney with Spilman Thomas, who indicates no wish
5 to speak. You can change your mind after a while.

6 MR. PAULSON: Okay.

7 MR. GUFFEY: Do you have any problem with
8 that, Sterling, that letter from Carubia?

9 MR. LEWIS: Yeah, I do.

10 MR. GUFFEY: Any comments on the letter?

11 MR. LEWIS: No. We're just taking
12 comments, and it will be up to the Fire Commission
13 to act on it.

14 MR. GUFFEY: I think the letter was asking
15 for some sort of an exclusion from enunciated
16 capabilities of many nursing stations, and listed
17 costs as a criteria.

18 I have had one comment that I will make in
19 the adoption of the NFPA 101, where there is a
20 reference to the NFPA 5000 Building Code. That
21 needs to be taken out and either -- the IBC

1 substituted for that language. And that is the only
2 comment I have to make.

3 So now I will throw it over to the floor.
4 Bob Cannon is at the top of the list.

5 MR. CANNON: Mr. Chairman, my comments are
6 relatively brief. I would refer you to the
7 alphabetical index of the 2005 NFC contents where it
8 also lists NFPA 5000 and NFP 5000 and NFP 900, and I
9 would respectfully request that those two simply be
10 deleted to avoid confusion. The rest of it should
11 be okay.

12 MR. LEAKE: That's was the table of
13 contents?

14 MR. CANNON: 5000 and 900.

15 MR. LEAKE: That's in the table of
16 contents?

17 MR. CANNON: Yeah, it's in the
18 alphabetical index.

19 MR. LEAKE: Okay.

20 MR. CANNON: It would be page 25.

21 MR. GUFFEY: John Payne.

1 **MR. PAYNE:** Good morning. My name is John
2 Walter Payne. I'm the Regional Manager for
3 Government Relations; I am also a registered
4 architect in the State of West Virginia. Thank you
5 for the opportunity to be here today. I'm not an
6 expert on the question of the Code, but I spent the
7 last few days reviewing a few things. I guess I
8 want to reiterate what Bob's comments were.

9 In looking over the summary of the proposed
10 rule and the authority, I guess, established under
11 29(3)-5 for the Fire Code and it's -- to establish a
12 minimum requirement for safeguarding life and
13 property and the hazard fire and explosion, it seems
14 that NFP 5000 and 900, which is a building code and
15 also a building energy code are not within the scope
16 of the Fire Code, but rather the Building Code.

17 I might add -- as I said, I'm a novice here
18 -- but there are certain things that are curious
19 that perhaps you all might want to look into and
20 think about a little further. I have not had the
21 chance to thoroughly and exhaustively research all

1 of the NFPA standards, which is a bookshelf of
2 standard and codes; but looking at a few of them,
3 they do raise some questions that are also within
4 that list that Bob made reference to, which is
5 Appendix A, to the Fire Code Rule. And that
6 includes NFPA 225 and NFPA 501, which are basically
7 standards for manufactured housing, which
8 fundamentally is one and two-family dwellings, which
9 is out of the scope of the Fire Code.

10 Also, other things that struck me as being
11 somewhat unusual was NFPA 70E, which is
12 fundamentally a workplace safety issue that was to
13 correlate OSHA requirements with the National
14 Electric Code. As such, it was dealing with -- not
15 with electrical safety, but OSHA standards for
16 employees who are within the workplace.

17 And then NFPA 73, which is an inspection
18 dwelling code for dwellings, which is fundamentally
19 one and two-family dwellings. Again, which is not
20 within the scope of the Fire Code.

21 And I guess to whatever extent the Fire

1 Code can be more compatible and in concert with the
2 Building Code, I would certainly highly recommend
3 that folks take a look at that. Given that the Fire
4 Marshal in 29(3) is empowered to enforce all
5 portions of 29(3), which includes the Building Code.

6 Therefore, various kinds of standards, such
7 as NFPA 54, 90, and 90B, all are redundant to
8 provisions that are within the Building Code and
9 fully within the jurisdiction of the Fire Marshal,
10 and by in large are identical provisions. When you
11 look at 54 of the International Fuel Gas Code, one
12 being in the Fire Code, one being in the Building
13 Code, there's very little difference. There are
14 some formatting differences, but content and safety
15 requirements are the same.

16 Therefore, for user -- you know, in order
17 to make the Code more user-friendly, to make things
18 more compatible, more consistent and uniform, I
19 recommend that you all take a look at that.

20 Lastly, I guess, hopefully, the standard
21 1031, and we work within, ICC provides contractor

1 testing, that provides contractor testing on a
2 number of NFPA standards, and hopefully that will
3 not be exclusionary to any of the ICC tests.

4 Thank you very much for the opportunity.

5 MR. GUFFEY: Thank you, John. Any other
6 comments?

7 (no response)

8 MR. GUFFEY: What is our timeline to get
9 the document finished, Joe, Sterling?

10 MR. LEWIS: You all have to approve it.

11 MR. LEAKE: It has to be approved at the
12 Fire Commission meeting. Everything has to have a
13 final filing July 25th or something.

14 MR. LEWIS: All comments that are received
15 and taken today have to answered by the Commission
16 during all of that time, and we have to file all of
17 the comments, plus the answers to the modifications,
18 we have to file all of that I think you said by the
19 25th?

20 MR. LEAKE: 25th or 27th.

21 MR. GUFFEY: Well, we have one written

1 comment on the Fire Codes and we have a number of
2 verbal comments. It doesn't seem to me like we have
3 a whole heck of a lot to do here to get the Code
4 running.

5 Any comments on that? Have I
6 oversimplified things?

7 MR. PAYNE: Well, I guess technically what
8 the Fire Commission will have to do as it looks at
9 Appendix A, is it will have to review the Fire Code,
10 and specifically two sections that would be at
11 issue, 87-1-4, which talks about the National Codes
12 and Standards, and therein the text provides
13 modifications to those that are adopted. You would
14 have to call out those that were part of Appendix A
15 that are not adopted, that the Commission would
16 decide, such as 5000, or whatever. And also that is
17 reiterated in 4.4, where again you would have to
18 make the proper -- note the proper exceptions.

19 MR. LEAKE: In my opinion, some of that is
20 mute, because by Statute, like with the manufactured
21 housing and one and two-family dwellings, by Statute

1 we don't have anything to do with one and two-family
2 dwellings. So it's mute anyway.

3 **MR. PAYNE:** I understand. That's why I'm
4 saying, why put things into your Code that are not
5 applicable and perhaps would be confusing to someone
6 who would pick it up and think that it is part of
7 your Code.

8 **MR. LEWIS:** If I might, our understanding
9 of a public hearing, for this process, is a time to
10 receive comments from individuals. The Fire Code
11 that went in is what we've established, sat down and
12 brought together. And this is not a debate time.

13 **MR. GUFFEY:** I understand we're not here
14 to debate.

15 **MR. LEWIS:** This is simply -- the Fire
16 Commission will have to make all the calls. It's
17 not us.

18 **MR. GUFFEY:** I understand. But I need to
19 impart what I'm hearing to members of the Fire
20 Commission Thursday afternoon, members of my
21 committee, so that members of my committee can take

1 it forward on Friday and say this is good stuff or
2 this is not good stuff.

3 **MR. LEWIS:** And be sure we've got each
4 comment. You have to act on each comment contrary
5 to the proposed Rule.

6 **MR. GUFFEY:** And our court reporter says
7 he is going to have it ready for us.

8 One thing about manufactured housing. I
9 would like to mention that that is not strictly
10 single-family manufactured housing, the reference
11 you mentioned was one and two-family dwellings.
12 Could that not be manufactured housing for
13 structures larger than, say, big commercial
14 structures?

15 **MR. PAYNE:** It could be. The problem,
16 just like with 70E is the standard covers one and
17 two-family and others. And in order to, I guess,
18 form the standard correctly, the Commission would
19 have to review that standard and excerpt or define
20 the scoping of that standard properly in order for
21 it to be used.

1
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MR. GUFFEY: Okay. Anything else?

(no response)

MR. GUFFEY: We're adjourned at 15 after

10.

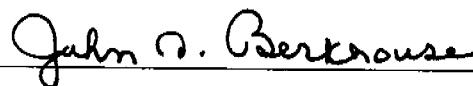
(WHEREUPON, the hearing
was concluded at 10:15 a.m.)

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,

I, John T. Berkhouse, a Certified Court reporter and Notary Public, do hereby certify that the foregoing is, to the best of my skill and ability, a true and accurate transcript of all the proceedings as set forth in the caption hereof.

Given under my hand this 23rd day of June, 2005.



John T. Berkhouse
Certified Court Reporter