

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

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1989 JUL 21 AM 9:56
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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: Series 1

TITLE OF RULE BEING AMENDED: 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 UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

These emergency rules contain requirements on the outdoor storage of used tires necessary to reduce the potential of a major conflagration, as well as fire prevention measures to affectively handle fires during forest fire season, and regulation of illegal fire works.

In effect till

1/26/90

Use Additional Sheets If Necessary.

Arnett B. Corley, Jr.
State Fire Administrator

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SUMMARY

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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.

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87-1-4. National Standards and Codes

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4.1 Incorporated 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 - 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 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 a part of the State Fire Code, but with numbered paragraphs 3 and 4 thereof changed to read as follows:

4.3 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.

4.4 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 N.F.P.A. 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 29-3-24 in those situations where the proposed site of a fireworks display is outside the limits of a municipality.

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 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)