

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

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AUG 9 1 03 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Effective Date

Sept. 16/1994

NOTICE OF AN EMERGENCY RULE

AGENCY: State Fire Commission TITLE NUMBER: 87

CITE AUTHORITY: 29-3-5

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: I

TITLE OF RULE BEING AMENDED State Fire Code

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: _____

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 35TH DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

(See attached sheet)

Public Hearing was held on June 23, 1994.

Use Additional Sheets If Necessary.

14080


Signature

EMERGENCY RULE

STATEMENT OF CIRCUMSTANCES

The promulgation of these rules is essential in making available the latest fire safety technology for improving the fire environment in buildings and structures. Architects and engineers are using this technology and the state must update the code for improving the review and inspection process.

The new Rural Health Care Initiatives which establishes clinics throughout the State is difficult to address the requirements in the model codes. Therefore, rules are established to provide a level of fire safety for the occupants in these facilities. The model codes do not address bulk storage of Class C explosives. These rules establish requirements for the safe storage which is imperative for public safety.

STATE FIRE COMMISSION

FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY

Pursuant to West Virginia Code Chapter 29, Article 3, Section 5, Promulgation of regulations and state fire code, sub paragraph (b) stipulates...."Provided, that such rules shall be effective as emergency rules when promulgated until acted upon by the Legislature...."

The state law requires the State Fire Code to be filed as emergency rules. In addition, the State Fire Commission has established the following facts and findings regarding the State Fire Code:

1. The amended Fire Code rule will provide the latest technology for designers to build buildings or structures meeting national standards.
2. The amended code is closely aligned with the American Disability Act (ADA) in providing code compliance alternatives to this recent federal law.
3. Architects/engineers are using the latest edition of model codes, while the State Fire Code is using 4 year old technology. Using up-to-date technology will enhance the review of plans and specifications for construction.
4. The amended fire code now provides requirements for storage of fireworks (Class C) and requirements for Rural Health Care & Birthing Center Clinics which the model codes do not address.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: State Fire Code

Type of Rule: XX Legislative Interpretive Procedural

Agency State Fire Commission

Address 2100 Washington Street, East
Charleston, WV 25305.

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

Non-applicable.

3. Objectives of these rules:

The objective of these rules provide up-to-date fire safety technology to reduce the loss of life and property from fires and explosions. These rules adopt the latest edition of the National Fire Codes used by the Federal Government and provides the latest fire safety technology which provides for a reasonable level of safety for the public. Also, these rules address Class C explosives and Rural Health Care and Birthing Center Clinics not addressed by the National Codes.

Rule Title: State Fire Code

4. Explanation of Overall Economic Impact of Proposed Rule.

A. **Economic Impact on State Government.** These proposed rules provide the Fire Commission with updated technology on fire safety procedures and requirements to reduce fire loss. The initial cost of filing the National Fire Codes has been waived by the National Fire Prot. Assoc., therefore, there is no cost to the State for filing the codes.

B. **Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.**

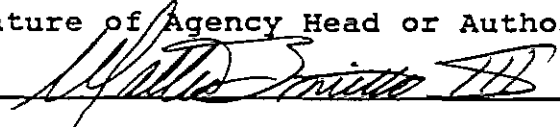
The utilization of the 1994 National Fire Codes will make available to the public the use of the latest fire safety technology. The use of this technology provide necessary fire safety features for the reduction of fire loss. Requests for updating the cod have been requested by organizations.

C. **Economic Impact on Citizens/Public at Large.**

The current State Fire Code adopts the 1990 National Fire Codes. These rules adopt the 1994 National Fire Codes which provide a more viable program for enhancing fire safety through inspection and public information programs.

Date: August 8, 1994

Signature of Agency Head or Authorized Reprerentative



DATE: August 8, 1994

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: State Fire Commission

EMERGENCY RULE TITLE: State Fire Code

1. Date of Filing August 8, 1994
2. Statutory authority for promulgating emergency rule:
29-3-5
3. Date of filing of proposed legislative rule: August 8, 1994
4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?
Adopts new language and amends the current State Fire Code.
5. Has the same or similar emergency rule previously been filed and expired?
Yes, previous State Fire Code amended was filed as emergency rule and has expired.
6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.
State Fire Code is used for public safety in preserving life and property from the hazards of fire and explosions.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

29-3-5(b)

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

See next page

SUMMARY

EMERGENCY RULE

The West Virginia State Fire Commission promulgates the State Fire Code in accordance with Chapter 29, Article 3, Section 5 of the West Virginia Code. This amended rule as proposed 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 1994 National Fire Codes, establishes requirements for storage of Class C explosives and requirements for Rural Health Care and Birthing Center Clinic requirements.

WEST VIRGINIA
STATE FIRE CODE

Rules
of the West Virginia
State Fire Commission

Approved by Secretary, Department of Military Affairs and Public
Safety.



Major General Joseph J. Skaff

August 5, 1994
Date



Bill L. Spencer, Chairman

July 28, 1994
Date

STATE FIRE COMMISSION
State Capitol
Charleston, West Virginia

WEST VIRGINIA STATE FIRE CODE
Rules of the
West Virginia State Fire Commission

SERIES I

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SECTION 1. General

1.01 Scope - These rules establish the safeguarding of life and property from the hazards of fire and explosion.

1.02 Authority - These legislative rules are issued under authority of W. V. Code, Chapter 29, Article 3 (1931, as amended), and pursuant to the provisions of W.Va. Code 29A.

1.03 Effective Date -

1.04 Filing Date -

1.05 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 or penal occupancy shall not be exempt from the requirements of this State Fire Code.

1.07 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 these Rules. For ascertaining these additional standards and requirements it is necessary to make reference to these other documents.

SECTION 2 Reporting of Fire Incidences by Fire Departments
Brigades, and Companies

Any organized public fire brigade, department or company shall report every fire and non-fire incident(s) to the State Fire Marshal on the forms provided 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. EXCEPTION: Any fire or explosion involving human fatality, property damage in excess of \$250,000, or arson or suspected arson, shall be reported immediately.

SECTION 3 Unvented Heaters

All unvented fuel fire heaters are prohibited for all occupancies except one (1) and two (2) family dwellings.

SECTION 4 National Standards and Codes

4.01 Incorporated of National Standards and Codes -
The standards and requirements as set out and established by the 1990 1994 edition of "The National Fire Codes" published by the National Fire Protection Association but not including standards and requirements directed to the operation of local fire departments, NFPA 101M and Chapter ~~21~~ 22 and 23 of NFPA 101 and the State Building Code and shall have the same force and effect as if set out verbatim in these rules 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 said publications in all matters coming under his jurisdiction. A copy of the said, "The National Fire Codes" has been filed with the Secretary of State and a copy of the Table of Contents of said publication is included herewith. Information regarding the purchase of the aforesaid "The National Fire Codes" (or separate volumes thereof) may be obtained by writing to the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

4.02 National Standards and Codes - Modification of Fireworks Display Regulations. The "Regulations of the State Fire Marshal For The Display of Fireworks" as contained in N.F.P.A. 1123. and 1126 of the ~~1990~~ 1994 edition of "The National Fire Codes" above referred to shall have the same force and effect and shall control the same as if set out verbatim in these regulations and are hereby adopted and promulgated by the State Fire Commission as a part of the State Fire Code, but with numbered paragraphs A and B thereof changed to read as follows:

A. Upon receipt of such 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 these regulations are complied with in the case of the particular display. He 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. Being satisfied that 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 these regulations. Failure to approve the application by either the Fire Chief or Police Chief (or County Sheriff, as the case might be) shall be sufficient cause for the State Fire Marshal to deny a permit.

B. The application, following endorsement by the Chiefs of the Fire and Police Departments (or County Sheriff, as the case might be), 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.

These changes to said N.F.P.A. 1123 and 1126 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 West Virginia Code 29-3-24 in those situations where the proposed site of a fireworks display is outside the limits of a municipality.

4.03 National Standards and Codes, Table of Contents

(1) National Fire Codes - Published by National Fire Protection Association, pages 5-8:

51A	Acetylene Cylinder Charging Plants—1989	Vol 2	496	Electrical Equipment, Purged and Pressurized Enclosures for—1993	Vol 7
1904	Aerial Ladder and Elevating Platform Fire Apparatus—1991	Vol 8		Electrical Fires, Investigation of—1988	Vol 12
30B	Aerosol Products, Manufacture and Storage—1990	Vol 2	907M	Electrical Installations, Classification of Class I Hazardous Locations—1992	Vol 11
61D	Agricultural Commodities, Milling of—1989	Vol 3	497A	Electrical Installations in Chemical Process Areas, Classification of Class II Hazardous (Classified) Locations—1991	Vol 11
90A	Air Conditioning and Ventilating Systems—1993	Vol 4	497B	Electrical Maintenance, Residential—1994	Vol 4
423	Aircraft Engine Test Facilities—1989	Vol 6	70	Electrical Safety Requirements for Employee Workplaces—1988	Vol 3
422M	Aircraft Fire Investigator's Manual—1989	Vol 11	79	Electrical Standard for Industrial Machinery—1991	Vol 4
415	Aircraft Fueling Ramp Drainage—1992	Vol 8	91	Exhaust Systems for Air Conveying of Materials—1992	Vol 4
407	Aircraft Fuel Servicing—1990	Vol 6	69	Explosion Prevention Systems—1992	Vol 3
408	Aircraft Hand Fire Extinguishers—1989	Vol 6	495	Explosive Materials Code—1992	Vol 7
409	Aircraft Hangars—1990	Vol 6	498	Explosives Motor Vehicle Terminals—1992	Vol 7
417	Aircraft Loading Walkways—1990	Vol 6	80A	Exposure Fires, Protection from—1993	Vol 10
410	Aircraft Maintenance—1989	Vol 6	61C	Feed Mills, Fire and Dust Explosions in—1989	Vol 3
403	Aircraft Rescue, Fire Fighting at Airports—1993	Vol 6	705	Field Flame Test for Textiles and Films—1993	Vol 11
412	Aircraft Rescue, Evaluating Fire Fighting Foam Equipment—1993	Vol 6	921	Fire and Explosion Investigations Guide—1992	Vol 12
402M	Aircraft Rescue and Fire Fighting Operations—1991	Vol 11	262	Fire and Smoke Characteristics of Electrical Wire and Cables, Method of Test for—1990	Vol 6
414	Aircraft Rescue and Fire Fighting Vehicles—1990	Vol 6	72	Fire Alarm Code, National—1993	Vol 4
424M	Airport/Community Emergency Planning—1991	Vol 11	1901	Fire Apparatus, Pumper—1991	Vol 8
1003	Airport Fire Fighter Qualifications—1987	Vol 11	1410	Fire Attack, Initial—1988	Vol 8
416	Airport Terminal Buildings—1993	Vol 7	1914	Fire Department Aerial Devices, Testing—1991	Vol 9
419	Airport Water Supply Systems—1992	Vol 6	1931	Fire Department Ground Ladders—1989	Vol 9
101* ^M	Alternative Approaches to Life Safety—1992	Vol 9	1932	Fire Department Ground Ladders, Use, Maintenance, and Service Testing—1989	Vol 9
651	Aluminum Powder—1993	Vol 2	1581	Fire Department Incident Management System—1990	Vol 8
65	Aluminum Processing, Finishing—1993	Vol 3	1581	Fire Department Infection Control Program—1992	Vol 8
490	Ammonium Nitrate, Storage of—1993	Vol 11	1500	Fire Department Occupational Safety and Health Program—1992	Vol 8
232AM	Archives and Records Centers—1991	Vol 11	13E	Fire Department Operations in Protected Properties—1988	Vol 10
8504	Atmospheric Fluidized-Bed Boiler Operation—1993	Vol 9	1521	Fire Department Safety Officer—1992	Vol 8
30A	Automotive and Marine Service Station Code—1993	Vol 10	1404	Fire Department Self-Contained Breathing Apparatus Program—1989	Vol 8
231E	Baled Cotton Storage—1989	Vol 10	1002	Fire Department Vehicle Driver/Operator Qualifications—1993	Vol 7
8501	Boiler Operation, Single Burner—1992	Vol 9	80	Fire Doors and Windows—1992	Vol 4
251	Building Construction and Materials, Fire Tests of—1990	Vol 6	10	Fire Extinguishers, Portable—1990	Vol 1
220	Building Construction, Standard Types of—1992	Vol 5	10L	Fire Extinguishers, Port. Enabling Act—1990	Vol 10
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703	Building Materials, Fire Retardant Coatings—1992	Vol 7	2001	Fire Extinguishing Systems, Clean Agent—1994	Vol 9
259	Building Materials, Test Method for Potential Heat—1993	Vol 6	1001	Fire Fighting Professional Qualifications—1992	Vol 7
255	Building Materials, Test of Surface Burning Characteristics of—1990	Vol 6	704	Fire Hazards of Materials, Identification—1990	Vol 7
12	Carbon Dioxide Extinguishing Systems—1993	Vol 1	1981	Fire Hose—1992	Vol 9
40	Cellulose Nitrate Motion Picture Film—1988	Vol 2	1962	Fire Hose, Care, Use and Service Testing—1993	Vol 9
654	Chemical, Dye, Pharmaceutical, and Plastic Industries, Prevention of Fire and Dust Explosions in—1988	Vol 7	1963	Fire Hose Connections—1993	Vol 9
491M	Chemical Reactions, Hazardous—1991	Vol 11	906	Fire Incident Field Notes—1993	Vol 12
49	Chemicals Data, Hazardous—1991	Vol 10	1031	Fire Inspector, Professional Qualifications—1993	Vol 7
97	Chimneys, Vents, Heat Producing Appliances, Terms Relating to—1992	Vol 10	1033	Fire Investigator Professional Qualifications—1993	Vol 7
211	Chimneys, Vents, Fireplaces, and Solid Fuel Burning Appliances—1992	Vol 5	1021	Fire Officer Professional Qualifications—1992	Vol 7
260	Cigarette Ignition Resistance, Components of Furniture—1994	Vol 6	1	Fire Prevention Code—1992	Vol 1
261	Cigarette Ignition Resistance, Upholstered Furniture Material Assemblies—1994	Vol 6	20	Fire Pumps, Centrifugal—1993	Vol 1
318	Cleanrooms, Protection of—1992	Vol 1	902M	Fire Reporting Field Incident Manual—1990	Vol 12
16A	Closed-Head Foam-Water Sprinkler Systems—1994	Vol 9	550	Firesafety Concepts Tree—1986	Vol 11
1999	Clothing, Protective for Medical Emergency Operations—1992	Vol 9	170	Fire Safety Symbols—1994	Vol 5
1976	Clothing, Protective for Proximity Fire Fighting—1992	Vol 9	1041	Fire Service Instructor Qualifications—1992	Vol 7
1971	Clothing, Protective for Structural Fire Fighting—1991	Vol 9	1983	Fire Service Life Safety Rope—1990	Vol 9
120	Coal Preparation Plants—1994	Vol 5	1201	Fire Services for the Public—1989	Vol 12
901	Coding, Uniform for Fire Protection—1990	Vol 12	1124	Fireworks, Manufacture, Transportation, and Storage of—1988	Vol 8
37	Combustion Engines and Gas Turbines—1994	Vol 2	1123	Fireworks Outdoor Display of—1990	Vol 8
1221	Communication Systems, Public Fire Service—1991	Vol 8	321	Flammable and Combustible Liquids, Classification—1991	Vol 6
473	Competencies for EMS Personnel—1992	Vol 7	30	Flammable and Combustible Liquids Code—1993	Vol 2
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214	Cooling Towers, Water—1992	Vol 5	328	Flammable Liquids and Gases in Manholes, Sewers—1992	Vol 11
51B	Cutting and Welding Processes—1994	Vol 2	325M	Flammable Liquids, Gases, Volatile Solids, Fire Hazard Properties of—1991	Vol 11
124	Diesel Fuel and Diesel Equipment in Underground Mines—1988	Vol 5	253	Floor Covering Systems, Critical Radiant Flux Test for—1990	Vol 6
34	Dipping and Coating Processes Using Flammable or Combustible Liquids—1989	Vol 2	11C	Foam Apparatus, Mobile—1990	Vol 1
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17	Dry Chemical Extinguishing Systems—1990	Vol 1	11	Foam Extinguishing Systems, Low-Expansion—1994	Vol 1
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70	Electrical Code, National—1993	Vol 3			
497M	Electrical Equipment in Haz. (Class.) Locations, Gases, Vapors, Dusts—1991	Vol 11			
70B	Electrical Equipment Maintenance—1990	Vol 10			

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54	Fuel Gas Code National—1992	Vol 2	1911	Pumps on Fire Department Apparatus, Service Tests of—1991	Vol 9
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505	Industrial Trucks, Powered—1992	Vol 8	13D	Sprinkler Systems, One- and Two-Family Dwellings—1994	Vol 1
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45	Laboratories Using Chemicals—1991	Vol 12	14	Standpipe and Hose Systems—1993	Vol 1
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SECTION 5 Sprinkler Protection & Area Limitations

Approved automatic sprinkler systems in accordance with NFPA 13, will be installed in all new buildings, used for any occupancies, exceeding the areas in the following table.

EXCEPTION: As to occupancies noted in Section 6 of these rules and regulations, sprinkler protection shall be provided as required by said Section 6.

Type of Construction	BUILDING HEIGHT				
	1 Story	2 Story	More than 2 stories and up to 40 ft.	More than 40 feet	More than 75 feet
Type I					
443					
Fire Resistive	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					
Protected Non-Com.	30,000	20,000	8,000	Sec.10-High Rise	Sec.10-High Rise
111					
Protected Limited Combustible	<u>30,000</u> 20,000	15,000	5,000	Sec.10-High Rise	Sec.10-High Rise
000					
Unprotected Limited	<u>10,000</u>	<u>5,000</u>	All Areas		
Unprotected Non-Com.	7,000	4,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
Type III					
211			All Areas		
Protected Ordinary	9,000	6,000	Require Sprinklers	NOT PERMITTED	NOT PERMITTED
200					
Non-Protected Ordinary	7,000	4,000	All Areas Require Sprinklers	NOT PERMITTED	NOT PERMITTED
Type IV					
2HR			All areas		
Heavy Timber	9,000	6,000	9,000	NOT PERMITTED	NOT PERMITTED
Type V					
111			<u>Require Sprinklers</u>		
Protected Wood Frame	7,000	4,000	All Areas Require Sprinklers	NOT PERMITTED	NOT PERMITTED
000					
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 barriers, or a combination of exterior or foundation walls. A fire barrier is a continuous vertical membrane designed and constructed with a fire resistance rating of two (2) hours to limit the spread of fire and smoke. Fire barriers shall have protected openings. Buildings shall only be separated by one two hour fire barrier and areas shall be divided as equal 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 these Rules and Regulations.
- (4) Types of building construction indicated in chart are located in NFPA 220, Standard on Types of Building Construction.
- (5) Protection of Structural members in Type I and Type II construction: Columns, girders, trusses, beams, lintels, or other structural members that are required to have a fire resistance rating and that support more than two floors or one floor and roof, or support a bearing wall or a nonbearing wall more than two stories high, shall be individually protected on all sides for their length or height with materials having the required fire resistance rating. All other structural members required to have a fire resistance rating may be protected by individual encasement, by a membrane or ceiling protection which is part of an approved assembly which meets the required fire resistance rating, or by a combination of both.

SECTION 6 Sprinkler Protection (certain occupancies)

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 be provided with complete automatic sprinkler protection in accordance with Standard 13 contained within the aforesaid National Fire Codes.

EXCEPTION: Homes caring for not more than three patients.

SECTION 7 Carpet Used As Floor Covering

7.01 Flammability Requirements for Carpet Used As Floor Covering

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 of the above shall meet a minimum value of 0.22 watts per square centimeter.

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.

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

7.02 Smoke Generation Properties of Carpet Used as Floor Covering.

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

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

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

EXCEPTION: Where an approved, automatic sprinkler system is installed and the floor is non-combustible. Class II carpet shall be permitted in any location where Class I is required and where Class II is permitted, no rating is required.

SECTION 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 direction, shall determine (based upon the State Fire Code and/or on the experience and knowledge applied in the operation of his 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 such 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 con-

stitutes a fire hazard 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, then the State Fire Marshal shall order such condition or thing to be corrected, or combustible, flammable or explosive, items to be removed, or such building or buildings to be repaired, closed to occupants, or removed, as required by the circumstances, and such order shall be promptly complied with by the owner, agent, occupant, and lessee of such premises, place, property, or thing. Any such order may be expressed in the alternative, e.g. allowing repair but on the failure to repair requiring demolition. Any such order by the State Fire Marshal which concludes that a fire hazard exists, shall advise what repairs, and/or demolition, must be accomplished, shall advise that compliance therewith shall be completed within thirty (30) days of issuance, shall advise that in the event of noncompliance, the State Fire Marshal is authorized by statute to enter into and upon the premises affected by such order and cause the building, structure, premises, or thing to be repaired, torn down, mater-

ials removed, and all dangerous conditions to be remedied (as the case may be) at the expense of the owner, and shall advise that the subject order can be contested by entering an appeal to the State Fire Commission as outlined in Section 13 of these Rules and Regulations.

SECTION 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.

SECTION 10 High Rise Buildings - Fire Safety Standards and Requirements

10.01 General - All new buildings or structures more than forty (40) feet in height, measured from the lowest grade level to the floor of the highest normally occupied space used for human occupancy of the structure, shall be subject to the rules set forth herein for high rise buildings. These high rise rules shall not nullify or interfere with existing city ordinances or local laws previously adopted prior to September 8, 1975 relative to this subject. EXCEPTION: Industrial occupancies not occupied as business offices.

10.02 Addition of Floors to Existing Buildings

Whenever floors are added to existing building, which previously was not a high rise, causing building to now become a high rise, such building shall comply with High Rise Standard.

10.03 Automatic Fire Extinguishing Systems & Standpipe Systems - Any building or structure as defined in 10.01 or 10.02 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, imposed by Section 4 of these Rules and Regulations.

10.04 Fire Alarm System - The fire alarm system shall conform to the rules imposed by Section 4 and Section 11 of these Rules.

10.05 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 from the lowest grade level to the floor of the highest normally occupied space used for human occupancy shall have an approved electrically supervised fire department voice communication system. Fire Department Voice Communication System shall be located at each floor level of stair enclosures, elevator lobbies, pent-

house (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.

10.06 High Rise Central Control Station - In every High Rise as defined in 10.01 and 10.02, 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 HVAC, Smoke Control System, fire pumps and emergency generator and a (4) telephone approved by designated fire authority having jurisdiction. Emergency lighting shall be provided at the Central Control Station.

10.07 Emergency Power - A permanently installed emergency power generation system conforming to The National Fire Codes imposed by Section 4 of these Rules ~~and Regulations~~ shall be provided in every high rise building 75 feet in height or greater, as measured from the lowest grade level to the floor of the floor of the highest normally occupied space used for human occupancy.

All power, lighting, signal, and communication facilities, required by these rules and regulations or otherwise, shall be transferable automatically to the emergency power system.

The emergency system shall be of sufficient capacity to provide service for, but not limited to, the following:

- (a) Fire Alarm System
- (b) Exit & Other Emergency Lighting
- (c) Fire Protection Equipment
- (d) Smoke ~~Control~~ Management System
- (e) Fire Department Elevator
- (f) Fire Department Voice Communication System
- (g) Fire Pumps

10.08 Smoke ~~Control~~ Management - In all high rise buildings as defined in 10.01 and 10.02 ~~an engineered~~ a smoke ~~control management~~ system designed in accordance with NFPA 92A and 92B shall be provided ~~as~~ and acceptable to the authority having jurisdiction.

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

SECTION 11 Fire Alarm System

11.01 General Requirements for All Occupancies

(1) All fire alarm systems including all components shall be electrically supervised. Components shall include pull stations, automatic detection, sounding devices, flow switches, tamper switches and main panel.

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

(3) All fire alarm systems ~~wiring~~ shall be in accordance with The National Fire Codes, imposed by Section 4 of these rules. (NOTE: NFPA 70 and NFPA 72)

(4) Sprinkler System(s) installed - The OS & Y and P.I.V. and other Control Valves shall be electrically supervised and tied into the trouble side of the panel.

(5) Sprinkler System(s) shall be tied in so flow will activate the general fire alarm sounding device(s).

(6) Flow and/or pressure switches shall be annunciated separately on the main fire alarm panel.

(7) All Health Care and Detention and Correctional occupancies shall be tied into a fire department or a communication center responsible for receiving emergency calls with 24-hour supervision.

- (8) Heating, Ventilation, Air Conditioning Systems (HVAC)
 - (a) All heating, ventilation, 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 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 duct to automatically shut down, close main fan dampers and to sound general fire alarm when activated.
 - (c) Health Care, Detention/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) 100% utilization of outside air will not require duct detector(s).
 - (e) Exception to 11.01(8): HVAC Systems used as part of the engineered smoke control systems are exempt from 11.01(8).

(9) Audible alarm indicating devices shall be of such character and so distributed 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.

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

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.

(10) 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. (See specific occupancy provisions for additional requirements)

(11) Thermal detectors are required in the following areas in all occupancies requiring a fire alarm system and as listed or identified in The Life Safety Code (NFPA 101):

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

EXCEPTION: Thermal detectors are not required in areas provided with sprinkler protection or dwelling units of apartments.

(12) 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

Smoke detectors where required by the occupancy shall be placed a maximum of 15 feet from ends of corridors or walls and 30 feet on centers and in rooms open to the corridors. Variance with these requirements must have submission of technical data to justify exceeding these distance requirements.

(13) A building or structure being used for more than one occupancy must comply with the fire alarm system requirements of most stringent occupancy.

(14) Hood suppression systems shall be connected to the Fire Alarm System.

11.02 Requirements for Educational Occupancy

(1) A fire alarm system is required in every educational occupancy, and such a system must meet the requirements and standards as provided herein. Educational occupancies are as defined in the Life Safety Code. EXCEPTION: One or two classroom buildings of less than 2500 sq. ft. gross floor area with direct exiting to the outside from each classroom.

(2) The general requirements shall be complied with in all educational occupancies as if herein restated verbatim.

(3) Open Plan Classroom Concepts will require a complete smoke detection system throughout the facility.

(4) Day Care Centers located in buildings other than educational facilities shall have smoke detectors installed on 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 recreation areas in the center.~~

(5) An annunciator panel or fire alarm panel is to be readily accessible to local fire department personnel. ~~if more than one zone is provided.~~

(6) Rate of rise thermal detectors are required in all Rest Rooms having three (3) or more fixtures.

(7) Smoke detectors shall be installed in all corridors, except in a single story building with direct exiting to the exterior from every normally student occupied room via a door.

11.03 Requirements for Assembly Occupancy

(1) A fire alarm system is required in every place of assembly where:

- (a) Occupancy is subject to 300 or more occupants, or
- (b) Occupancy is subject to 100 or more occupants above or below level of exit discharge, or
- (c) Building is two (2) or more stories in height above level of exit discharge, or two (2) or more stories below level of exit discharge.

~~Such system must meet requirements and standards as provided herein.~~

Assembly occupancies are as defined in the Life Safety Code.

(2) The General Requirements shall be complied with in all places of assembly as if herein restated verbatim.

(3) Annunciator panel and/or fire alarm panel shall be readily accessible to fire department personnel. ~~if more than one zone is provided.~~

(4) Theater(s) and auditoriums are required to provide sounding audible device(s). House lights shall be activated by the fire alarm system.

11.04 Requirements for Health Care Occupancy

(1) A fire alarm system is required in every Health Care occupancy, and such a system must meet the requirements and standards as provided herein. Health Care occupancies are as defined in The Life Safety Code.

(2) The general requirements shall be complied with in all health care occupancies as if herein restated verbatim.

~~(3) Health Care occupancies are hereinafter placed in Groups A and B and these designations then used to indicate which group or groups must comply with the stated requirement(s), as follows:~~

~~_____~~ GROUPS

~~_____~~ A. Hospitals and Nursing Homes

~~_____~~ B. Residential - Custodial Care, Supervisory Care, Ambulatory Health Care

~~_____~~ REQUIREMENTS

~~_____~~ A and B (a) ~~Annunciator Panel or Fire Alarm Panel is to be readily accessible to Fire Department personnel if more than one zone is provided.~~

~~A and B~~ ~~(b)~~ (3) An approved automatic smoke detection system shall be installed in all corridors.

~~A and B~~ ~~(c)~~ (4) Manual pull stations shall be installed every 50 feet throughout the facility in patient room areas starting at the end of corridors. All other manual pull stations shall be placed in accordance with general requirements.

~~(d)~~ (5) Fire alarm systems shall have annunciators located at all nurse's stations, the telephone switchboard, and at main location of fire department entry.

11.05 Requirements for Detention and Correction Occupancies

(1) A fire alarm system is required in every Detention and Correctional occupancy and such a system must meet the requirements and standards as provided herein. Detention and Correction occupancies are defined in the Life Safety Code.

(2) The general requirements shall be complied with in all Detention and Correctional occupancies as if herein restated verbatim.

(3) Annunciator panel or fire alarm panel is to be readily accessible to fire department personnel. ~~if more than one (1) zone is provided,~~ and shall also be provided in jail control center.

(4) Manual pull stations shall be provided as set forth in general requirements. EXCEPTION: Manual pull station may be of security type in detention sections.

(5) Smoke detectors shall be installed in corridors. If no corridor exists, installation shall be at the highest point of the cell area(s).

(6) Dormitory style facilities shall comply with Residential requirements.

11.06 Requirements for Residential Occupancy

(1) A fire alarm system is required for each of the herein enumerated groups of residential buildings, and such system must meet the requirements and standards provided herein. A residential building is as defined in the Life Safety Code.

(2) The general requirements shall be complied with in all residential occupancies as if herein restated verbatim.

(3) Residential occupancies are hereinafter placed in Groups A and B and these designations then used to indicate which group or groups must comply with the stated requirement, as follows:

GROUPS

- A. Hotel/Motels, Dormitories, Lodging and Rooming Houses
- B. Apartments

REQUIREMENTS

A. (Hotels/Motels/Lodging or Rooming and/or Boarding Houses, Dormitories)

- (1) Smoke detectors shall be placed a maximum of 15 feet from ends of corridors or walls and located 30 feet on centers throughout all inside corridors. Smoke detectors shall be placed maximum of 15 feet from ends of walls and 30 feet on centers in open bay sleeping areas.
- (2) Annunciator panel or fire alarm panel shall be readily accessible to fire department personnel ~~if more than one (1) zone is provided,~~ and also shall be located at the registration desk.
- (3) All sleeping rooms shall have an approved self-contained smoke detector(s) hardwired in accordance with NFPA 74, Household Fire Warning Equipment.
- (4) Motel(s)/Hotel(s) having direct exterior exiting shall have manual pull station every 75 feet located on exterior walls. (Minimum requirement shall be one).

B. Apartments

- (1) Apartment buildings having 12 or more units or 4 or more stories in height shall have fire alarm systems. Smoke detectors shall be placed a maximum of 15 feet from the ends of corridors and walls and 30 feet on centers.
- (2) All existing apartments shall have approved self-contained smoke detector(s) located at entrance to bedrooms.

- (3) All new apartments shall have an approved self-contained smoke detector(s) hard wired in accordance with NFPA 74, Household Fire Warning Equipment.

11.07 Requirements for Mercantile Occupancy

(1) A fire alarm system is required in every mercantile occupancy over 3,000 square feet, and such system must meet the requirements and standards as provided herein. Mercantile occupancies are as defined in the Life Safety Code.

(2) The general requirements will be complied with in all mercantile occupancies as if herein restated verbatim.

(3) If the existing Class B mercantile occupancy has a complete and approved sprinkler protection system, a fire alarm system will not be required.

11.08 Requirements for Business Occupancy

(1) A fire alarm system is required in every business occupancy where:

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

~~Such system must meet requirements and standards
as provided herein.~~

Business occupancy are as defined in the Life
Safety Code.

(2) The general requirements shall be com-
plied with in all business occupancies as if herein restated ver-
batim.

11.09 Requirements for Industrial Occupancy

A fire alarm system is required in all Indus-
trial Occupancies as required in The National Fire Codes (Life
Safety Code) referred to in Section 4 of these rules.

11.10 Requirements for Storage Occupancy

A fire alarm system is required in all Stor-
age Occupancies as required in The National Fire Codes (Life
Safety Code) referred to in Section 4 of these rules.

SECTION 12 Exit Inspections and Public Life Safety Announcements

12.01 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 persons will gather at a Class A or B place of
assembly (as defined in ~~the 1981 edition of~~ the Life Safety Code
- NFPA No. 101) the owner (or his designee pursuant to written

authority, instructions, or procedures) shall inspect every required exit, way of approach thereto, and way of departure therefrom. If such 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.

12.02 Announcements. Immediately prior to the start of the program, the owner or his authorized agent shall orally notify all attendees concerning the location of the exit(s) to be used in case of fire or other emergency.

12.03 Records. Accurate record of all inspections, corrections, and notifications made pursuant to this chapter 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 date, time, and location;

(b) the name and signature of the person who performed each requirement of this chapter; and

(c) the date and time when each requirement was performed.

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

SECTION 13. Order of Decision of the State Fire Marshal;
and Appeals and Procedure for Appeals from
such Orders or Decisions.

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 based upon or made pursuant to these rules, and desiring to contest such order or written decision may file an appeal from such 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. V. Code 29-3-1, et. seq. and W. V. Code, Chapter 29A.

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

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

13.03 Appeal Petition - The appeal petition is to be typewritten, styled "Appeal Petition", and submitted with 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 said order or decision with each assignment of error being shown in separately numbered paragraphs;

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

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

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

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

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

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

13.04 Time Requirement and Manner of Filing Appeal
Petition - An appeal petition must be personally delivered or mailed to the State Fire ~~Administrator~~ Commission within thirty (30) days following service upon the petitioner, or within thirty (30) days following actual receipt if service be not required or for some reason not made of the order or decision being contested. Any appeal petition shall be sent by certified mail, return receipt requested, and are 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.

13.05 Copy of Appeal Petition to State Fire Commission

- Upon receipt of an appeal petition, the State Fire ~~Administra-~~
~~tor~~ Commission shall forthwith supply a copy of the petition to
the State Fire Commission 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 shall ~~be~~ delivered a copy of the response to the
State Fire Commission and a copy to the petitioner.

13.06 Scheduling Appeal Petition for and Notice of

Hearing - The State Fire Commission through the State Fire ~~Admin-~~
~~istrator~~ Marshal 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 con-
sidered at the hearing, shall contain 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 ~~Administrator~~
Commission 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. Any hearing shall be con-

ducted at a designated location at the State Capitol 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.

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

13.08 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 set forth in a motion 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.

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

13.10 Hearing Examiner - Any member of the State Fire Commission may conduct a hearing on an appeal petition, issue subpoenas and subpoenas duces tecum, and shall have full authority to conduct the proceedings on an appeal petition, and when acting in such 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. V. Code 29A-5-1(d).

13.11 Subpoenas and Subpoenas Duces Tecum - At any hearing held hereunder, the testimony of witnesses and the production of documentary evidence may be required through the use of subpoenas and subpoenas duces tecum. Such subpoenas or subpoenas duces tecum may be issued at the request of the petitioner, the State Fire Marshal, or of the State Fire Commission, and shall be issued by and in the name of the State Fire Commission.

Every such subpoena and/or subpoena duces tecum is required to prove service at least five (5) days before the return date thereof, either by personal service made by any person eighteen (18) years of age, or older, or by registered or certified mail, but a return acknowledgement signed by the person to whom the subpoena or subpoena duces tecum is directed shall be required to prove service by registered or certified mail.

Any party requesting a subpoena or subpoena duces tecum must 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 such Commission.

Any public official who serves any such subpoena or subpoena duces tecum shall be 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 shall be 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 such 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 such subpoena or subpoena duces tecum.

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.

Any person receiving a subpoena or subpoena duces tecum issued hereunder shall honor the same as though it were issued by a circuit court of the state, and shall appear as a witness and/or produce such books, records, or papers in response to such 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 such circuit court or a refusal to testify therein.

13.12 Evidence -

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

(B) 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, may be offered and made a part of the record in the case.

(C) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Except as otherwise herein stated, 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 thereunder may be admitted, except where precluded by the official code of W.V. or privilege, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.

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

13.14 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.

13.15 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.

13.16 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.

Section 14 Miscellaneous Provisions

14.01 FOREST FIRE SEASON:

The periods of each year between March first and May thirty-first, inclusive, and October first and December thirty-first, inclusive, are hereby designated as forest fire seasons. No person shall during any such 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. Such 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 such fire unattended for any period of time.

Provided that the State Fire Marshal may issue permits authorizing fires prohibited by the preceding paragraph in accordance with West Virginia State Code, Chapter 20, Article 3, Section 5 of the West Virginia Code.

14.02 EXECUTIVE ORDER BY THE GOVERNOR ON OPEN BURNING

On such occasions when the Governor of the State issues an Executive Order or Proclamation to ban open burning due to weather conditions, the fire marshal may assist in the enforcement of the provisions of the Proclamation or Executive Order.

14.03 OUTDOOR STORAGE OF USED TIRES

The storage of used tires shall comply with the following:

(1) All outdoor storage of used tires shall be free from all trash and debris within the site.

(2) The owners/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.

(3) All outdoor storage of used tires shall have a perimeter security chain link fence of a minimum height of six feet.

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

(5) In the absence of an available water supply of at least 500 GPM 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.

(6) Fire lanes shall be established and maintained having a minimum of forty-five foot lanes capable of supporting fire apparatus, and shall exist between all tire piles.

(7) A minimum of a fifty foot wide zone around the site perimeter inside the fence line shall be maintained.

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

(9) A maximum of eighteen tire piles may be established on a single site.

(10) No site may exceed the storage of more than three hundred thousand tires without the approval of the state fire marshal.

14.04 FIREWORKS DEFINED; LABELS REQUIRED (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, and 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 the same, firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, sparklers 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, except that the term "fireworks" shall not include model rockets and model rocket engines, designed, sold and used for the purpose of propelling recoverable acro models and shall not include toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured in accordance with the United States department of transportation regulations for packing and shipping of toy paper or plastic caps are used and toy paper or plastic caps manufactured as provided therein, the sale and use of which shall be permitted at all times. Each package containing toy paper or plastic caps offered for retail sale shall be labeled to indicate the maximum explosive content per cap.

14.05 UNLAWFUL SALE, POSSESSION OR USE OF FIREWORKS; PERMIT FOR PUBLIC DISPLAY (29-3-24)

Except as hereinafter provided, 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 Codes as adopted in Section 4 of this State Fire Code. The state fire marshal shall have the authority to charge a fee of ten dollars to each applicant requesting a license to be a pyrotechnic operator as set forth in this article. 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 (as provided in Rules and Regulations, Fees for Services Rendered, Series 5) required to be paid by the provisions of this section shall be paid to the state fire marshal and thereafter deposited by him into a special account for the operation of the state fire commission. Such permits may be granted upon application to said state fire marshal and after approval of the local police and fire authorities of the community wherein the display is proposed to be held as provided herein and the filing of a bond by the applicant as provided hereinafter. Every such display shall be handled by a competent operator licensed or certified as to

competency (as provided by National Codes as adopted in Section 4 of this State Fire Code) by the state fire marshal and shall be of such composition, character, and so located, discharged or fired as 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 such privilege shall have been granted, sales, possessions, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

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 article and the rules of the state fire commission, provided no municipality shall be required to file such bond.

Before any permit for a pyrotechnic display shall be issued, the person, firm or corporation making application therefor shall furnish proof of financial responsibility (as provided by National Codes as adopted in Section 4 of this State Fire Code) to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof, in such

amount, character and form as the state fire marshal determines to be necessary for the protection of the public.

14.06 Necessity of License for Electrical Work

No electrical work may be performed, offered or engaged in for compensation or hire within the state of West Virginia by any person, unless such person possesses a valid license issued by the state fire marshal in accordance with Chapter 29, Article 3B of the West Virginia Code. (29-3B-2)

14.07 Residential Board and Care Occupancies

Application: All facilities classified as residential board and care occupancies shall conform to the following requirements.

Definitions:

Residential Board and Care Occupancy. A building or part of a building used to provide lodging, boarding, and personal care services for four (4) up to and including ~~eight (8)~~ ten (10) residents unrelated by blood or marriage to its owners or operators.

Personal Care. "Personal Care" means protective care of a resident who does not require chronic or convalescent medical or nursing care. Personal care involves responsibility for the safety of the resident when in the building. Protective care may include a daily awareness by the management of the resident's functioning and his or her whereabouts, the arrangement of appointments and reminders of appointments for a resident, the ability and readiness to intervene if a crisis arises for a resident, supervision in areas of nutrition and medication, and actual provision of transient medical care.

Self-preservation. A person is capable of removing his or her physical self from situations involving imminent danger, such as fire.

Other definitions applicable to these requirements can be found in NFPA 101 Chapter 3, ~~1988~~ edition.

Requirements:

- (1) All residents shall be capable of self-preservation.
- (2) Minimum Construction Required: No Requirements.
- (3) Height Requirements: Patient sleeping rooms to be located on first and second floors only.
- (4) Means of Egress: At least two (2) remote approved from each floor; at least one (1) of which shall be a door directly to the outside without traversing any corridor or space exposed to an unprotected vertical opening.
- (5) Vertical Openings: Shall be properly enclosed on at least one (1) level unless used as the primary means of egress, then shall be enclosed at ~~both~~ all levels with 1 hour fire rated construction.
- (6) Doors: Shall be side-hinged swinging at least 32 inches wide when located in means of egress. Bathroom doors may be 24 inches wide.
- (7) Stairs: Shall be at least Class B.
- (8) Hazardous Areas: Shall be provided with one hour fire-rated separation or provided with automatic sprinkler protection and smoke tight.
- (9) Interior Finish: Walls and ceilings shall be at least Class C throughout.
- (10) Fire Alarm: (a) Shall be approved electrically supervised and meet State Fire Code requirements for Residential: Rooming/Lodging.

(b) Individual sleeping rooms shall be provided with a single station smoke detectors hardwired in accordance with NFPA 74, Household Fire Warning Equipment.

Exception: Less than four (4) residents.

- (11). Sprinkler: Automatic sprinkler system is required and shall meet NFPA 13D.

Exception: Less than four (4) residents.

- (12) Corridor Walls: Shall be at least twenty (20) minute fire-rated and smoketight.
- (13) Corridor Doors: Shall be provided with self-closing devices or automatic closers. Shall be provided with latches suitable for keeping the door closed.
- (14) Electrical System: Shall meet National Electric Code.
- (15) Each sleeping room shall be provided with at least one (1) outside window for rescue/ventilation.
- (16) Any carpet located in the facility shall meet State Fire Code for Residential Occupancies.
- (17) No door in any means of egress shall be locked against egress when the building is occupied.
- (18) Every bathroom door lock shall be designed to permit opening of the locked door from the outside in an emergency.
- (19) Every closet door latch shall be such that it can be readily opened from the inside in case of emergency.
- (20) Heating, ventilating, and air conditioning equipment shall comply with the provisions of NFPA 101 Sections 7-2.1 and 7-2.2 ~~1988 Edition~~.
- (21) No stove or combustion heater shall be so located as to block escape in case of fire arising from malfunction of the stove or heater.
- (22) All facilities shall comply with the Life Safety Code, Chapter 31, Section 7, Operating Features.

14.08 Storage of Fireworks Wholesale Distributors

Definitions: Facility shall mean any building, igloo, barn, trailer, semitrailer or other mobile property.

Storage of Fireworks: All new and existing storage facilities for interstate wholesale fireworks distribution in accordance with West Virginia Code 29-3-25 shall meet the following requirements:

(1) Each Storage facility shall be fire resistive construction.

(2) Each Storage facility containing 1000 pounds or more shall have a complete automatic sprinkler system installed in accordance with NFPA 13, Installation/Sprinkler Systems.

(3) Each Storage facility shall not be located within a residential area.

(4) Each Storage facility shall not be located within 2000 feet of any assembly, educational, health care or correctional occupancies.

(5) Storage/Sale Permits shall be issued by the State Fire Marshal's Office. Permits will be issued only upon verified compliance of these rules and payment of required fee.

(6) Owner(s) or Operator(s) shall immediately notify State Fire Marshal's Office of any lost, stolen or unaccounted fireworks within 24 hours.

(7) No Smoking shall be permitted in the facility or within 50' of a facility. Conspicuous signs indicating "Warning - No Smoking" shall be posted at frequent intervals throughout the facility.

(8) No fireworks shall be sold to any West Virginia resident.

(9) A fire alarm system with complete smoke detection shall be installed throughout the facility in accordance with the State Fire Code.

(10) Each facility shall meet the requirements of the State Fire Code.

(11) Display area shall contain only inert fireworks and be secured to prevent unauthorized access to the display area.

(12) 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.

(13) Daily inventory of fireworks shall be maintained for each facility.

(14) All fireworks transported by vehicle from a distribution facility shall be placarded in accordance with U. S. DOT requirements. Less than 1000 pounds shall be placarded Class C Explosives. More than 1000 pounds shall be placarded Class B Explosives. Each vehicle used to transport fireworks shall meet Chapter 5 of NFPA 1124, Code for the Manufacture, Transportation and Storage of Fireworks.

(15) Each Fire Department providing emergency services to any facility shall be notified in writing of the existence of the storage facility including information as to the type of explosives and explosive hazards. Pre-fire planning shall be completed by the fire department prior to operating the facility.

(16) The land surrounding each facility shall be kept clear of combustibles for a distance of at least 25 feet on all sides.

(17) Each storage facility shall be securely locked in accordance with NFPA 495, Explosive Material Code, Chapter 6-6.1(g).

(18) All electrical wiring and fixtures shall be in accordance with the National Electrical Code, Class II, Group E, Division I locations (Article 502 of the National Electrical Code).

(19) All Heating, Ventilation and Air Conditioning shall be in accordance with the State Fire Code. No open flaming devices on heating units shall be permitted.

(20) Each 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. (See items 3 and 4 of these rules for prohibited locations).

14.09 Stopping, Standing or Parking Prohibited in Specified Areas.

(a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

- (4) Within fifteen feet of a fire hydrant;
- (10) 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 said entrance (when properly sign-posted) (17C-13-3)

14.10 Passengers on Running Boards

No person shall ride nor shall the operator permit any person to ride on the running boards of any fire apparatus while such vehicle is being operated on the streets or highways of this State.

Exception: Parades

14.11 Crossing Fire Hose

No streetcar or vehicle shall be driven over any unprotected hose of a fire department when 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

(a) 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 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. (17C-9-5 and 17C-15-26)

(b) Upon receipt of written notification from the Fire Chief 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/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.

14.14 Rural Health Care and Birthing Center Facilities

Definitions:

Primary Care: Medical care and services at the point when a person first seeks assistance from the health care system for the simpler and more common illnesses, and which takes ongoing responsibility for the recipient's health maintenance and illness.

Rural Health Initiative/Kellogg Clinical Facility: A health care facility which provides primary or secondary patient care and, as such, must meet the requirements for the safety of all occupants while in the building.

Birthing Center: A health care facility which provides patient care for three or less patients. A facility which provides patient care for three or more patients requires compliance with Life Safety Code, Ambulatory Health Care.

Secondary Care: Medical care and services provided by medical specialists, as by cardiologists or neurosurgeons, usually upon referral or consultation.

Self-Preservation: Patients and other occupants of the facility must be capable of removing themselves from the facility with limited assistance, either physical or verbal, in an emergency, such as fire.

Requirements:

1. Construction Requirements: No unprotected wood frame construction (Type V 000). NOTE: Wood frame construction is acceptable provided the interior is covered with 1/2 inch gypsum board.

2. Sprinkler System: All facilities shall be provided with a complete automatic sprinkler system meeting the following criteria:

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- a. Single-story facilities, new or existing, up to 3000 gross square feet shall have a NFPA 13-D system with an activation or flow alarm within the building when sleeping accommodations are provided.
- b. Facilities, new or existing, having more than 3000 gross square feet, or more than one story but not more than two (2) stories, shall have a NFPA 13-R system.
- c. Existing facilities of more than two stories will require approval by the State Fire Marshal.

3. Maximum number of examination/treatment rooms shall not exceed twelve (12) per facility.

4. Separation Requirements: When a rural health facility is located within a building having one or more other occupancies, the rural health facility shall be separated from all other occupancies with a two (2) hour fire barrier, or the building shall be completely protected with an automatic sprinkler sytem in accordance with NFPA 13, Standard for the Installation of Sprinkler System.

5. Height Requirments:

- a. No examination/treatment rooms shall be located above or below a level of exit discharge.
- b. Sleeping rooms for health care providers and patients in Birthing Centers will not be located more than one (1) story above the level of exit discharge.
- c. Each sleeping room shall have at least one (1) operable outside window for rescue/ventilation. Window shall provide a clear opening of not less than 20 inches in width, 24 inches in height and 5.7 square feet in area. The bottom of these window openings shall be no more than 44 inches above the floor.
- d. All doors to sleeping rooms shall be provided with self-closing devices and latches suitable for keeping the door closed.

6. Occupant load calculation shall be one person per 100 square feet of gross floor area.

7. Means of Egress:

- a. All new facilities shall have at least two (2) remote approved means of egress from each floor.
- b. Existing one (1) floor facilities shall have at least two (2) remote exits.

- c. Existing two (2) story facilities shall have two remote exits, one of which shall lead directly to the outside without traversing any corridor or space exposed to an unprotected vertical opening.
- d. No door in any means of egress shall be locked against egress.
- e. All exit doors in the means of egress shall have panic hardware installed.
- f. All doors shall be side-hinged swinging at least 36 inches in clear width.

8. Vertical Openings:

- a. All vertical openings shall be properly enclosed on at least one (1) level unless used as a means of egress. If used as a means of egress, both levels, or all levels, shall be enclosed with at least one-hour fire resistive construction.
- b. All other vertical openings shall be properly enclosed with one-hour fire resistive construction.

9. Exit Doors and Exit Enclosure Doors: All exit doors and exit enclosure doors shall swing in the direction of egress.

10. Corridor Walls: All corridor walls shall be at least thirty (30) minute fire-rated and smoke-tight.

11. Corridor Width:

- a. 44" for non-sleeping areas
- b. 72" for patient sleeping areas in Birthing Centers and treatment areas in Rural Health Care Facilities.

12. Corridor Doors:

- a. Every bathroom door lock shall be designed to permit opening of the locked door from the outside in an emergency.
- b. Every closet door latch or lock shall be such that it can be readily opened from the inside in case of emergency.
- c. All corridor doors shall be provided with positive latching devices suitable for keeping the door closed.

d. All corridor doors shall be solid bond wood core construction.

e. No corridor door shall be less than 32 inches wide.

13. Stairs: All stairs shall be at least Class B, which requires the stair width to be a minimum of 36 inches if serving 50 or fewer persons. If serving more than 50 persons, the stairs shall be Class A.

14. Hazardous Areas: All hazardous areas shall be provided with one-hour fire-rated construction or provided with automatic sprinkler protection. Hazardous areas classified as severe in accordance with the Life Safety Code shall be properly separated and protected with automatic sprinkler protection.

15. Interior Finish: Walls and ceilings shall be at least Class A throughout. Exception: When facility is protected with an automatic sprinkler protection throughout, Class C finish is acceptable.

16. Fire Alarm Requirements:

a: Facilities having 3000 or less gross square feet shall have hardwired, self-contained smoke detectors installed in the means of egress.

b. Facilities having more than 3000 gross square feet shall have an electrically supervised fire alarm system with smoke detectors in corridors and heat detectors in hazardous areas and manual pull stations at exits throughout the facility.

c. Individual sleeping rooms for health care providers and patients, when applicable, shall be provided with a single-station smoke detector hardwired in accordance with NFPA 74, Household Fire Warning Equipment.

17. Electrical System: All electrical wiring shall meet the National Electric Code and Ground Fault Circuit Interruption will be provided if the receptacle is located within 32" from any sink or wet area.

18. All carpet located in the facility shall meet a minimum value of 0.22 watts per square centimeter in all corridors and exits, and shall not exceed a maximum value of Dm-450 smoke (flaming mode).

19. Heating, Ventilating, and Air Conditioning Equipment shall comply with NFPA 90A, Standard for the Installation of Air Conditioning and Ventilation Systems; NFPA 90B, Standard for the Installation of Warm Air Heating and Air Conditioning Systems; NFPA 91, Standard for Exhaust Systems for Air Conveying Materials; NFPA 31, Standard for the Installation of Oil Burning Equipment; NFPA 54, National Fuel Gas Code, or NFPA 70, National Electrical Code.

20. No stove or combustion heater shall be located so as to block the means of egress in case of fire arising from malfunction of the stove or heater.

21. No portable fuel heaters shall be permitted.

22. Emergency lighting shall be provided throughout the means of egress.

23. Exit signs shall be required and shall be illuminated.

14.15 Explosives Amendment to NFPA 495, Explosive Materials Code

a. 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.

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

SECTION 15. Severability

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

This emergency rule is necessary in the interest of public safety and in conformance with statutory law. Updating the code will be cost effective for architects and engineers in the design of buildings and structures to ensure a reasonable level of fire safety. Also, the latest codes provide compliance alternative in meeting the ADA requirements. Rural Health Care and Birthing Center Clinics can be reviewed and approved for improving the availability of health care to the citizens of West Virginia. Finally, requirements for the storage of Class C explosives has been established in the absence of requirements in the model codes. These requirements will improve public safety throughout West Virginia.



The Department of Military Affairs and Public Safety

BILL L. SPENCER
Chairman

JOSEPH J. BOSTAR, III
Vice-Chairman

WILLIAM D. SITES
Secretary

GASTON CAPERTON, GOVERNOR
MAJOR GENERAL JOSEPH J. SKAFF
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State Fire Commission
State Capitol Complex
Charleston, West Virginia 25305

WALTER SMITTLE III
State Fire Marshal
Phone (304) 558-2191
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NEWS RELEASE

The West Virginia State Fire Commission will conduct a public hearing on the proposed adoption of the 1994 National Fire Codes as part of the State Fire Code and the proposed adoption of the 1993 BOCA Codes as part of the State Building Code.

The public hearing will take place at the State Capitol, East Wing, Room E-215, at 10:00 AM, June 23, 1994. All interested individuals or organizations are encouraged to attend the public hearing or submit written comments to: State Fire Commission, c/o Mr. Bill L. Spencer, Chairman, 2100 Washington Street, East, Charleston, WV 25305. For additional information, please contact the State Fire Commission at (304) 558-2191 during regular business hours.

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP CODE	REMARKS
BARBOUR DEMOCRAT	PO BOX 459	PHILIPPI	WV	26416	WEEKLY-WEDNESDAY
BECKLEY REGISTER/HERALD	801 NORTH KANAWHA ST.	BECKLEY	WV	25801	DAILY-SUNDAY
BLUEFIELD DAILY TELEGRAPH	P. O. BOX 1599	BLUEFIELD	WV	24701	DAILY-SUNDAY
BRAXTON CITIZEN'S NEWS	501 MAIN	SUTTON	WV	26601	WEEKLY-MONDAY
BRAXTON DEMOCRAT/CENTRAL	P. O. BOX 427	SUTTON	WV	26601	WEEKLY-FRIDAY
BUCKHANNON RECORD-DELTA	7 NORTH LOCUST ST.	BUCKHANNON	WV	26201	WEEKLY-MON & WED.
CABELL RECORD	1035 THIRD AVE.SUITE 201	HUNTINGTON	WV	25701	WEEKLY-WEDNESDAY
CHARLESTON DAILY MAIL	1001 VIRGINIA ST. E.	CHARLESTON	WV	25301	DAILY-SUNDAY
CHARLESTON GAZETTE	1001 VIRGINIA ST. E.	CHARLESTON	WV	25301	DAILY-SUNDAY
CLARKSBURG EXPONENT/TELEGRAM	324-326 HEWES AVE.	CLARKSBURG	WV	26301	DAILY-SUNDAY
CLAY COUNTY FREE PRESS	BOX 180, CHURCH ST.	CLAY	WV	25043	WEEKLY-TUESDAY
COAL VALLEY NEWS	P. O. BOX 508	MADISON	WV	25130	WEEKLY-WEDNESDAY
DOMINION POST	GREER BLDG. RT. 7	MORGANTOWN	WV	26505	DAILY, SUNDAY
FAYETTE TRIBUNE	417 MAIN STREET	OAK HILL	WV	25901	WEEKLY-MONDAY & THURSDAY
GRANT COUNTY PRESS	47 SOUTH MAIN ST.	PETERSBURG	WV	26847	WEEKLY-WEDNESDAY
GRANTSVILLE NEWS	P. O. BOX 400	GRANTSVILLE	WV	26147	WEEKLY-THURSDAY
GUYANDOTTE VOICE	P. O. BOX 4508	CHAPMANVILLE	WV	25508	WEEKLY-WEDNESDAY
HAMPSHIRE REVIEW	P.O. DRAWER 1036	ROMNEY	WV	26757	WEEKLY-WEDNESDAY
HANCOCK COUNTY COURIER	BOX 547	NEW CUMBERLAND	WV	26047	WEEKLY-THURSDAY
HERALD RECORD	202 EAST MAIN	WEST UNION	WV	26456	WEEKLY-TUESDAY
HINTON DAILY NEWS	BOX 1000, 210 SECOND AVE	HINTON	WV	25951	WEEKLY-TUESDAY
HOMETOWN NEWS	P.O. BOX 597	MADISON	WV	25130	WEEKLY
HURRICANE BREEZE	P. O. BOX 336	HURRICANE	WV	25526	WEEKLY-WEDNESDAY
INDEPENDENT HERALD	P. O. BOX 100, RT. 10E	PINEVILLE	WV	24874	WEEKLY-WEDNESDAY
INDUSTRIAL NEWS	P. O. BOX 180	IAEGER	WV	24844	WEEKLY-WEDNESDAY
MEADOW RIVER POST	BOX 747	RAINELLE	WV	25962	WEEKLY-THURSDAY
MINERAL DAILY NEWS-TRIBUNE	24 ARMSTRONG ST.	KEYSER	WV	26726	DAILY
MOUNDSVILLE DAILY ECHO	P. O. BOX 369	MOUNDSVILLE	WV	26041	DAILY
MOUNTAIN ECHO	24 ARMSTRONG ST.	KEYSER	WV	26726	WEEKLY-SATURDAY
MOUNTAIN STATESMAN	914 WEST MAIN ST.	GRAPTON	WV	26354	WEEKLY-TUES.THURS. & SAT.
PARKERSBURG NEWS	519 JULIANA STREET	PARKERSBURG	WV	26101	DAILY-SUNDAY
PARKERSBURG SENTINEL	519 JULIANA STREET	PARKERSBURG	WV	26101	DAILY
PARSONS ADVOCATE	212 MAIN ST.	PARSONS	WV	26287	WEEKLY-WEDNESDAY
PENNSBORO NEWS	407 MAIN STREET	PENNSBORO	WV	26415	WEEKLY-WEDNESDAY
PLEASANTS COUNTY LEADER	P. O. BOX 27	ST. MARYS	WV	26170	WEEKLY-SATURDAY
POINT PLEASANT REGISTER	200 MAIN STREET	POINT PLEASANT	WV	25550	DAILY
PRESTON COUNTY JOURNAL	P. O. BOX 587	KINGWOOD	WV	26537	WEEKLY-MONDAY & THURSDAY
PRESTON COUNTY NEWS	BOX 225, 226 WASHINGTON AVE	TERRA ALTA	WV	26764	WEEKLY-THURSDAY
PRINCETON TIMES	P.O. BOX 1199	PRINCETON	WV	24740	WEEKLY-THURSDAY
REGISTER HERALD/POST REPORT	107 NORTH LAFAYETTE STREET	LEWISBURG	WV	24901	WEEKLY-WEDNESDAY
RICHWOOD NEWS-LEADER	P. O. BOX 591	RICHWOOD	WV	26261	WEEKLY-WEDNESDAY
ROANE COUNTY REPORTER	P. O. BOX 647	SPENCER	WV	25276	WEEKLY-THURSDAY
SPIRIT OF JEFFERSON ADVOCATE	P. O. BOX 966	CHARLES TOWN	WV	25414	WEEKLY-THURSDAY
ST. MARYS ORACLE	P. O. BOX 27	ST. MARYS	WV	26170	WEEKLY-WEDNESDAY
THE BROOKE NEWS	P. O. BOX 591	WELLSBURG	WV	26070	WEEKLY-THURSDAY

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP	REMARKS
THE CALHOUN CHRONICLE	P. O. BOX 400	GRANTSVILLE	WV	26147	WEEKLY-THURSDAY
THE CARBIDER	BOX 8361	SOUTH CHARLESTON	WV	25303	
THE CATHOLIC SPIRIT	P. O. BOX 951	WHEELING	WV	26003	WEEKLY-FRIDAY
THE CLAY HERALD	RT. 4, BOX 5	CLAY	WV	25043	WEEKLY-MONDAY
THE FOLLANSBEE REVIEW	P. O. BOX 591	WELLSBURG	WV	26070	WEEKLY-THURSDAY
THE GLENVILLE DEMOCRAT	P. O. BOX 430	GLENVILLE	WV	26351	WEEKLY-THURSDAY
THE GLENVILLE PATHFINDER	206 EAST MAIN STREET	GLENVILLE	WV	26351	WEEKLY-THURSDAY
THE HERALD DISPATCH	946 5TH AVENUE	HUNTINGTON	WV	25720	DAILY, SUNDAY
THE INTELLIGENCER	15TH/MAIN STREETS	WHEELING	WV	26003	DAILY
THE INTER-MOUNTAIN	P. O. BOX 1339	ELKINS	WV	26241	DAILY
THE JACKSON HERALD	P.O. BOX 31/117 COURT ST.	RIPLEY	WV	25271	WEEKLY-WEDNESDAY
THE JACKSON STAR NEWS	P. O. BOX 10	RAVENSWOOD	WV	26241	WEEKLY-WED & SAT
THE JACKSON STAR NEWS	BOX 10, RACE STREET	RAVENSWOOD	WV	26164	WEEKLY-WED. & SATURDAY
THE LINCOLN JOURNAL	BOX 308, 337 WALNUT ST.	HAMLIN	WV	25523	WEEKLY-WEDNESDAY
THE LOGAN BANNER	BOX 720, 435 STRATTON ST.	LOGAN	WV	25601	DAILY, SUNDAY
THE MONROE WATCHMAN	P. O. BOX 179	UNION	WV	24983	WEEKLY-THURSDAY
THE MONTGOMERY HERALD	406 LEE STREET	MONTGOMERY	WV	25136	WEEKLY-WEDNESDAY
THE MOOREFIELD EXAMINER	132 SOUTH MAIN ST.	MOOREFIELD	WV	26836	WEEKLY-WEDNESDAY
THE MORGAN MESSENGER	P. O. BOX 567	BERKELEY SPRINGS	WV	25411	W-WED.
THE MORNING/SUNDAY JOURNAL	207 WEST KING STREET	MARTINSBURG	WV	25401	DAILY
THE MULLEN ADVOCATE	BOX 907	MULLENS	WV	25882	WEEKLY-THURSDAY
THE NEWS LEADER	BOX 591	RICHWOOD	WV	26261	WEEKLY-WEDNESDAY
THE NICHOLAS CHRONICLE	BOX 503, WEBSTER ROAD	SUMMERSVILLE	WV	26651	WEEKLY-THURSDAY
THE PENDLETON TIMES	P. O. BOX 906	FRANKLIN	WV	26807	WEEKLY-THURSDAY
THE PIEDMONT HERALD	33 EAST FAIRVIEW ST.	PIEDMONT	WV	26750	WEEKLY-TUESDAY
THE POCAHONTAS TIMES	P. O. BOX 117, 810 SECOND AVE	MARLINTON	WV	24954	WEEKLY-THURSDAY
THE PUTNAM DEMOCRAT	P. O. BOX 179	WINFIELD	WV	25213	WEEKLY-THURSDAY
THE RITCHIE GAZETTE	BOX 215, 112-116 E. MAIN ST.	HARRISVILLE	WV	26362	WEEKLY-THURSDAY
THE SHINNSTON NEWS	P. O. BOX 7	SHINNSTON	WV	26431	WEEKLY-WEDNESDAY
THE WEBSTER ECHO	P. O. BOX 749	WEBSTER SPRINGS	WV	26288	WEEKLY-WEDNESDAY
THE WEBSTER REPUBLICAN	BACK FORK STREET	WEBSTER SPRINGS	WV	26288	WEEKLY-WEDNESDAY
THE WEEKLY NEWS SENTINEL	BOX 308, 337 WALNUT ST.	HAMLIN	WV	25523	WEEKLY-WEDNESDAY
TIMES-RECORD	P. O. BOX 674	SPENCER	WV	25276	WEEKLY-THURSDAY
TIMES-WEST VIRGINIAN	P. O. BOX 2530	FAIRMONT	WV	26554	DAILY-SUNDAY
TYLER STAR NEWS/CTY JOURNAL	BOX 191, DIAMOND STREET	SISTERSVILLE	WV	26175	WEEKLY-WEDNESDAY
WADC-AM/WMGF-FM	703 MARKET STREET	PARKERSBURG	WV	26101	
WAEY-AM/FM	BOX 5588	PRINCETON	WV	24740	
WAEZ-FM	P. O. BOX 2324	HUNTINGTON	WV	25725	
WAJR-AM/WVAZ-FM	GREER BLDG. RT. 7	MORGANTOWN	WV	26505	
WAMX-FM	P. O. BOX 1150	HUNTINGTON	WV	25713	
WAYNE COUNTY NEWS	310 CENTRAL AVENUE	WAYNE	WV	25570	WEEKLY-THURSDAY
WBOY-TV	912 W. PIKE ST.	CLARKSBURG	WV	26302	
WBTH-AM/WXCC-FM	5 1/2 E. SECOND AVE.	WILLIAMSON	WV	25661	
WBUC-AM/WBTQ-FM	P. O. DRAWER C	BUCKHANNON	WV	26201	
WCAW-AM/V100-FM	P.O. BOX 4318	CHARLESTON	WV	25364	

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP CODE	REMARKS
WCEF-FM	BOX 798	RIPLEY	WV	25271	
WCBS-AM/WBES-FM	1111 VIRGINIA ST. E.	CHARLESTON	WV	25301	
WCBS-TV	1301 PIEDMONT	CHARLESTON	WV	25301	
WCLG-AM/FM	BOX 885	MORGANTOWN	WV	26505	
WCST-AM/FM	P. O. BOX 10	BERKELEY SPRINGS	WV	25411	
WCWV-FM	713 MAIN ST.	SUMMERSVILLE	WV	26651	
WDNE-AM/WVET-FM	WASHINGTON & DAVIS STS.	ELKINS	WV	26241	
WDTV	PO BOX 480 FIVE TV DRIVE	BRIDGEPORT	WV	26330	
WEIR-AM	3578 PENNSYLVANIA AVENUE	WEIRTON	WV	26062	
WEIRTON DAILY TIMES	114 LEE AVENUE	WEIRTON	WV	26062	DAILY
WELC-AM	BOX 949	WELCH	WV	24801	
WELCH DAILY NEWS	125 WYOMING ST.	WELCH	WV	24801	DAILY
WELD-AM/FM	KESSEL ROAD	FISHER	WV	26918	
WELK-FM	228 RANDOLPH AVENUE	ELKINS	WV	26241	
WENH-FM	703 THIRD AVENUE	HUNTINGTON	WV	25701	
WEPH-AM/WKMZ-FM	P.O. BOX 767	MARTINSBURG	WV	25401	
WEST VIRGINIA BEACON DIGEST	P. O. BOX 901	SOUTH CHARLESTON	WV	25324	WEEKLY-FRIDAY
WEST VIRGINIA DAILY NEWS	P. O. BOX 471, 200 S. COURT ST	LEWISBURG	WV	24901	DAILY
WEST VIRGINIA HILLBILLY	P. O. BOX 591	RICHWOOD	WV	26261	WEEKLY-THURSDAY
WESTON DEMOCRAT	P.O. BOX 968	WESTON	WV	26452	WEEKLY-WEDNESDAY
WETZ-AM	P. O. BOX 249	NEW MARTINSVILLE	WV	26155	
WETZEL CHRONICLE	P.O. BOX 289, 1100 3RD ST.	NEW MARTINSVILLE	WV	26155	WEEKLY-WEDNESDAY
WEYS-FM	#1 BRUCE STREET	INSTITUTE	WV	25112	
WFGH-FM	BROADCAST BLDG. COURT ST.	FORT GAY	WV	25514	
WFGM-FM	1101 FAIRMONT AVENUE	FAIRMONT	WV	26554	
WFSP-AM	P. O. BOX 567	KINGWOOD	WV	26537	
WGNT-AM	P. O. BOX 1150	HUNTINGTON	WV	25713	
WEAR-AM/WVEP-FM	350 W. MAIN STREET	CLARKSBURG	WV	26301	
WEAW-AM/WSSN-FM	P. O. BOX 980	WESTON	WV	26452	
WHEELING NEWS-REGISTER	15TH/MAIN STREETS	WHEELING	WV	26003	DAILY, SUNDAY
WEIS-AM/WEAJ-FM	RADIO CTR/900 BLUEFIELD	BLUEFIELD	WV	24701	
WEJC-AM	BOX 68	MATEWAN	WV	25678	
WHLX-FM	P.O. BOX 6462	WHEELING	WV	26003	
WILLIAMSON DAILY NEWS	100 EAST 3RD AVENUE	WILLIAMSON	WV	25661	DAILY
WIRT COUNTY JOURNAL	BOX 309	ELIZABETH	WV	26143	WEEKLY-WEDNESDAY
WJLS-AM/WBKW-FM	P. O. BOX 1452	BECKLEY	WV	25802	
WKAZ-AM/WKLC-FM	100 KANAWHA TERRACE	ST. ALBANS	WV	25177	
WKCJ-FM	P. O. BOX 306	LEWISBURG	WV	24901	
WKEE-AM/FM	P.O. BOX 2288	HUNTINGTON	WV	25701	
WKGI-FM	P. O. BOX 267	NEW MARTINSVILLE	WV	26155	
WKKM-FM	P. O. BOX 1546	CLARKSBURG	WV	26301	
WKLP-AM/WQZK-FM	DRAWER F	KEYSER	WV	26726	
WKMM-FM	P. O. BOX 967	KINGWOOD	WV	26537	
WKOY-AM	623 COMMERCE	BLUEFIELD	WV	24701	
WKWK-AM/WEEL-FM	P. O. BOX 2258	WHEELING	WV	26003	

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP CODE	REMARKS
WKYG-AM/WKXX-FM	1715/1717 ST.MARYS AVE.	PARKERSBURG	WV	26102	
WLOG-AM	BOX 1800	LOGAN	WV	25601	
WLTP-AM/WNUS-FM	BOX 428	BELPRE	OH	45714	
WLYU-TV	PO BOX 2544/775 W. PIKE	CLARKSBURG	WV	26302	
WMMN-AM	P. O. BOX 1746	CHARLESTON,	WV	25326	
WMON-AM	BOX 750	MONTGOMERY	WV	25136	
WMOV-AM	GIBBS STREET	RAVENSWOOD	WV	26164	
WMTD-AM/FM	P.O. BOX 850	HINTON	WV	25981	
WMUL-FM	COMM. BLDG.MARSHALL UNIV.	HUNTINGTON	WV	25701	
WNST-AM	P. O. BOX 266	MILTON	WV	25541	
WOAY-AM/FM	P. O. BOX 251	OAK HILL	WV	25901	
WOAY-TV	P. O. BOX 251	OAK HILL	WV	25901	
WOWK-TV	P. O. BOX 13	HUNTINGTON	WV	25706	
WPDX-AM/FM	BOX 1920	CLARKSBURG	WV	26301	
WPMW-FM	14 MORAN AVENUE	MULLENS	WV	25882	
WPQE-AM	130 S. 2ND STREET	CLARKSBURG	WV	26301	
WQBE-AM/FM	4250 WASHINGTON ST. W.	CHARLESTON	WV	25313	
WRNR-AM	P. O. BOX 709	MARTINSBURG	WV	25401	
WRON-AM/FM	276 SENECA TRAIL NORTH	RONCEVERTE	WV	24970	
WRRR-FM	BOX 374, GREENS RUN ROAD	ST. MARYS	WV	26170	
WSAZ-TV	645 FIFTH AVENUE	HUNTINGTON	WV	25701	
WSCW-AM/WJYP-FM	605 D ST./PO BOX 8718	SO. CHARLESTON	WV	25303	
WSGB-AM/WCKA-FM	189A MAIN ST.	SUTTON	WV	26601	
WSLW-AM	P. O. BOX 610	WHITE SULPHUR SPRINGS	WV	24986	
WSWP-TV	1900 WASHINGTON ST.E.	CHARLESTON	WV	25305	
WSWP-TV	P. O. BOX AH	BECKLEY	WV	25801	
WTAP-RV	121 W. SEVENTH	PARKERSBURG	WV	26101	
WTBZ-AM/FM	P. O. BOX 2	GRAPTON	WV	26354	
WTCR-AM	RADIO PARK ROAD	CATLETTSBURG	KY	41129	
WTCR-FM	P. O. BOX 2186	HUNTINGTON	WV	25722	
WTCS-AM STEREO	RADIO PARK, LEONARD AVE.	FAIRMONT	WV	26554	
WTIP-AM/WVSR-FM	817 SUNCREST PLACE	SO. CHARLESTON	WV	25303	
WENJ-FM	609 MAIN STREET	MOUNT HOPE	WV	25880	
WTRF-TV	96 16TH STREET	WHEELING	WV	26003	
WVAH-TV	23 BROADCAST PLAZA	HURRICANE	WV	25526	
WVAR-AM	BOX 349	RICHWOOD	WV	26261	
WVBC-FM	BETHANY COLLEGE	BETHANY	WV	26032	
WVKV-AM	BOX 1080	HURRICANE	WV	25526	
WVMR-AM		DUNMORE	WV	24934	
WVOM-AM/FM	SEARS BLDG.	LOGAN	WV	25601	
WVPB-FM	1900 WASHINGTON ST. E.	CHARLESTON	WV	25305	
WVPN-FM	1900 WASH.ST.E.	CHARLESTON	WV	25305	
WVRC-AM	106 RADIO ST.	SPENCER	WV	25276	
WVVA-TV	PO.BOX 1930/RT.460 BYPASS	BLUEFIELD	WV	24701	
WVWC-FM	WEST VIRGINIA WESLEYAN	BUCKHANNON	WV	26201	

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP	CODE	REMARKS
WWBB-AM	ONE BROADCAST PLACE	MADISON	WV	25130		
WVNR-AM	P. O. BOX AE	BECKLEY	WV	25802		
WVVA-AM/WOVK-FM	CAPITOL MUSIC HALL	WHEELING	WV	26003		
WVVU-FM	MOUNTAINLAIR, WVU	MORGANTOWN	WV	26505		
WXEE-AM	P. O. BOX 1340	WELCH	WV	24801		
WXIL-FM	P.O. BOX 1228	PARKERSBURG	WV	26102		
WXIT-AM	136 HIGH STREET	CHARLESTON	WV	25311		
WXVA-AM/FM	P. O. BOX 700	CHARLES TOWN	WV	25414		
WYKM-AM	BOX 627, RT. 60	RUPERT	WV	25984		
WZMM-AM/FM	98 16TH STREET	WHEELING	WV	26003		

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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help we can get)

FAX: (304) 558-0900

September 16, 1994

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: State Fire Commission

RULE: Amendments, Series 1, State Fire Code

DATE FILED AS AN EMERGENCY RULE: August 9, 1994

DECISION NO. 14-94

FILED
SEP 16 11 26 AM '94
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

KEN HECHLER
Secretary of State



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

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STATE OF WEST VIRGINIA
SECRETARY OF STATE
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1900 Kanawha Blvd., East
Charleston, WV 25305-0770

DECISION EMERGENCY RULE DECISION
(ERD 14-94)

AGENCY: State Fire Commission
RULE: Amendments, Series 1, State Fire Code
FILED AS AN EMERGENCY RULE: August 9, 1994

- par. 1 The State Fire Commission (Commission) filed the above amendments to an existing as an emergency rule.

- par. 2 West Virginia Code 29A-3-15a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.

- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [(29A-3-15a(b))].

- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).

- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the thirty-five day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

par. 6 The Commission filed this emergency rule with supporting documents with the Secretary of State August 9, 1994 and with the LRMRC August 10, 1994.

par. 7 It is the determination of the Secretary of State that the Commission has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code 29-3-5(b) reads in part:

Regulations embodied in the state fire code shall be in accordance with standard safe practice as embodied in widely recognized standards of good practice for fire prevention and fire protection and shall have the force and effect of law in the several counties, municipalities and political subdivisions of the state. Whenever any other state law, county or municipal ordinance or regulation of any fire codes published by the national protection association: Provided, That such rules shall be effective as emergency rules when so promulgated until acted upon by the Legislature: Provided, however, That the state fire marshal shall provide compliance alternatives for historic structures as provided for in §29-1-5 of this chapter which compliance alternatives shall take into account the historic integrity of said historic structures; and shall coordinate with the director of the archives and history division the application of the rules and regulations of that division.

par. 9 It is the determination of the Secretary of State that the Commission has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency -- WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Commission are as follows:

Pursuant to the WV Code §29-3-5, promulgation of regulations and state fire code, subparagraph (b) stipulates..."Provided, that such rules shall be effective as emergency rules when promulgated until acted upon by the Legislature..." The state law requires the State Fire Code to be filed as emergency rules. In

addition, the State Fire Commission has established the following facts and findings regarding the State Fire Code:

1. The amended Fire Code rule will provide the latest technology for designers to build buildings or structures meeting national standards.
2. The amended code is closely aligned with the American Disability Act (ADA) in providing code compliance alternatives to this recent federal law.
3. Architects/engineers are using the latest edition of model codes, while the State Fire Code is using 4 year old technology. Using up-to-date technology will enhance the review of plans and specifications for construction.
4. The amended fire code now provides requirements for storage of fireworks (Class C) and requirements for Rural Health Care and Birthing Center Clinics which the model codes do not address.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(g). . . "mandated by West Virginia Code."

par. 14 This decision shall be cited as Emergency Rule Decision 14-94 or ERD 14-94 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the State Fire Commission, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
Secretary of State

Entered _____

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SEP 16 11 26 AM '94

FILED