

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #1

FILED  
JUN 16 PM 2:36  
OFFICE OF THE SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: State Fire Commission TITLE NUMBER: 87

RULE TYPE: Legislative; CITE AUTHORITY 29-3-5

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 1

TITLE OF RULE BEING AMENDED: Fire Code

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

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

DATE OF PUBLIC HEARING: July 17, 1989 TIME: 1:00 PM

LOCATION OF PUBLIC HEARING: West Virginia State Capitol  
Conference Center, Conference Room B, C & D  
Building 7  
Charleston, West Virginia 25305

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: State Fire Commission

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

State Fire Administrator  
State Capitol Building  
Room EB 64  
Charleston, WV 25305

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

  
State Fire Administrator

## SUPPLEMENTAL REGULATIONS

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## STATE FIRE CODE

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

4.5

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 to 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 shall not be construed to 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 permits may be issued authorizing fires prohibited by the preceding paragraph in accordance with Chapter 20, Article 3, Section 5 of the West Virginia Code.

4.6

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.

4.7

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 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 fence of a minimum height of six feet of chain link fence.

(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 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 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.

4.8

#### 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 shall include 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.

4.9

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: Provided, That the state fire marshal may adopt reasonable rules and regulations for the granting of permits for supervised displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals. The state fire marshal shall have the authority to charge a fee of ten dollars to each applicant requesting a license to deal with pyrotechnic permits 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 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 certificated as to competency 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 shall 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 regulations 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 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.

4.10 Necessity of License for Electricial 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)

## SUMMARY

The State Fire Commission is proposing to promulgate rules supplemental to the existing state fire code requirements. These supplemental fire safety rules contain requirements to improve the fire safety environment in West Virginia on outdoor storage of used tires, forest fires, open burning, fireworks and electrical work.

Any person desiring to comment on the proposed rules may do so on July 17, 1989 at 1:00 PM at the West Virginia State Capitol, Conference Center, Conference Rooms B, C & D, Bldg. 7, Charleston, WV 25305.

RECEIVED

1987 SEP 16 A 10: 57

STATE FIRE ADMINISTRATOR

000933

TITLE 87

LEGISLATIVE RULES

STATE FIRE COMMISSION

SERIES 1

FIRE CODE

§87-1-1. General.

1.1. Scope. -- These regulations establish the rules and regulations deemed necessary by the State Fire Commission for the safeguarding of life and property from the hazards of fire and explosion.

1.2. Authority. -- W. Va. Code §29-3

1.3. Filing Date. -- March 30, 1984

1.4. Effective Date. -- March 30, 1984

1.5. Exemption. -- This State Fire Code has no application to personal care homes caring for five (5) or less patients or buildings used wholly as dwelling houses for no more than two (2) families and has no application to farm structures: Provided, 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.

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

§87-1-2. Reporting of fire incidences by fire departments, brigades and companies.

Any organized public fire brigade, department or company shall report every fire and nonfire incident(s) to the State Fire Marshal on the forms provided by the State Fire Marshal. Every fire and nonfire 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 two

hundred fifty thousand dollars (\$250,000), or arson or suspected arson, shall be reported immediately.

§87-1-3. Unvented heaters.

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

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

4.1. Incorporation of National Standards and Codes. -- The standards and requirements as set out and established by the 1983 edition of "The National Fire Codes" published by the National Fire Protection Association (NFPA) including Supplements A and B (but not including standards and requirements directed to the operation of local fire departments) shall have the same force and effect 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. 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.

4.2. National Standards and Codes - Modifications of Fireworks Display Regulations. -- The "Regulations of the State Fire Marshal for the Display of Fireworks" as contained in NFPA 1123 of the 1983 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 part of the State Fire Code, but with numbered paragraphs three (3)

and four (4) thereof changed to read as follows:

3. Upon receipt of such application at least fifteen (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.

4. 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 NFPA 1123 are made to make certain that it is understood that the County Sheriff (rather than City Police Chief) is the local police authority referred to in West Virginia Code, section twenty-four, article three, chapter twenty-nine, in those situations where the proposed site of a fireworks display is outside the limits of a municipality.

Ed. Note: Section 4 incorporates by reference the sixteen (16) volume National Fire Codes (1983) published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 1-800-344-3555. You may purchase the set or parts from the NFPA or view and copy the sets at the Secretary of State's office or your County Clerk's office.

#### 87-1-5. Sprinkler protection and area limitations.

Approved automatic sprinkler systems 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 of these rules. See Table 87-1A at the end of this regulation.

#### Notes to Table 87-1A:

(a) 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 protective openings.

(b) The phrase "Not Permitted" means that buildings of these heights are not permitted for the type of construction indicated. & (c) The phrase "Section 10-High Rise" means that the building shall also comply with Section 10 of these Rules and Regulations.

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

(e) 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 (2) floors or one (1) floor and roof, or support a bearing wall or a nonbearing wall more than two (2) 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.

#### §87-1-6. Sprinkler protection (certain occupancies).

All nursing, convalescent, old age, custodial care