

STATE OF WEST VIRGINIA



FILE IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

Paul Ed Blackwell
Chairman
James S. Richmond
Vice-Chairman

John D. Rockefeller IV
Governor

THIS DATE 6-22-77

STATE FIRE COMMISSION
CHARLESTON 25305

1800 WASHINGTON STREET, EAST
PHONE: (304) 348-2191

June 22, 1977

*obsolete
valid 6-22-77
for 180 days*

Mr. A. James Manchin
Secretary of State
State Capitol
Charleston, WV 25305

Re: State Register Filing by the State Fire
Commission-Temporary Rules and Regulations

Dear Mr. Manchin:

The State Fire Commission has found that an emergency exists requiring the promulgation of temporary rules and regulations. The emergency exists as a result of the following facts and circumstances: (1) the State Fire Commission was created by legislation which became effective July 1, 1976; (2) the members of the State Fire Commission were subsequently appointed but with the final confirmation of said appointments not occurring until November, 1976; (3) the legislation creating the State Fire Commission requires the State Fire Commission to promulgate comprehensive rules and regulations by the 1st day of January, 1977; (4) the State Fire Commission has been operative since its creation without any budget or resources to accomplish the promulgation of rules and regulations as required by said legislation; (5) permanent rules and regulations have been initially adopted by the State Fire Commission; a public hearing thereon was scheduled and held on February 14, 1977; changes resulting from said public hearing have been adopted; resulting permanent rules and regulations have been adopted and filed with the State Register with a proposed effective date of April 20, 1977; and said permanent rules and regulations have been referred to the legislative rule making review committee; and (6) the safeguarding of life and property from the hazards of fire and explosion necessitate the adoption of temporary rules and regulations to be in effect until such time as the aforementioned permanent rules and regulations become effective.

Accordingly, the State Fire Commission, pursuant to the procedure provided by West Virginia Code S 29A-3-14, does hereby file with the State Register two copies of "WEST VIRGINIA STATE FIRE CODE, Temporary Rules and Regulations of the West Virginia State Fire Commission" (together with two complete sets of volumes of the National Standards and Codes incorporated by said Temporary Rules and Regulations) dated June 23, 1977, which said Temporary Rules

Secretary of State
March 24, 1977
Page Two

and Regulations are to be effective immediately.

If the State Fire Commission can be of any further assistance to you regarding this filing, please advise.

Very truly yours,

Paul Ed Blackwell

PAUL ED BLACKWELL, Chairman
State Fire Commission

pla

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 6-22-77

WEST VIRGINIA

STATE FIRE CODE

Temporary Rules and Regulations
of the West Virginia
State Fire Commission

June 23, 1977
State Capitol
Charleston, West Virginia

Paul Ed. Blackwell, Chairman
State Fire Commission

(Effective Date, June 23, 1977)

STATE FIRE CODE - Rules and Regulations of the State Fire Commission.

Chapter 29, Article 3 of the West Virginia Code of 1931, as amended, authorized the State Fire Commission to adopt, promulgate, amend, and repeal regulations for the safeguarding of life and property from the hazards of fire and explosion. In conformity with said authority vested in the State Fire Commission the following rules and regulations have been adopted and shall constitute the State Fire Code unless and until amendments, deletions, additions, or changes have been duly adopted and promulgated by the State Fire Commission.

West Virginia State Fire Code
Rules and Regulations of the
West Virginia State Fire Commission

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SECTION 1. General

1.01. 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.

1.02. Authority - These rules and regulations are issued under authority of West Virginia Code, Chapter 29, Article 3.

1.03. Effective Date - These rules and regulations were finally adopted on the 11th day of March, 1977, with an effective date of March 24, 1977.

1.04. Filing Date - These rules and regulations were filed in the Secretary of State's Office on the 24th day of March, 1977.

1.05. Certification - These rules and regulations are certified authentic by the State Fire Commission.

SECTION 2. Building Plans and Specifications

Preliminary plans and specifications for all new construction, alterations, additions, renovations, and installations shall be submitted to the Fire Marshal's Office for review after which final plans and specifications shall be submitted within a reasonable time prior to the bidding date, construction or installations, so that addenda can provide for any changes or additions determined to be necessary by the State Fire Marshal's office. Preliminary plans shall be reviewed for exiting (doors and windows) requirements, general room arrangement, construction type, dimension of building(s), site plan, and outline specifications. Final plans

shall reflect complete details of specifications and design drawings, including mechanical and electrical drawings, and shall include fire alarm, and automatic extinguishment systems, and shop drawings submitted by the supplier. State Fire Marshal's approval of final drawings is good for one year and if construction has not occurred within the said one year period, resubmittal of plans for approval is necessary, unless authorization for extension is granted.

This section has no application to one and two family residential structures.

Submitting plans and specifications to the office of the State Fire Marshal as provided by this section is not required if the following conditions are satisfied: (1) the facility which is the subject of such plans and specifications is for industrial occupancy exclusively; and, (2) the facility which is the subject of such plans and specifications is being constructed by and for the use of a business entity that has obtained a Section 2 written exemption certificate from the State Fire Marshal. Such a written exemption certificate will be granted by the State Fire Marshal upon satisfactory documentation being delivered by the business entity seeking such exemption demonstrating to the satisfaction of the State Fire Marshal that it: (a) has an internal engineering department staffed with professional engineers, (b) has a paid, trained, and professional internal safety department, and (c) has a paid fire brigade set up and established pursuant to the requirements of the National Fire Codes referred to in Section 4 of these Rules and Regulations.

SECTION 3. Building Occupancy

3.01. Occupancy - No person shall occupy or use, or permit the occupancy or use of a building or structure or any part thereof which has been erected or altered in violation of the provisions of these rules and regulations. This section shall have no application to one and two family dwelling structures.

3.02. Change of Occupancy - Any building changing occupancy classification shall be in compliance with the fire requirements for the occupancy to be utilized prior to occupying the building.

3.03. Occupancy Permit - No building shall be occupied without an occupancy permit issued by the State Fire Marshal or a local fire authority designated or approved by the State Fire Marshal.

SECTION 4. National Standards and Codes

4.01. Incorporation of National Standards and Codes - The standards and requirements (not including standards and requirements directed to (1) the operation, etc., of local fire departments, or (2) the manufacture, transportation, storage, sale, possession, and use of explosives) as set out and established by the most recent revision of each of "The National Fire Codes" published

by the National Fire Protection Association (presently 16 volumes) and as set out and established by the 1976 edition of "The National Building Code" published by the American Insurance Association (presently one volume), together with any and all subsequent revisions or amendments to either of such publications, 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. In the event "The National Fire Codes" may be in conflict with "The National Building Code" as to certain specifics, then in such event "The National Fire Codes" shall control. The State Fire Marshal shall make use of the standards and requirements within said publications and the subsequent revisions and amendments in all matters coming under his jurisdiction except where said publications may be in conflict with the other standards and requirements of the State Fire Code in which event the said other standards and requirements shall control. A copy of both of the aforesaid publications have been filed with the Secretary of State and a copy of the Table of Contents of each 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, 470 Atlantic Avenue, Boston, Massachusetts 02210. Information regarding the purchase of the aforesaid "The National Building Code" may be obtained by writing to the American Insurance Association at 85 John Street, New York, New York 10038.

4.02. National Standards and Codes, Tables of Contents

(1) National Fire Codes - Published by National Fire Protection Association.

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(2) National Building Code, published by the American Insurance Association.

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SECTION 5. Explosives and Fireworks Displays

5.01. Manufacture, Transportation, Storage, Sale, Possession, and Use of Explosive Materials - The standards and requirements stated and set forth in the August, 1974, "Suggested Code of Regulations for the Manufacture, Transportation, Storage, Sale, Possession, and Use of Explosive Materials" published by the Institute of Makers of Explosives (being Safety Library Pamphlet No. 3) with any and all subsequent revisions or amendments to such publication, 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. The references within such publication to an unidentified geographical area shall be read to be references to the State of West Virginia. The references within such publication to (1) the "issuing authority" and (2) the "authority having jurisdiction" shall be read to be references to the State Fire Marshal. The State Fire Marshal shall make use of the standards and requirements within said publication and the subsequent revisions and amendments in all matters coming under his jurisdiction except where said publication may be in conflict with the other standards and requirements of the State Fire Code in which event the said other standards and requirements shall control. The procedure for granting and conducting any administrative hearings provided for in such publication is not incorporated as a part of this State Fire Code, but rather any person or entity aggrieved by a final written decision of the State Fire Marshal shall have the right of appeal and to an administrative and judicial hearing as provided for in Section 16 hereof. The contents of Appendix-D

contained in such publication is not incorporated as a part of this State Fire Code. A copy of the aforesaid publication 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 said "Suggested Code of Regulations for the Manufacture, Transportation, Storage, Sale, Possession, and Use of Explosive Materials" may be obtained by writing to the Institute of Makers of Explosives, 420 Lexington Avenue, New York, New York 10017.

5.02. Fireworks Displays - Operators of Public Fireworks Displays, known as pyrotechnicians, shall be licensed by the State Fire Marshal in accordance with the necessary training and competency for conducting such displays. No public display shall be held without a qualified pyrotechnician and the requisite permit from the State Fire Marshal.

The foregoing is not intended as a comprehensive treatment of this topic; for additional standards and requirements see the appropriate sections of the National Standards and Codes cited in Section 4 of these rules and regulations and the appropriate sections of Article 3, Chapter 29 of the West Virginia Code.

5.03. Institute of Makers of Explosives Suggested Code
of Regulations, Table of Contents -

SUGGESTED CODE OF REGULATIONS

FOR THE MANUFACTURE, TRANSPORTATION,
STORAGE, SALE, POSSESSION
AND USE OF EXPLOSIVE MATERIALS

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SECTION 6. Liquefied Petroleum Gases

The following regulation is promulgated to provide standards for materials, installations, facilities, equipment, devices and appliances conducting, conveying, consuming or otherwise using liquefied petroleum gases in or in connection with any building, structure, or on any premises located in the State of West Virginia; to provide the State Fire Marshal with a record of all liquefied petroleum gas installations in West Virginia; and to protect the public from any improper installation that might be made in any school, church, or any other place of public assembly.

All dealers in liquefied petroleum gases, by whatever name called, and all dealers or installers of tanks, units, and equipment used in connection with said gas or gases shall before operating or installing said tank units or equipment obtain a permit, renewable annually, from the State Fire Marshal to operate such tanks, units, and equipment. Such permit, or copy thereof, shall be posted at or near such tanks, units, or equipment.

No such dealer, or any person, shall construct an installation for liquefied petroleum gas in the State of West Virginia for any school, church, or any other place of public assembly, without first submitting to the State Fire Marshal reasonably detailed sketches and specifications covering the equipment to be installed and showing the manner in which such person intends to construct the installation.

The foregoing is not intended as a comprehensive treatment of this topic; for additional standards and requirements see the appropriate sections of the National Standards and Codes cited in Section 4 of these rules and regulations.

SECTION 7. Educational Facilities—Fire Drills, Exits, Reporting Fires, Inspections, etc.

Prior to the adoption of this State Fire Code, the State Fire Marshal's Office had adopted regulations and circulated a pamphlet on the subject matter of this Section of these rules and regulations. Said pamphlet titled "West Virginia School Fire Drill Manual" is hereinafter reproduced in its entirety and the rules, regulations, and requirements contained therein (as hereinafter amended and changed) are hereby adopted and made a part of the State Fire Code. The State Fire Marshal is specifically authorized to continue to make said pamphlet available to the various schools for their use.

The requirements set forth in numbered paragraph [2] under Signal Regulations on page 5 of said pamphlet is amended and changed to read as follows:

2. Whenever any of the school authorities determine that an actual fire exists, irrespective of the extent or size of the fire, they shall immediately call the local fire department using the public fire alarm system or such other facilities as are available.

The requirement set forth in numbered paragraph 3 under Regulations and Procedures on page [3] of said pamphlet is amended and changed to read as follows:

3. As all drills simulate an actual fire condition, pupils shall not be allowed to obtain clothing after the alarm is sounded, even when in home rooms, on account of the confusion which would result in forming the lines and the danger of tripping over dragging apparel. Practice drills shall be held during inclement weather. Such drills would be held at the regular dismissal time when the pupils are fully clothed for outdoors by ringing the fire alarm signal. With such drills there would be no necessity of a return signal.

The requirements set forth in numbered paragraph [1] under Colleges on page 6 of said pamphlet is amended and changed to read as follows:

Fire drills shall be held during the school year as deemed necessary by the college authorities.

The treatment of this subject within this section and said pamphlet of necessity is not a comprehensive treatment of the matters relating to this topic; for additional standards and requirements see the appropriate sections of the National Standards and Codes cited in Section 4 of these rules and regulations.

FOREWORD

This school fire drill manual is published by the West Virginia State Fire Marshal's Office as an aid to school teachers in conducting fire drills. It is mandatory that at least two fire drills be conducted each month and that all doors and exits be kept unlocked and unfastened during school hours.

This manual is sent to schools that teachers may be properly instructed in the work of conducting drills. Orderly and well executed fire drills may be the means of saving lives.

State Fire Marshal

FIRE DRILLS IN SCHOOLS

The first essential in the event of a fire in any school is to have the children leave the building in an orderly manner and to reach a point of safety without injury. Fire safety for school children must provide a definite program by which the location of all the available exits will be known to all the children. To accomplish this, it is necessary to have frequent drills, well planned, properly supervised and intelligently coordinated. When an actual fire occurs, the selection of the proper exit should be made without hesitation. Speed in emptying buildings, while desirable, should be made secondary to the maintenance of proper order and discipline.

The purpose of any drill is to perform the operation a sufficient number of times so that it is possible in an emergency to carry it out in a natural, unhurried manner. Drills should be started during the first three days of school in the fall term. The first drill should be a slow-motion rehearsal, so that all the details can be explained and a full understanding obtained. Numerous other drills should be held during the early part of the fall term until the evacuation of the building becomes well established. Drills are to accustom chil-

[2]

dren to the action which should be taken during a fire. A fire may occur at any minute, therefore no fixed time should be set for any drill (except the first), no notification should be sent to any teacher, and the only ones notified should be those whose duty it is normally to transmit an alarm to the fire department. To completely evacuate the building is the main consideration and must always be borne in mind.

In executing fire drills, consideration should be given to the health of the children, but except at such times when there are epidemics of colds, the short time that children will be out of doors seldom endangers their health even in severe cold weather. Exit drills should be planned and executed with the one thought of removing the children to a point of safety, and in carrying out this plan the advice and cooperation of the chief of the fire department should be requested.

Therefore, in view of the foregoing, the following state regulation relating to fire drills in all public and private schools are hereby adopted:

STATE REGULATION

1. All doors and exits in school buildings shall be kept unlocked and unfastened during school hours.

2. Fire drills shall be held at least twice a month during the school year and three drills shall be held the first two weeks of the fall term.

REGULATIONS AND PROCEDURES

1. Drills shall be executed on different days of the week, and at different hours of the day, during change of classes, when the school is at assembly, during recess periods, etc., and in such a manner as to destroy distinction between drills and actual fires. After the first three fire exit drills of the fall term, all other drills should be planned with one or more blocked exits without locking any exit.

2. If a drill is called when pupils are going up and down the stairways, as during the time classes are changing, the pupils shall be instructed to form in file and immediately proceed to the nearest available exit in an orderly manner.

3. As all drills simulate an actual fire condition, pupils shall not be allowed to obtain clothing after the alarm is sounded, even when in home rooms, on account of the confusion which would result in forming the lines and the danger of tripping over dragging apparel.

[3]

4. Drills shall be in charge of the principal, teachers, or other authorized person in each building, who shall keep a record of the date of each drill and the time required to empty the building on the State Fire Drill Report Form provided each school.

5. Every fire exit drill shall be an exercise in school management for principal and teachers, with the chief purpose of every drill complete control of the class so that the teacher will form its ranks quickly and silently, may halt it, turn it, or direct it as desired. Great stress shall be laid upon the execution of each drill in a brisk, quiet, and orderly manner. Running shall be prohibited. In case there are pupils incapable of holding their places in a line moving at a reasonable speed, provisions shall be made to have them taken care of by the more sturdy pupils, moving independently of the regular line of march.

If, for any reason, a line becomes blocked, some of the pupils should be countermarched to another exit in order to prevent panic conditions arising as a result of inactivity.

6. Monitors shall be appointed from the more mature pupils to assist in the proper execution of all drills. They shall be instructed to hold open doors in the line of march or to close doors where necessary to prevent spread of fire or smoke. There shall be at least 2 substitutes for each appointment so as to provide for proper performance in case of absence of the regular monitors. The searching of toilet or other rooms shall be the duty of the teachers or other members of the staff. If the teachers are to do the searching, it should be done after they have joined their classes to the preceding lines.

7. Each class or group shall proceed to a predetermined point outside the building and remain there while a check is made to see that all are accounted for, leaving only when a recall signal is given to return to the building, or when dismissed. Such points shall be sufficiently far away from the building and from each other as to avoid danger from any fire in the building, interference with fire department operations, or confusion between different classes or groups.

Where necessary for drill lines to cross roadways, signs reading "STOP! SCHOOL FIRE DRILL" or equivalent, shall be carried by monitors to the traffic intersecting points in order to stop traffic during the period of the drill.

Wherever possible, drill lines should not cross a street or highway, especially where the traffic is heavy. It is recommended that where drill lines must cross roadways, a police officer, school janitor, or a male teacher acting as a traffic officer be on duty to control traffic during drills.

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Signal Regulations:

1. All fire exit drill alarms shall be sounded on the fire alarm system and not on the signal system used to dismiss classes.

2. Whenever any of the school authorities determine that an actual fire exists, they shall immediately call the local fire department using the public fire alarm system or such other facilities as are available.

3. In order that pupils will not be returned to a building which is burning, the recall signal shall be one that is separate and distinct from and cannot be mistaken for any other signals. Such signals may be given by distinctive colored flags or banners. If the recall signal is electrical, the push buttons or other controls shall be kept under lock, the key for which shall be in the possession of the principal or some other designated person in order to prevent a recall at a time when there is a fire. Regardless of the method of recall, the means of giving the signal shall be kept under a lock.

Inspection Regulations:

1. It shall be the duty of principals and teachers to inspect all exit facilities daily in order to make sure that all stairways, doors, and other exits are in proper condition.

2. Open plan buildings require extra surveillance to ensure that exit paths are maintained clear of obstruction and are obvious.

3. Particular attention should be given to keeping all doors unlocked, having doors closed which serve to protect the safety of paths of egress (such as doors on stairway enclosures) and under no conditions blocked open, keeping outside stairs and fire escape stairs free from all obstructions and clear of snow and ice, allowing no accumulation of snow or ice or materials of any kind outside exit doors which might prevent the opening of the door or interfere with rapid escape from the building.

4. Any condition likely to interfere with safe exit should be immediately corrected if possible, otherwise reported at once to the appropriate authorities.

5. "Practice drills" may be held during inclement weather. Such drills would be held at the regular dismissal time, when the pupils are fully clothed, by using the exit drill alarm signal. With such drills there would be no necessity of a return signal.

6. Cards of instruction should be conspicuously posted describing the procedure of the drills.

Special Provisions:

1. No elevator(s) shall be used for purposes of evacuating students,

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teachers, or other employees occupying the building during a fire alarm signal.

2. Special arrangements shall be made to evacuate the handicapped student(s) as mentioned in regulation 5 under Regulation & Procedures.

3. The Fire Marshals of the State Fire Marshal's Office during the school year will be conducting fire drills for evaluation as to the effectiveness of such drills for the safe evacuation of the occupants.

COLLEGES

1. Fire drills shall be held at a minimum of 5 times a school year.

2. Drills should be conducted in accordance with regulation and procedures item 1 for public and private schools, excluding the last sentence.

3. The drills are for the purpose of saving lives and achieving safe evacuation in recognition of a fire alarm signal.

The following article on School Fire Drills by T. Alfred Fleming, Supervisor, Conservation Dept., National Board of Fire Underwriters, appearing in "The Readers Digest" and condensed from the Kiwanis Magazine, is reprinted with permission of the Readers Digest.

ARE FIRE DRILLS A FARCE IN YOUR SCHOOLS?

School authorities too often feel that because they've never had a fire, they're never going to have one. This cruel fallacy is a menace to the lives of American school children, for actually there are five school fires a day in this country. We cannot, unfortunately, eliminate all of them. But we can, by efficient fire drills, get our children out of burning buildings safely.

Most school fire drills are wretchedly inadequate; some actually dangerous. In a shocking number of cases, constricted exits make quick evacuation of the building impossible with any kind of drill. Even seemingly adequate drill systems are usually so poorly planned that they would collapse under the panic conditions of a real fire.

The local fire chief and I visited a New England public school to witness a drill for which it had become famous. The school principal was cordiality itself; he would be happy to call a drill if we could wait until he finished an urgent matter. Handing his secretary a hastily scribbled note, he completed his business, then invited us to pull any alarm box in the school. The drill was marvelously efficient. But when

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the chief asked my opinion of it, I handed him a crumbled note I snagged from the secretary's wastebasket. It read: "Tell teachers to announce fire drill in five minutes."

The chief returned to the school immediately. Entering unnoticed, he pulled the nearest alarm. In a split second, pandemonium reigned. The wild-eyed principal came racing down the hall. Children piled out of classrooms like rats from a sinking ship. Teachers screamed futile instructions which only added to the bedlam. The school famed for its perfect drill was in tumult because this time every one thought it really was a fire!

In a drill at a three-story North Dakota school I saw teachers dismiss the first floor before calling pupils from the second. Last of all, the kindergarten tots were summoned from the top story--notwithstanding the fact that rising heat makes the top floor the deadliest. In any kind of blaze these children would have been burned to a crisp.

In another school, the fire bell brought pupils from the top floor rushing downstairs with their hats and coats, while those from the lower floor raced upstairs! Why? The cloakroom was on the upper floor, and the principal blithely explained that "the children must get their wraps." It seems that his son had once caught cold going out bareheaded.

The catalogue of folly is endless. In a Delaware school I saw 37 student-teachers remain on the top floor through a drill, contending indignantly that they weren't under the school jurisdiction! In a Pennsylvania high school the print shop, domestic science and mechanical training departments were excused from drill because, as I was told, "it would interfere with their work." A quite general practice is to leave crippled boys and girls sitting in their seats during fire drill.

Such criminal ignorance is nation-wide, and it takes its ghastly toll. I saw with my own eyes a school fire in Collingwood, Ohio, in which 173 children perished. In Peabody, Mass., a volcano of scorching smoke fatally engulfed 22 girls and boys. The blackened remains of 77 children were raked out of the ashes of a Camden, S. C., school-house, Ninety percent of our schools are still shameful firetraps!

Even a well-constructed school can become a pyre if pupils are not methodically instructed. Good construction or bad, a well organized fire drill can work miracles. At Timnath, Col., 223 pupils walked through smoke so thick they had to hold hands to avoid going astray in the halls! In Milwaukee 950 children came through in perfect discipline, though the blaze did \$35,000 damage in 15 minutes; and 475 youngsters in Fort Worth made their way to safety despite the fact that two stairways had been cut off.

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These children who escaped were no braver or smarter than those who have perished in school fires; the only difference was that they had been taught fire-drill discipline.

I should like to convert every school official and parent to the Texas system, where the study of fire hazards is included in every curriculum, and two fire drills a month are held in all schools. Student committees have charge of the drills, and often call them themselves.

Early each term in every school older pupils are appointed Room Captains, Floor Captains, and Fire Marshals. All have specific duties: one is responsible for assisting lame or crippled schoolmates; another for seeing that his room is empty before closing the door; still another leads the line from his floor; others check on cloakrooms and toilets to see that they are vacant. All signals are given by hand to prevent shouting and confusion. The whole process of emptying a school completely should not require more than two minutes. If it takes longer, the situation calls for investigation.

Before any drills are held, the students have what football coaches would call "skull practice." The location of the primary and secondary exits for each group is made clear; the treacherous behavior of fire is dramatized. In short, the pupils are taught what a fire drill really is, and why they must do certain things.

A feature of the Texas system is the "obstructed drill" which gives the children practice in emergency thinking. A large red ball is secretly placed on some stairway or fire escape, indicating that this exit is cut off. Located so the students don't see it until the last moment, it comes as a surprise. But they turn calmly to another exit!

When the building is evacuated, teachers quickly call the roll, since it is vital to account for every occupant immediately. The danger of not doing so was demonstrated at a South Carolina fire where seven pupils, safely outside, ran back for their wraps and were cremated. A happier example was the conflagration at Wellesley College where the roll call showed eight girls missing in time to rescue them.

You've been lucky if your school has never had a fire. But don't stretch your fire luck too far. I have seen it change too often, when children, undrilled, and paralyzed with fear, have been burned to death. Such tragedies rend a community with wild and useless remorse. The wise course is to resolve that the school children of your community be prepared to meet the fire emergency that sooner or later comes to every school.

SECTION 8. Educational Facilities—Specific Requirements for Upgrading of Existing Educational Facilities

The following requirements must be met for upgrading of existing educational facilities to satisfy fire prevention and fire safety standards.

(1) Provide exiting as required and set forth in Volume 9 of "The National Fire Codes."

(2) Provide enclosure of verticle openings as required and set forth in Volume 9 of "The National Fire Codes."

(3) Provide fire alarm systems as set forth herein in Section 15.

(4) Provide a proper fire separation of one (1) hour in all hazardous areas as required and set forth in Volume 9 of "The National Fire Codes."

(5) No additions or alterations shall be approved unless substandard fire safety conditions in the existing facility are upgraded to acceptable standards.

(6) The foregoing is not intended to be the only requirements to be imposed but are above-stated for emphasis. Additional requirements and standards in the appropriate sections of the National Standard Codes cited in Section 4 of these rules and regulations also must be satisfied.

SECTION 9. Sprinkler Protection

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.

Note: This section is set forth to clarify the requirement as stated and is not intended as a comprehensive treatment of this topic; for additional standards and requirements, see the appropriate sections of the National Standards and Codes cited in Section 4 of these rules and regulations.

SECTION 10. Carpeting

All carpeting and other floor coverings used within the State of West Virginia shall have a flame spread of no more than 75, smoke development factor of no more than 150, by test report from a nationally recognized testing laboratory. This test is the Steiner Tunnel Test in accordance with Standard 225 contained within aforesaid The National Fire Codes. This test report shall be supplied by the manufacturer. This requirement shall not apply as to one and two family dwellings.

The foregoing is not intended as a comprehensive treatment of this topic; for additional standards and requirements see the appropriate sections of the National Standards and Codes cited in Section 4 of these rules and regulations.

SECTION 11. 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 person 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 other structure or property of any kind, which, for want of

repairs, or by reason of its age, dilapidated, or abandoned condition or for any other reason constitutes a fire hazard, and is located or constructed so as to constitute a danger to other buildings, property, persons, life, or limb, or (3) 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, etc., 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 termed in the alternative, e.g., allowing repair and if not repaired then require demolition. Any such order by the State Fire Marshal concludes that a fire hazard exists, shall advise what repairs, etc., 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, materials 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.

SECTION 12. Self-Service Gasoline Stations

All self-service gasoline stations shall monitor the dispensing of Class I flammable liquids by an attendant. This shall not be misconstrued to allow the attendant to be from view of pumps while Class I, Flammable Liquid is being dispensed.

Note: This section is set forth to clarify the requirement as stated and is not intended as a comprehensive treatment of this topic; for additional standards and requirements see the appropriate sections of the National Standards and Codes cited in Section 4 of these rules and regulations.

SECTION 13. Fire Safety Equipment—Misuse or Abuse

The intentional misuse or abuse by any person(s) of any fire safety equipment, e.g., portable fire extinguishers, fire alarm systems, sprinkler system components, etc., is strictly prohibited and any conduct amounting to such intentional misuse or abuse shall be in violation of these rules and regulations.

SECTION 14. High Rise Buildings-Fire Safety Standards and Requirements

14.01. General - All new buildings or structures more than forty (40) feet in height, measured from the lowest grade

level to the highest point of the structure, shall be subject to the rules and regulations set forth herein for high rise buildings. These high rise regulations shall not nullify or interfere with existing city ordinances or local laws now or hereafter adopted relative to this subject, which impose more restrictive standards or requirements. Note, the rules and regulations provided in this section of the State Fire Code are not intended to be a comprehensive treatment of this topic; for additional standards and requirements see the appropriate sections of the National Standards and Codes cited in Section 4 of these rules and regulations.

Compliance with the rules and regulations set forth in this section is not required if the following conditions are satisfied: (1) the high rise building or structure in question is for industrial occupancy exclusively; and, (2) the high rise building or structure in question is for the use of a business entity that has obtained a Section 14 written exemption certificate from the State Fire Marshal. Such an exemption certificate from the State Fire Marshal will be granted by the State Fire Marshal upon satisfactory documentation being delivered by the business entity seeking such exemption demonstrating to the satisfaction of the State Fire Marshal that it: (a) has an internal engineering department staffed with professional engineers, (b) has a paid,

trained, and professional internal safety department, and (c) has a paid fire brigade as defined in the National Fire Codes referred to in Section 4 of these Rules and Regulations.

14.02. Automatic Fire Extinguishing System - Any building or structure used for human occupancy, regardless of construction, shall have an approved automatic fire extinguishing system throughout the entire building installed in accordance with the National Fire Codes.

14.03. Access - A minimum of two sides of the building shall remain accessible to fire department operations at all times.

14.04. Compartmentation - Compartmentation shall be provided in every building to provide areas of refuge for the building's occupants. This may be provided by:

- (1) a. Installation of a horizontal exit dividing a story into two areas of approximately the same size and not exceeding 30,000 square feet.
- b. Sub-dividing the building into 5 story compartments by interrupting the stairshaft with smoke barriers every 5th floor, or through the use of smokeproof enclosures for all stairways, or any other method which will protect against the movement of smoke from one compartment to another.

- (2) Horizontal exit walls used for compartmentation of building shall have no opening which permits transferral of smoke from one compartment to the other except for required exits.
- (3) Fire damper shall be activated by the smoke detector in the duct or area and shall close in the compartmentation wall. All compartmentation walls shall meet the requirements of smoke barrier partitions as well as have the required fire resistive rating.

14.05. Fire Alarm System - The fire alarm system shall conform to the standards and requirements imposed by Section 4 and Section 15 of these rules and regulations.

14.06. Fire Department Communication System - Any building or structure used for human occupancy, regardless of construction, that is seventy-five (75) feet in height or greater measured from the lowest grade level to the highest point of the structure, shall have an approved continuously electrically supervised fire department communication systems.

14.07. Central Control Station - A central control station for Fire Department operations shall be provided in a location approved by the State Fire Marshal or the designated or approved local fire authority having jurisdiction. It shall contain the fire department voice communication system panel, fire detection and alarm system panels, status indicators and controls or elevators and air handling systems, a public telephone, sprinkler valve, water flow indicators, and stand-by controls.

14.08. Emergency Power - A permanently installed emergency power generation system conforming to Standard 70 of the National Fire Codes shall be provided.

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

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

- a. Fire Alarm System
- b. Exit & Other Emergency Lighting
- c. Fire Protection Equipment
- d. Required Mechanical Ventilation
- e. Fire Department Elevator
- f. Fire Department Communication System.

14.09. Smoke Control - Natural or mechanical ventilation for the removal of the products of combustion shall be provided in every story and shall consist of one or more of the following:

- (1) Panels or windows in the exterior wall which can be opened from an approved location other than the fire floor. Such venting facilities shall be provided at the rate of 20 square feet per 50 lineal feet of exterior wall in each story, whichever is greater, and distributed around the perimeter at not more than 50 foot intervals. Such panels shall be clearly identified as required by the State Fire Marshal or the designated or approved local fire authority having jurisdiction.
- (2) Tempered glass may be used in lieu of openable panels.
- (3) With complete automatic extinguishment system installed, the mechanical air handling equipment may be designed to assist smoke removal. Under fire conditions, the return and exhaust air shall be moved directly to the outside without recirculation to other sections of the building.

- (4) A shaft through which smoke and heat can be mechanically vented to the outdoors may be provided. The size of the shaft shall be uniform throughout and of such dimensions as to provide 60 air changes per hour in the largest compartment served anywhere in the building. Openings into the shaft shall be protected with an automatic single piece shutter located as high in the room as possible and designed to vent the entire compartment.
- (5) Any other design which will produce equivalent results subject to the approval by state fire marshal or the designated or approved local fire authority having jurisdiction.

14.10. Concessions - The following concessions can be considered when the building is completely protected by an approved automatic extinguishment system.

- (1) Fire resistive time periods may be reduced by one hour in the following assemblies:
 - (a) Interior bearing walls
 - (b) Exterior bearing walls
 - (c) All non-bearing walls
 - (d) Beams & trusses supporting roofs
 - (e) Beams supporting floors and roofs

Example: 3 hour wall reduced to a 2 hour.

- (2) No concession can be allowed, however, which would result in the corridor walls having less than one hour separation.

SECTION 15. Fire Alarm Systems

15.01. General Requirements for all Occupancies -

(1) Sprinkler system(s) installed - The OS & Y and P.I.V. Valves shall be electrically supervised and tied into the trouble side of the alarm.

(2) Sprinkler System shall be tied in with main alarm system so when activated the alarm will sound.

(3) Fire Alarm System shall have self-contained smoke detector units in single family dwelling apartments with under 12 units in a single building of less than four (4) stories in accordance with Standard 74 of The National Fire Codes.

(4) All fire alarm system wiring shall be placed in metal conduits or metal raceways and installed in accordance with The National Electrical Code requirements and those of Standards 72-A and 72-B of The National Fire Codes.

(5) All fire alarm systems including all components (panel, etc.) shall be electrically supervised throughout except when specifically exempted by definition herein and also shall be tied in ahead of the main power disconnect, unless secondary power source is required. Dry cell batteries shall not be used to supervise or supply any component of the fire alarm system. Exception: Secondary source of power where required shall be provided and utilization of a trickle-charge, rechargeable batteries are acceptable. (Automotive type batteries prohibitive)

(6) All Institutional Occupancies' fire alarm systems shall be tied into the fire department legally serving that facility or area, subject to the approval of the State Fire

Marshal, or to a central communication center responsible for receiving emergency calls with 24-hour surveillance.

(7) All heating, air conditioning, ventilation systems greater than 2,000 CFM and less than 15,000 CFM shall have a smoke detector in the return air for direct automatic shut down, to close main dampers and to sound alarm in the event of fire.

(a) All heating, air conditioning, ventilation systems greater than 15,000 CFM shall have smoke detectors installed in both supply and return air ducts to shut down equipment and sound alarm in event of fire, 2nd-close main dampers. Smoke detector with no return air (100% outside air) not required on intake side of unit.

(b) Detectors shall be zoned to indicate floor and/or area of origin on fire alarm annunciator panel. A single air handling unit for the facility shall only reflect notification on Fire Alarm Panel.

(8) Sounding devices shall be of such character and so located as to arouse all occupants of the facility or building thereof endangered by fire and shall be different than any other system which utilizes bells for notification other than fire. Visual devices shall be provided in occupancies subject to the authority having jurisdiction. Exception: All Institutional Occupancies shall have chimes in patient sleeping areas.

(9) Manual pull stations shall be located at all required fire exits with no station greater than 200 feet of each other. Manual pull stations to be of same general operational type. See specific occupancy for additional requirements.

Exception: Educational facilities that have exits from each classroom to the outside shall not be required to have the manual pull station. This exception does not apply if no corridor exist.

(10) Thermal detectors are required in the following hazardous areas in all occupancies requiring a fire alarm system:

- (a) Elevator shafts r/r
- (b) Attic and cockloft spaces r/r
- (c) Storage Rooms r/r
- (d) Furnace or boiler rooms (Fixed Temp.)
- (e) Janitor's closets r/r
- (f) Kitchens & utility rooms (Fixed Temp.)
- (g) Laboratories, Home Ed., Wood-working Shops, Auto Shops, & Locker rooms r/r

Exception: If the building is completely sprinklered - Thermal detectors are not required.

(11) Smoke detectors are required in the following areas in all occupancies requiring fire alarm system:

- (a) Electrical panel rooms
- (b) Corridors which have adjacent sleeping rooms
- (c) Computer, computer tape storage rooms, computer room sub-floor area
- (d) Auditorium stages if not sprinklered.

Smoke detectors where required shall be placed a maximum of 15 feet from end of corridor and walls and 30 feet on centers. Variance to these requirements must have submission of technical data to support exceeding these distance requirements.

(12) A building or structure being used for more than one occupancy must comply with the fire alarm system requirements of all such occupancies, and where inconsistent must satisfy the more stringent of the requirements.

(13) All structurally connected buildings shall have one fire alarm system.

(14) Having an approved Fire Alarm system will not negate the necessity of satisfying other requirements of the State Fire Code.

(15) All fire alarm systems, prior to installation, requires approval by the State Fire Marshal or by his designated or approved local fire authority. Fire alarm systems not installed within one year must be resubmitted to the State Fire Marshal (or his designated or approved local fire authority) for approval prior to installation, unless prior authorization for extension has been granted.

These general requirements and the specific requirements following in this section of the State Fire Code must be met; for additional standards and requirements (which likewise must be complied with) see the appropriate sections of the National Standards and Codes cited in Section 4 of these rules and regulations.

15.02. Requirements for Educational Occupancy -

(1) A fire alarm system is required in all educational occupancies, and such a system must meet the requirements and standards as provided herein, educational occupancies include all buildings used for the gathering of persons for the purposes of instruction. Educational occupancies include (but are not limited to):

Schools	Academies
Universities	Nursery Schools
Colleges	Kindergartens
Head Start	Libraries

Day Care Facilities (all ages)
Sheltered Work Shops

(2) The standards and requirements provided for above in this section under General Requirements For All Occupancies 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. Exception: Area under 2,000 square feet without visual impairment shall not necessitate a smoke detection system.

(4) Day Care Centers shall have smoke detectors installed on the ceiling 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 centers.

(5) Annunciator panel is to be readily accessible to local fire department personnel if more than one zone is required or provided.

(6) Alarm audible signal shall be the horn type.

(7) Electrical fire alarm panel shall be readily accessible to authorized personnel.

(8) R/R Thermal detectors are required in all Rest Rooms.

(9) Interior room(s) require smoke detectors 30 feet on centers and 15 feet from walls throughout the corridors.

An interior room is one which does not have a door or window directly to the outside of the building which is of such size as to provide for emergency evacuation.

(10) Smoke detectors shall be in all corridors.

Exception: Single story buildings with direct exiting to the exterior from every room via a door.

15.03. Requirements for Assembly Occupancy -

(1) A fire alarm system is required in all places of assembly, and such a system must meet the requirements as provided herein. Places of assembly include, but are not limited to, all buildings or portions of buildings used for gathering together 50 or more persons. Places of assembly shall include those facilities used for such purposes as deliberation, worship, entertainment, amusement, or awaiting transportation. Assembly occupancies include (but are not limited to):

Theaters	Churches
Motion Picture Theaters	Dance Halls
Assembly Halls	Club Rooms
Exhibition Halls	Passenger Facilities, terminals of air, surface, underground, and marine
Museums	public transportation facilities
Skating rinks	Recreation Piers
Gymnasiums	Courthouse
Bowling Lanes	Conference Rooms
Pool Rooms	Broadcasting Studios
Armories	
Mortuary Chapels	
Restaurants	

Assembly occupancies used for any educational purposes, e.g., kindergarten or early childhood secondary education, shall be classed as educational facilities and the fire alarm requirements provided for Educational Occupancy must be met.

(2) The standards and requirements provided for above in this section under General Requirements for all Occupancies shall be complied with in all assembly occupancies as if herein restated verbatim.

(3) Annunciator panel and/or fire alarm panel are to be readily accessible to Fire Department and inspection personnel.

(4) Movie theaters will not be required to provide sounding audible device, but alerting personnel within movie theater and of local Fire Department of the alarm is required.

15.04. Requirements for Institutional Occupancy -

(1) A fire alarm system is required in all institutional occupancies, and such a system must meet the requirements and standards as provided herein. Institutional buildings are those used for purposes such as medical or other treatment of care of persons suffering from physical or mental illness, disease, or infirmity; for the care of infants; convalescents or aged persons; and for penal or corrective purposes. Institutional buildings provide sleeping facilities for the occupants and are occupied by persons who are mostly incapable of self-preservation because of age, physical or mental disability, or because of security measures not under the occupant's control.

(2) The standards and requirements provided for above in section under General Requirements for all Occupancies shall be complied with in all institutional occupancies as if herein restated verbatim.

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

GROUPS

- A. Health Care Facilities
 - Hospitals
 - Nursing Homes

- B. Residential - Custodial Care
 - Nurseries
 - Home for the Aged - (Group Home/Group Residence)
 - Mentally Retarded Care Institutions
 - Detoxification Center or Homes

- C. Residential - Restrained Care
 - Penal Institutions
 - Reformatories
 - Jails
 - Detention Homes
 - Group Homes for Juveniles

REQUIREMENTS

- A, B, and C
 - (a) Annunciator Panel is to be readily accessible to Fire Department Personnel
 - (b) Electrical Fire Alarm Panel shall be readily accessible to authorized personnel.

- A and B
 - (c) An approved automatic smoke detection system shall be installed in all corridors of hospitals, nursing homes, and residential-custodial care facilities. Smoke detectors shall be spaced 30 feet on centers and no more than 15 feet from any wall or exit.
 - (d) Manual pull stations shall be installed every 50 feet throughout the facility in patient room areas starting no more than 15 feet from ends of corridors. All other manual pull stations are in accordance with general requirements.

- A (e) Hospitals and Nursing Home fire alarm systems shall have annunciators located at all nurse's stations, the telephone switchboard, and at such other supervised locations from which assistance may be summoned.
- C (f) Smoke detectors shall be installed in corridors of jail cell. If no corridor exists, the installation shall be at the highest point of the cell area. A metal cage for protection from occupant's abuse is advised and shall not interfere with the operation.
- (g) Smoke detectors shall be installed in corridors of reformatories for rehabilitation where sleeping facilities exist. If no corridors are provided, smoke detectors are required in sleeping rooms.

15.05. 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 one in which sleeping accommodations are provided for normal residential purposes and include all buildings designed to provide sleeping accommodations, but shall not include those buildings classified and used for institutional occupancy.

(2) The standards and requirements provided for above in section under General Requirements for all Occupancies shall be complied with in all institutional occupancies as if herein restated verbatim.

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

GROUPS

- A. Hotels/Motels/Lodging or Rooming Houses - 4 or more people
- B. Apartments
- C. Dormitories, Orphanages for age 6 years and older
- D. Dwelling units - 12 or more, Town Houses
- E. Group Homes, Halfway Houses

REQUIREMENTS

- A. (Hotels/Motels/Lodging or Rooming Houses with 4 or more guests)
 - (a) Smoke detectors shall be installed 15 feet prior to any wall and located 30 feet on centers throughout all inside corridors.
 - (b) Manual pull stations shall be located at each stairway exit and elevator lobby with no manual pull stations exceeding 200 feet separations and located inside corridors.
 - (c) Motels (single story) shall have manual pull stations every 75 feet on exterior walls (minimum requirement shall be at least one.)
- B. (Apartments)
 - (a) Apartment buildings having more than 12 units or three or more stories in height shall have a fire alarm system.
 - (b) Manual pull stations at each floor level located at exits.
 - (c) Smoke detector(s) shall be installed in each apartment located prior to entrance to bedrooms. Depending upon configuration of rooms will dictate the number of detectors required. This detector(s) is to be tied into the main alarm system.

(The detectors in apartments may be a separate system for the building to alert apartment personnel of alarm. The corridor smoke detectors, manual pull stations, etc., when activated shall sound general alarm.)

- (d) Apartment buildings containing more than 12 units or more than three stories in height shall have smoke detectors installed 30 feet on centers and 15 feet from ends of corridors.

C. (Dormitory)

- (a) Smoke detectors shall be installed in all corridors of sleeping room areas spaced 30 feet on centers and 15 feet from any wall or ends of corridors.
- (b) All rooms not properly separated from corridors shall have smoke detectors spaced same as C-(a).

EXAMPLE: Large entrance such as a lobby, etc.

D. (Dwelling Units - 12 or more, Town Houses)

- (a) Same requirements are imposed as for apartments.

E. (Group Homes - Halfway Houses)

- (a) Smoke detectors shall be installed in all corridors of sleeping room areas spaced 30 feet on centers and 15 feet from any wall or ends of corridors.
- (b) All rooms not properly separated from corridors shall have smoke detectors spaced same as E-(a).

15.06. Requirements for Mercantile Occupancy -

(1) A fire alarm system is required in all mercantile occupancies over 3,000 square feet, and such system must meet the requirements and standards as provided herein. Mercantile Occupancies include stores, markets, and other rooms, buildings, or structures for the display and sale of merchandise. Included in this occupancy group are:

Class A & B Stores as defined by Life Safety Code

Supermarkets
Department Stores
Shopping Centers

Drugstores
Auction Rooms
Malls

(2) The standards and requirements provided for above in section under General Requirements for all Occupancies shall be complied with in all mercantile occupancies as if herein restated verbatim.

(3) Unprotected or undivided attic space, cocklofts, will require thermal detectors throughout.

(4) However, if the mercantile occupancy has a complete and approved sprinkler protection system, a fire alarm system is not required.

15.07. Requirements for Business Occupancy -

(1) A fire alarm system is required in all business occupancies having a combined capacity of fifty or more occupants and such system must comply with the standards and requirements provided for above in this section under General Requirements for all Occupancies.

(2) Business Buildings are those used for the transaction of business (other than that covered under Mercantile), for the keeping of accounts and records, and similar purposes. Included (but not limited to) in this occupancy group are:

Doctors' Offices
Dentists' Offices
City Halls

Town Halls
Courthouses
General Offices

15.08. Requirements for Industrial and Storage

Occupancy -

(1) A fire alarm system is required in Industrial and Storage Occupancies as stipulated in "The National Fire Codes" (N.F.P.A. Standard 101).

(2) Industrial and Storage Occupancies is used herein as defined in The National Fire Codes (Life Safety Code) referred to in Section 4 of these rules and regulations.

SECTION 16. Order or 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 Article 3 of Chapter 29 of the Official Code of the State of West Virginia or based upon or made pursuant to these rules and regulations, and desiring to contest such order or decision may enter an appeal from such order or decision to the State Fire Commission. Preserving the right to have such an appeal and the manner of proceeding with the resulting contested case shall be governed by the following rules and regulations and by the corresponding state statutes, i.e., West Virginia Code § 29-3-1 et seq. and West Virginia Code, Chapter 29A.

16.01. 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 Article 3 of Chapter 29 of the official Code of the State of West Virginia, or based upon or made pursuant to these rules and regulations, shall be final and conclusive, unless vacated or modified upon review pursuant to the appeal rights and procedures provided by said statute and these rules and regulations.

16.02. West Virginia Code § 29-3-12(g) and (h) Inquiry and Investigation - The testimony which may be obtained by the State Fire Marshal pursuant to the authority stated in West

Virginia Code § 29-3-12(g) and (h) shall be obtained without compliance with the provisions set forth in these Rules and Regulations 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 West Virginia Code § 29-3-1, et seq.

16.03. 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 must contain and include the following:

- (1) a copy of the order or decision of the State Fire Marshal being contested;
- (2) 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;
- (3) a clear and concise statement of fact upon which the petitioner relies as sustaining its assignment of errors;
- (4) the address petitioner desires to have all notices, documents, and the final order mailed to;
- (5) the telephone number or numbers where petitioner can be contacted;
- (6) 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;
- (7) a prayer setting forth the relief sought; and
- (8) the signature of the petitioner or its duly authorized officer.

16.04. Time Requirement and Manner of Filing Appeal Petition - An appeal petition must be personally delivered (by the petitioner or some other person) on or mailed to the State Fire Marshal 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 accomplished] of the order or decision being contested. Any appeal petition that is mailed shall be by certified mail, return receipt requested, and shall be considered timely if postmarked within the said thirty (30) day period. Any appeal petition not delivered or mailed as aforesaid within said thirty (30) day period shall not be timely filed and the order or decision of the State Fire Marshal being contested by the untimely appeal petition shall be final and conclusive.

In accomplishing the filing of the appeal petition, same shall be personally delivered to the office of the State Fire Marshal located in the Capitol Complex at the State Capitol in Charleston, West Virginia, or mailed to the State Fire Marshal, State Capitol Complex, Charleston, West Virginia 25305.

16.05. Copy of Appeal Petition to State Fire Commission - Upon receipt of an appeal petition, the State Fire Marshal shall forthwith supply a copy of same to the State Fire Commission together with an opinion by the State Fire Marshal regarding the urgency of the matter being contested. The State Fire Marshal may elect to file a response to the Appeal Petition, and if he so does, same shall be delivered to the State Fire Commission and a copy mailed to the petitioner.

16.06. Scheduling Appeal Petition for and Notice of Hearing - The State Fire Commission through its employees or agents 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. Said notice to the petitioner shall be by personal delivery or by certified mail, return receipt requested, shall contain a short and plain statement of the matters to be considered at the hearing, shall contain a short and plain statement of the State Fire Marshal's response, if any, to the appeal petition, and shall specify who is to be the hearing examiner. A copy of the said notice to the petitioner shall be supplied to the State Fire Marshal. Any such hearing shall be conducted at a designated location at the State Capitol in Charleston, West Virginia, or if more convenient to the State Fire Commission in making a determination on a specific appeal petition at a location within the County where the premises in question are totally or partially located.

16.07. Authorized Representative - The petitioner may appear individually, or by legal counsel. In the absence of the petitioner, written evidence of a representative's authority must be presented to the satisfaction of the State Fire Commission, or the hearing examiner.

16.08. Continuances - Hearings will not be delayed by a motion for continuance, unless it is timely made in writing (or on the record as a part of the transcript of a hearing) and sets forth good and sufficient cause. In considering any motion for continuance the urgency of the situation, as represented by the State Fire Marshal shall be determined and taken into consideration.

Conflicting engagements of counsel or the employment of new counsel will never be regarded as good ground 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 deems adequate.

16.09. Absence of Petitioner or Counsel at the Scheduled Hearing - The absence of the petitioner or his legal counsel at a hearing, after service of notice of time, place, and date, shall not be the occasion for delay or continuance. The hearing shall proceed and the case be regarded as having been submitted for decision on the part of the absent petitioner or petitioners.

16.10. Hearing Examiner - Any member of the State Fire Commission is authorized to conduct a hearing on an appeal petition, is authorized to issue subpoenas and subpoenas duces tecum, and is otherwise empowered to have full authority in conducting the proceedings on an appeal petition; and, when any such member is so acting he shall be referred to as the hearing examiner. Additionally, the State Fire Commission may authorize and empower some other person (or persons) to conduct a hearing on an appeal petition and have all of the aforesaid authority in conducting the proceedings; and likewise, such other person in so acting shall be referred to as the hearing examiner. As a part of the notice of hearing set forth in Section 16.06 above, the hearing examiner shall be specified.

16.11. Subpoenas and Subpoenas Duces Tecum - In all hearings held hereunder, the evidence 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, the same to be issued by either the State Fire Commission or the duly appointed hearing examiner.

Every such subpoena and/or subpoena duces tecum shall be served 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 acknowledgment 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.

All subpoenas and subpoenas duces tecum will be issued in the name of the State Fire Commission, but any party requesting their issuance must see that they are properly served. Service of subpoenas and subpoenas duces tecum issued at the insistence of the State Fire Commission are to be the responsibility of such commission.

Any person who serves any such subpoena or subpoena duces tecum is entitled to the same fee as sheriffs who serve witness subpoenas for the circuit courts 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 such fees shall be paid by the State Fire Commission if the subpoena or subpoena duces tecum is issued, without the request of an interested party, at the insistence of the commission.

All such fees related to any subpoena or subpoena duces tecum issued at the insistence of the petitioner or the State Fire Marshal shall be paid by the party who asks that such subpoena or subpoena duces tecum be issued.

All requests for subpoenas and subpoenas duces tecum shall be in writing and shall contain a statement acknowledging that the requesting party agrees to pay the aforesaid fees.

Any person receiving a subpoena or subpoena duces tecum issued hereunder shall honor the same as though it was 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, or the judge thereof in vacation, 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.

16.12. Evidence - (1) All witnesses appearing at such hearing shall testify under oath or affirmation. Every party shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

(2) All relevant and material evidence, including papers, records, agency staff memoranda and documents in the possession of the State Fire Commission or the State Fire Marshal of which either party (petitioner or the State Fire Marshal) desires to avail itself, shall be offered and made a part of the record in the case, notwithstanding admissibility objections which might be validly asserted in a court of law.

(3) 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 what evidence shall be admitted. However, when necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute or privilege, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.

16.13. Record of Proceedings - All of the testimony evidence and rulings on admissibility of evidence at any such hearing shall be reported by stenographic notes and characters or by mechanical means and in such a manner that a transcript of the testimony may be prepared. An official record of the hearing will be prepared by the State Fire Commission, but a transcript, as aforesaid, need not be prepared by the State Fire Commission unless it be required for some useful purpose.

16.14. 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.

16.15. Decision by State Fire Commission - After the conclusion of the hearing, the person designated by the State Fire Commission as hearing examiner shall prepare a recommended decision supported by findings of fact and conclusions of law affirming, modifying or vacating the earlier order or decision of the State Fire Marshal with respect to which said hearing was held, and the State Fire Commission may, thereafter, either accept or reject such recommended decision, and if it shall accept such decision it shall sign the same as its own and if it shall reject the same, it shall prepare a written decision setting forth findings of fact 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 said order shall be served upon each party to the hearing and their attorney of record, if any, in person or by certified mail, return receipt requested.

16.16. Judicial Review - An appeal may be taken by the petitioner or by the State Fire Marshal to the Circuit Court in the county where the premises are totally or partially located, if filed within thirty (30) days after the date upon which such 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 shall be final and conclusive if the proceedings for judicial review have not been duly instituted within the said thirty (30) day period.

Any party adversely affected by the final judgment of the Circuit Court on an appeal from the State Fire Commission may seek review thereof by appeal to the Supreme Court of Appeals of this State.

SECTION 17. Severability.

The sections and subsections of these rules and regulations shall be deemed severable. Should any section or subsection be deemed by judicial opinion or legislative enactment to be invalid, unconstitutional or in any manner contrary to the laws of the State of West Virginia, then such opinion or enactment shall invalidate only that particular section or subsection of these rules and regulations and all other sections shall remain in full force and effect (provided such remaining portions are not determined to be inseparable) and to this end these rules and regulations are declared separable.