

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
SECRET

NOTICE OF AN EMERGENCY RULE

AGENCY: State Fire Commission TITLE NUMBER: 87

CITE AUTHORITY: Chapter 29, Article 3B, Section 5

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

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

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

Electrician Licensing Legislative Rules


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:

Current regulations; Series II, on file are inconsistent with the revised law regarding electrician licensing as set forth in 29-3B of the West Virginia Code. The West Virginia Legislature authorized the State Fire Marshal to promulgate regulations (29-3B-5) to implement the provisions of 29-3B.

The conflict with existing regulations must be corrected by filing of these emergency regulations in the interest of health, safety and the welfare of the public by assuring the competency of those who perform electrical work throughout the state.

Use Additional Sheets If Necessary.



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TITLE 87

LEGISLATIVE RULES
STATE FIRE MARSHAL

SERIES 2
ELECTRICAL LICENSING RULES

INDEX

Section 1.	<u>General</u>	Page
	1:01. Purpose and Scope	1
	1:02. Authority	1
	1:03. Effective Date	1
	1:04. Filing Date	2
	1:05. Certification	2
	1:06. Repeal and Replace	2
Section 2.	<u>Definitions</u>	
	2:01. "Master Electrician"	2
	2:02. "Journeyman Electrician"	2
	2:03. "Apprentice Electrician"	2
	2:04. Electrical Work	2
	2:05. License	3
	2:06. Persons Exempt from Licensing	3
Section 3.	<u>Unauthorized Work and Local Ordinances</u>	
	3:01. Unauthorized Electrical Work Prohibited	4
	3:02. Nonapplicability of Local Ordinance	4
Section 4.	<u>Examination</u>	
	4:01. Examination Required	4
	4:02. Form of Request	4
	4:03. Classification Levels	5
	4:04. Experience Substitution	6
	4:05. Failure to Meet Experience and/or Qualifications	6
	4:06. Age Requirement	6
	4:07. Time of Request	6
	4:08. Authorization Form Required	7
	4:09. License Fee	7
	4:10. Scheduling of Examinations	7

87CSR2

	Page
4:11. Location of Testing Centers	7
4:12. Source of Questions	8
4:13. Passing Grade	8
Section 5. <u>Reciprocity</u>	
5:01. Reciprocal Agreement	8
Section 6. <u>Expiration and Renewal</u>	
6:01. Expiration	8
6:02. Renewal Fee Required	8
6:03. Renewal After Expiration	9
Section 7. <u>Denial; Revocation or Suspension of License</u>	
7:01. Denial of License	9
7:02. Suspension or Revoking of License	9
Section 8. <u>Enforcement Authority and Citations</u>	
8:01. Authority	10
8:02. Citations	10
Section 9. <u>Separability</u>	
9:01. Partial Invalidity	10

87CSR2

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS
THE STATE FIRE MARSHAL'S OFFICE

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TITLE 87

CHAPTER 29-3B
SERIES II
1989

Title: Electrician Licensing Regulations

Subject: Standards and Procedures relating to the Issuance of Certificates of Competency to Master, Journeyman, or Apprentice Electricians.

Section 1. General

1:01. Purpose and Scope - These legislative rules establish the standards required and procedures to be followed by the State Fire Marshal in the implementation of the authority granted him to issue electrician licenses to individuals properly qualifying as Master, Journeyman, or Apprentice Electricians, and to renew such license, pursuant to the provisions of Chapter 29, Article 3B, of the West Virginia Code, 1931, as amended.

1:02. Authority - These legislative rules are issued under the authority of Chapter 29, Article 3B, of the West Virginia Code (1931, as amended), and pursuant to the provisions of Chapter 29A of the said Code.

1:03. Effective Date - These legislative rules were promulgated on May 19, 1989 and shall become effective May 22, 1989 as emergency rules.

1:04. Filing Date - These legislative rules were filed in the Secretary of State's Office on May 19, 1989.

1:05. Certification - These legislative rules are certified authentic by the State Fire Marshal by certification number Series II.

1:06. Repeal and Replace - The current legislative rules on file are hereby repealed and replaced with these emergency rules.

Section 2. Definitions

2:01. "Master Electrician" - means any individual who has at least five years of electrical work experience in all phases of electrical wiring and installation, who is competent to instruct and supervise the work of Journeyman and Apprentice Electricians.

2:02. "Journeyman Electrician" - means a person who has at least two years of electrical work experience in installation of electrical conductors, conduit, equipment, fixtures and other appliances.

2:03. "Apprentice Electrician" - means a person who has less than two years of electrical work experience or one who has interest in and an aptitude for performing electrical work but who alone is not capable of installing conductors, conduits, equipment, fixtures and other appliances.

2:04. "Electrical Work" - pertains to the installation of conductors and conduits for the purpose of transmitting electricity for light, heat, or power sources and the

installation of fixtures and equipment in connection therewith, or both.

2:05. "License" - means a valid and current certificate of competency issued by the State Fire Marshal.

2:06. Persons Exempt From Licensing- These legislative rules do not apply to and no license is required for:

- (A) Any person who performs electrical work with respect to any property owned or leased by such person; or
- (B) Any person who performs electrical work at any manufacturing plant or other industrial establishment as an employee of the person firm or corporation operating such plant or establishment; or
- (C) Any person who, while employed by a employer engaged in the business of selling appliances at retail, performs electrical work with respect to installation and repair of appliances as part of his regular duties; or
- (D) Any person who, while employed by a public utility or any of its affiliates, performs electrical work in connection with the furnishing of public utility service; or
- (E) Any person who performs electrical work as an employee of a government body or agency and who is

performing such work at property owned by the government agency.

Section 3. Unauthorized Work and Local Ordinances

3:01. Unauthorized Electrical Work Prohibited - Under provisions of applicable law, no electrical work may be performed, offered or engaged in for compensation of hire within the state of West Virginia by any person, firm, or corporation unless such person, firm, or corporation possesses a license issued by the State Fire Marshal.

3:02. Nonapplicability of Local Ordinances -No municipality, local government, or county may require any license or other evidence of competence as an electrician from any person, firm, or corporation who or which holds a valid and current license issued by the State Fire Marshal, as a condition for the performance of electrical work within the State of West Virginia.

Section 4. Examinations

4:01. Examination Required -After the effective date of these legislative rules the State Fire Marshal shall issue an electrician license only to that person who has satisfactorily passed an examination for the level of licensure applied for, and who has otherwise met and complied with the requirements of these rules.

4:02. Form of Request -An applicant desiring to be examined under the provisions of these legislative rules must, as a condition precedent to such examination, furnish

the State Fire Marshal with:

- (A) The applicant shall specify the class of license he/she seeks licensure, i.e. Master, Journeyman, or Apprentice; and
- (B) A twenty five dollar (\$25.00) examination fee, for the Master or Journeyman test or ten dollars (\$10.00) for the Apprentice test. The fee is not returnable. If the applicant fails the test he/she may reapply to take the test as many times as the applicant desires by paying a ten dollar (\$10.00) application fee.
- (C) The application fee for testing will be forfeited by any applicant who fails to appear for examination unless at least 48 hours notification is given to the State Fire Marshal's Office prior to test date. An additional test fee must be paid to the State Fire Marshal if applicant reapplies for the examination after not appearing for the first examination.
- (D) A history of experience and qualifications must equal the years experience required for the level of licensure that the applicant is seeking.

4:03. Classification Levels - An applicant must meet the minimum experience requirement for determining the appropriate licensure level for which to seek examination:

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MINIMUM EXPERIENCE AS WORKING ELECTRICIAN	EXAMINATION LEVEL
0 to 2 YEARS	Apprentice Electrician
2 to 5 YEARS	Journeyman Electrician
5 YEARS or More	Master Electrician

4:04. Experience Substitution - An applicant completing an electrical educational program approved by the State Fire Marshal, may apply to substitute their educational training toward the required experience necessary for licensure. However, for a master license, a person cannot use the educational programs to achieve the total five (5) years experience for licensure.

4:05. Failure to Meet Experience and/or Qualifications- Any person who fails to meet the required experience or qualification for a certain level of licensure, when applying for an examination may change their application and select a lower level of licensure for which they do qualify without having to pay an additional fee.

4:06. Age Requirement - An applicant shall have reached their 18th birthday to be authorized to take any examination or to be issued a license.

4:07. Time of Request - An applicant must comply with the requirements of sub-section 4:02 no later than ten (10) working days in advance of the next scheduled examination in order to receive the authorization for testing.

4:08. Authorization Form Required - An applicant complying with subsections 4:02 thru 4:07 will be issued a written authorization form acknowledging receipt of the application fee and setting forth the level of competency for which testing is authorized. No person will be permitted to take the examination who is unable to present the authorization form at the place of examination.

4:09. License Fee - Upon passing the examination, an applicant must remit a license fee before the license will be issued. The license fee will be prorated from the date of issue to the expiration date as follows:

10-12 Months - \$50.00	07-09 Months - \$37.50
04-06 Months - \$25.00	01-03 Months - \$12.50

4:10. Scheduling of Examinations - Under provisions of applicable law, the State Fire Marshal is directed to prepare and arrange for the giving of examinations at least four (4) times each year. Such examinations will regularly be held on the second Tuesday (excluding holidays) in the months of January, April, July and October. The State Fire Marshal may schedule examinations at such additional times as he deems necessary.

4:11 Location of Testing Centers - Tests will be given at the Capital Complex, Charleston, WV at least four times a year. Tests at other locations may be scheduled provided a sufficient number of applicants have pre-registered. Notification of test locations to each applicant will be

provided as required in sub-section 4:08.

Section 6. Content and Grading of Examinations

4:12 Source of Questions - Examination for all levels of competency shall be based upon the National Electrical Code published from time to time by the National Fire Protection Association.

4:13. Passing Grade - A passing grade of at least eighty percent (80%) is required to permit the State Fire Marshal to issue an electrician license to any applicant.

Section 5. Reciprocity

5:01 Reciprocal Agreement - Any person not a resident in this state holding an electrician license from another state may be issued the same level of licensure by providing evidence of such licensure and experience with payment of the required fee of \$50, provided the other state agrees to the reciprocal agreement with the state of West Virginia.

Section 6. Expiration and Renewal

6:01. Expiration - All electrician licenses issued by the State Fire Marshal shall expire on the thirtieth (30th) day of June each year.

6:02. Renewal Fee Required - The State Fire Marshal shall renew annually the electrician license of any certificate holder who makes application. Payment of a renewal fee of fifty dollars (\$50.00) is a requirement prior to such renewal. It shall be the individual's responsibility to submit to the State Fire Marshal their license renewal

request. Licenses will not be automatically renewed.

6:03 Renewal After Expiration - All electrician licenses not renewed in accordance with the provisions of subsection 6:02 may be renewed by paying the fifty dollar (\$50.00) license fee and a fifteen (\$15.00) penalty fee within the licensure year. No person, firm, or corporation may perform electrical work during the period of time their license is expired, but, may resume work upon receiving their deferred license.

Section 7. Denial, Revocation or Suspension of License

7:01. Denial of License - A license will be denied any applicant who: (a) fails to make a passing score of 80%; or (b) fails to provide the required experience and/or qualifications necessary for the class of license.

7:02. Suspension or Revocation of License - A person's electrician license may be suspended or revoked for any one of the following reasons after notice and hearing as provided by Article five, Chapter 29A of the code:

- (A) Upon complaint or fire marshal inquiry when verified by the State Fire Marshal's Office to be valid.
- (B) Electrical work performed was not in accordance with the National Electrical Code.
- (C) Falsifying information on the applicants experience or qualifications.

- (D) Violation of any statute of the State of West Virginia, any rule lawfully promulgated by an agency of the state, or any ordinance of any municipality or county of the State of West Virginia which protects the consumer or public against unfair, unsafe, unlawful or improper business practices.
- (E) Failure to comply with these legislative rules.
- (F) For falsely verifying a person's experience or qualifications on their application.

Section 8. Enforcement Authority and Citations

8:01. Authority - Chapter 29, article 3B, of this code authorizes the State Fire Marshal the authority to inspect all electrical work performed in West Virginia.

8:02. Citation - Assistant State Fire Marshals, Deputy State Fire Marshals or the State Fire Marshal upon inspecting electrical work and determining the work being in noncompliance with the state fire code may issue a citation in accordance with 29-3-12 (n) of this code to the person or persons who performed the electrical work.

Section 9. Separability

9:01. Partial Invalidity - If any provision of these legislative rules shall be held invalid, the remainder of these legislative rules shall not be affected thereby.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 348-4000
Corporations: 342-8000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

RICHARD O. HARTMAN
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

June 30, 1989

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: State Fire Commissioner

RULE: Amendment to Series 2; Electrician Licensing

DATE FILED AS AN EMERGENCY RULE: May 19, 1989

DECISION NO. 7-89

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

A handwritten signature in cursive script that reads "Ken Hechler".

KEN HECHLER
Secretary of State

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE June 30, 1989
ADMINISTRATIVE LAW DIVISION

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 345-4000
Corporations: 342-8000



STATE OF WEST VIRGINIA

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(Plus all the volunteer
help we can get)

DECISION

EMERGENCY RULE DECISION
(ERD 7-89)

AGENCY: State Fire Commission
RULE: Amendment to Series 2, Electrician Licensing
FILED AS AN EMERGENCY RULE: May 19, 1989

- par. 1 The State Fire Commissioner has filed the above emergency amendments to Series 2.
- par. 2 West Virginia Code 29A-3-15A requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Fire Commission (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the ERD is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Fire Commissioner has filed this emergency rule with supporting documents with the Secretary of State on May 19, 1989 and with the LRMRC on May 19, 1989.

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

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

§29-3B-5. Rules; applications and examinations; fees.

(a) The state fire marshal shall promulgate necessary rules pursuant to the provisions of chapter twenty-nine-a of this code to implement the provisions of this article.

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

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

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

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

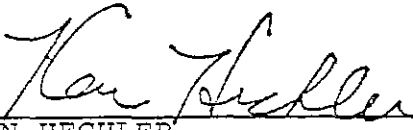
par. 12 The facts and circumstances as presented by the Board are as follows:

Current regulations, Series 2, on file are inconsistent with the revised law regarding electrician licensing as set forth in 29-3B of the West Virginia Code. The West Virginia Legislature authorized the State Fire Marshal to promulgate regulations (29-3B-5) to implement the provisions of 29-3B.

The conflict with existing regulations must be corrected by filing of these emergency regulations in the interest of health, safety and the welfare of the public by assuring the competency of those who perform electrical work throughout the state.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency.

par. 14 This decision shall be cited as Emergency Rule Decision 7-89 or ERD 7-89 and may be cited as precedent. This decision is available from the Secretary of State's office and has been filed with the Fire Commissioner, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
SECRETARY OF STATE

FILED IN THE OFFICE OF
THE SECRETARY OF STATE

Entered _____ THIS DATE June 30, 1989
ADMINISTRATIVE LAW DIVISION