

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #3

FILED  
1989 AUG 14 PM 3:52  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: State Fire Commission TITLE NUMBER: Series 2

CITE AUTHORITY 29-3B

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

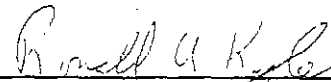
TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 2

TITLE OF RULE BEING PROPOSED: Electrician Licensing Rules

(REPEAL AND REPLACE)

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Ronald A. Kyle, Chairman  
State Fire Commission

August 11, 1989

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Electrician Licensing Legislative Rule

Type of Rule: XXX Legislative          Interpretive          Procedural

Agency State Fire Commission Address 2100 Washington St. E.  
Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
	250,000		250,000	260,000	260,000
Personal Services	120,000		120,000	147,000	147,000
Current Expense	50,000		50,000	50,000	50,000
Repairs and Alterations	5,000		5,000	5,000	5,000
Equipment	40,000		40,000	15,900	13,900
Other (Employee Benefits) - 20%	36,000		36,000	44,100	44,100

2. Explanation of above estimates:

As of this date, the electrician licensing program has generated almost \$250,000 in renewal fees and certification without testing to applicants requesting certification.

3. Objectives of these rules:

The objective of these rules is to provide for the implementation, administration and enforcement of the electrician licensing law.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

These legislative rules will provide the methodology needed for administering the electrician program by the Fire Marshal's Office and generate revenue necessary to supplement the current budget.

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


The electrician licensing program requires all electricians to be licensed except as provided for in the law. Government employees are exempt as well as industrial enterprises. The program is considered a protection to the consumer who receives services from electricians.

C. Economic Impact on Citizens/Public at Large.

The impact of the law now requires all electricians performing electrical work for hire to be licensed. Citizens will have the benefits that individuals must be licensed to perform electrical work and any electrician who violates the provisions of the law while performing electrical work to any citizen can have their licenses suspended/revoked.

Date: August 14, 1989

Signature of Agency Head or Authorized Representative

  
\_\_\_\_\_

DATE: August 14, 1989

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: State Fire Commission

LEGISLATIVE RULE TITLE: Electrician Licensing Legislative Rules

1. Authorizing statute(s) citation Chapter 29, Article 3B,  
Section 5

2. a. Date filed in State Register with Notice of Hearing:  
June 14, 1989

b. What other notice, including advertising, did you  
give of the hearing?

Public Notice forwarded to all newspaper publishers (dailys and  
weekly), radio and television companies in West Virginia. (Copy  
of notice attached and news media addresses)

c. Date of hearing (s): July 17, 1989

d. Attach list of persons who appeared at hearing, comments  
received, amendments, reasons for amendments.

Attached XXX No comments received           

e. Date you filed in State Register the agency approved  
proposed Legislative Rule following public hearing:  
(be exact)

August 14, 1989

f. Name and phone number of agency person to contact  
for additional information:

Walter Smittle III - 348-2191

L. Darl Cross - 348-2191

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

## TITLE 87

LEGISLATIVE RULES  
STATE FIRE MARSHALSERIES 2  
ELECTRICIAN 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	1
	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. "Electrical Contractor"	3
	2:07. "Supervision"	3
	2:08. "Appliance"	3
	2:09. "Posting of the License"	3
	2:10. "Offer to do Electrical Work"	3
	2:11. "Persons Exempt from Licensing"	3
Section 3.	<u>Necessity of License and Local Ordinances</u>	
	3:01. Necessity of License	4
	3:02. Nonapplicability of Local Ordinances	5
Section 4.	<u>Examinations</u>	
	4:01. Examination Required	5
	4:02. Form of Request	5
	4:03. Classification Levels	6
	4:04. Experience Substitution	7
	4:05. Failure to Meet Experience and/or Qualifications	7
	4:06. Age Requirement	7
	4:07. Time of Request	7
	4:08. Authorization Form Required	7
	4:09. License Fee	8
	4:10. Scheduling of Examinations	8

4:11.	Location of Testing Centers	8
4:12.	Source of Questions	8
4:13.	Passing Grade	8
4:14.	Failing Grade	9
Section 5.	<u>Expiration and Renewal</u>	
5:01.	Expiration	9
5:02.	Renewal Fee Required	9
5:03.	Renewal After Expiration	9
Section 6.	<u>Denial; Revocation or Suspension of License</u>	
6:01.	Denial of License	10
6:02.	Suspension or Revoking of License	10
Section 7.	<u>Effect of Noncompliance; Failure to Obtain License</u>	11
Section 8.	<u>Disposition of Fees, Fines and Other Receipts</u>	
8:01.	Depositing of Fees	12
8:02.	Disposition of Fees	12
Section 9.	<u>Separability</u>	
9:01.	Partial Invalidity	12

FILED

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
THE STATE FIRE MARSHAL'S OFFICE

AUG 14 PM 3:52

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.

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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 August 14, 1989.

1:04. Filing Date - These legislative rules were filed in the Secretary of State's Office on August 14, 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 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 qualified by at least two years of electrical work experience to do any work installing wires, conduits, apparatus, equipment, fixtures, and other appliances subject to supervision by a master electrician.

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

2:04. "Electrical Work" - means the installation of wires, conduits, apparatus, fixtures, other appliances, equipment, or systems for transmitting, carrying or using electricity for light, heat, or power purposes.

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

2:06. "Electrical Contractor" - means a person, firm or corporation who engages in the business of electrical work or employs master electricians, journeyman electricians, apprentice electricians or helpers for the construction, alteration or repair of any electrical wiring, equipment or systems for the purpose of furnishing heat, light or power.

2:07. "Supervision" is meant to oversee or review the design, layout and load calculations of electrical systems. It is the intent of the word "supervision" that electrical design, layout and calculations be done by a Master Electrician.

2:08. "Appliance" is meant the utilization of equipment, generally other than industrial, normally built in standardized sizes or types, which is installed or connected as a unit to perform one or more functions such as clothes washing, air conditioning, food mixing, deep frying, etc.

2:09. "Posting of the license" means the posting of a copy of the electrician license on the job site.

2:10. "Offer to do Electrical Work" means to agree to perform electrical work for compensation or hire.

2:11. "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. Such property owner must personally per-

form all the electrical work and any other person who performs electrical work on said property must be a licensed electrician; 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, i.e. chemical industry, coal mining, manufacturing, etc.; 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 provided the installation or repair of appliances does not require the entering of the electrical panel; 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 a government employee at property owned/leased by the government.

### Section 3. Necessity of License and Local Ordinances

3:01. Necessity of License - 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. If any firm or corporation applies for, is granted and holds a valid electrician license, such license does not exempt electricians employed by, working directly or indirectly for, subcontracting for, or providing services to such firm or corporation from the requirement of also possessing an apprentice, journeyman or master electrician license.

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 requesting an examination 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.
- (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:

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 shall 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 Capitol 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.

4:12 Source of Questions - All examinations shall be based on and derived from 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%) on any test or tests is required to permit the State Fire Marshal to issue an electrician license to any applicant.

4:14. Failing Grade - An applicant who fails to make the required passing score on any examination may retake the same examination or a lower class examination upon the payment of a fee of Ten Dollars (\$10.00) and having submitted a new application for retesting.

Section 5. Expiration and Renewal

5:01. Expiration - All electrician licenses issued by the State Fire Marshal shall expire on the thirtieth (30th) day of June each year.

5:02. 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.

5:03 Renewal After Expiration - All electrician licenses not renewed in accordance with the provisions of subsection 5:02 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 6. Denial, Revocation or Suspension of License

6:01. 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.

6:02. Suspension or Revocation of License - The state fire marshal may upon complaint or his own inquiry, after notice and hearing as provided by article five, chapter twenty-nine-a of this code, suspend or revoke the license of any person who holds a license if:

A. The license was granted upon an application or documents supporting such application which materially misstated the terms of the applicant's qualifications or experience;

B. Such person subscribed or vouched for such misstatement by an applicant;

C. Such person incompetently or unsafely performs electrical work;

D. Such person violated any statute of the state of West Virginia, any rule lawfully promulgated by an agency of the state of West Virginia 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; or

E. Such person fails to comply with any rule of the state fire marshal promulgated to fulfill his responsibilities under this article.

Section 7. Effect of Noncompliance

7:01. Any person, firm, corporation or employee thereof, or any representative, member or officer of such firm or corporation, individually, entering upon or engaging in the business of performing any electrical work as defined in this article, without obtaining the required license or otherwise complying with this article, is for the first offense guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars. For a second and each subsequent offense, the penalty and punishment is a fine of not less than one hundred dollars nor more than five hundred dollars.

Each day during which such electrical work is performed without the required license or while in non-compliance with any of the provisions of this article, after official notice that such work is unlawful, is a separate offense.

Any electrical work performed by a person, firm or corporation which is determined by the state fire marshal to constitute a safety or health hazard to members of the public or any electrical work of an extensive nature being performed by any person without the required license or otherwise in noncompliance with the requirements of this article or contrary to an order or rule promulgated lawfully by the state fire marshal, is subject to a civil action in the name of the state in the circuit court of the county where such work is being performed for an injunction against

such person, firm or corporation, enjoining such work or violation. A circuit court by mandatory or prohibitory injunction may compel compliance with the provisions of this article, with the lawful orders of the state fire marshal and with any final decision of the state fire marshal or state fire commission. The state fire marshal shall be represented in all such proceedings by the attorney general or his assistants.

Section 8. Disposition of Fees, Fines and Other Receipts

8:01. All fees and other monies received as a result of actions under this article shall be paid to the State Fire Marshal and deposited by him in a special account with the State Treasurer.

8:02. The disposition of fees deposited to the special account shall be used in the administration of this article, as provided by subsection (c), Section 12B, Article 3 of Chapter 29 of the Code of West Virginia.

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.

STATE OF WEST VIRGINIA



RONALD A. KYLE  
Chairman

GASTON CAPERTON  
Governor

ARNETT B. CORLEY, JR.  
State Fire Administrator

BILL SPENCER  
Vice-Chairman

STATE FIRE COMMISSION  
Capitol Complex

WALTER SMITTLE, III  
State Fire Marshal

WILLIAM D. SITES  
Secretary

Charleston, West Virginia 25305  
Telephone (304) 348-2191

JUNE 26, 1989

NEWS RELEASE

The West Virginia State Fire Commission will conduct a public hearing July 17, 1989 at the State Capitol, Conference Center, Building 7, Conference Room B-C-D, Charleston, West Virginia starting at 1:00 PM.

The purpose of the public hearing is to receive oral or written comments on the certification of electricians, fee schedule for services provided by the State Fire Marshal and supplemental state fire code requirements on open burning, fireworks, forest fire season and outdoor storage of used tires.

Written comments will be received through July 24, 1989. Written comments should be forwarded to: State Fire Commission, Public Comments, 2100 Washington Street, East, Charleston, WV 25305.

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP CODE	REMARKS
WGWP-TV	1900 WASHINGTON ST.E.	CHARLESTON	WV	25305	
WGWP-TV	P. O. BOX AM	BECKLEY	WV	25801	
WCIR-AM/FM	305 RESERVOIR ROAD	BECKLEY	WV	25801	
WJLS-AM/WBKW-FM	P. O. BOX 1452	BECKLEY	WV	25802	
WVPB-FM	1900 WASHINGTON ST. E.	CHARLESTON	WV	25305	
WWR-AM	P. O. BOX AE	BECKLEY	WV	25802	
WCST-AM/FM	P. O. BOX 10	BERKELEY SPRINGS	WV	25411	
WVBC-FM	BETHANY COLLEGE	BETHANY	WV	26032	
WVVA-TV	PO.BOX 1930/RT.460 BYPASS	BLUEFIELD	WV	24701	
WHIS-AM/WHAJ-FM	RADIO CTR/900 BLUEFIELD	BLUEFIELD	WV	24701	
WKDY-AM	623 COMMERCE	BLUEFIELD	WV	24701	
WDTV	PO BOX 480 FIVE TV DRIVE	BRIDGEPORT	WV	26330	
WVWC-FM	WEST VIRGINIA WESLEYAN	BUCKHANNON	WV	26201	
WBUC-AM/WBTG-FM	P. O. DRAWER C	BUCKHANNON	WV	26201	
WCHS-TV	1301 PIEDMONT	CHARLESTON	WV	25301	
WCAW-AM/V100-FM	P.O. BOX 4318	CHARLESTON	WV	25364	
WCHS-AM/WBES-FM	1111 VIRGINIA ST. E.	CHARLESTON	WV	25301	
WQBE-AM/FM	4250 WASHINGTON ST. W.	CHARLESTON	WV	25313	
WTIP-AM/WVSR-FM	817 SUNCREST PLACE	SD. CHARLESTON	WV	25303	
WVPM-FM	1900 WASH.ST.E.	CHARLESTON	WV	25305	
WXIT-AM	136 HIGH STREET	CHARLESTON	WV	25311	
WGCW-AM/WJYP-FM	605 D ST./PO BOX 8718	SD. CHARLESTON	WV	25303	
WXVA-AM/FM	P. O. BOX 700	CHARLES TOWN	WV	25414	
WBOY-TV	912 W. PIKE ST.	CLARKSBURG	WV	26302	
WLYJ-TV	PO BOX 2544/775 W. PIKE	CLARKSBURG	WV	26302	
WHAR-AM/WVHF-FM	350 W. MAIN STREET	CLARKSBURG	WV	26301	
WKKM-FM	P. O. BOX 1546	CLARKSBURG	WV	26301	
WPDX-AM/FM	BOX 1920	CLARKSBURG	WV	26301	
WPQZ-AM	130 S. 2ND STREET	CLARKSBURG	WV	26301	
WDNE-AM/WVHT-FM	WASHINGTON & DAVIS STS.	ELKINS	WV	26241	
WELK-FM	228 RANDOLPH AVENUE	ELKINS	WV	26241	
WFGM-FM	1101 FAIRMONT AVENUE	FAIRMONT	WV	26554	
WNNN-AM	307 WASHINGTON ST.	FAIRMONT	WV	26554	
WTCS-AM STEREO	RADIO PARK, LEONARD AVE.	FAIRMONT	WV	26554	
WELD-AM/FM	KESSEL ROAD	FISHER	WV	26818	
WFGH-FM	BROADCAST BLDG. COURT ST.	FORT GAY	WV	25514	
WVMR-AM		DUNMORE	WV	24934	
WTBZ-AM/FM	P. O. BOX 2	GRAFTON	WV	26354	
WMTD-AM/FM	P.O. BOX 850	HINTON	WV	25951	
WQWK-TV	P. O. BOX 13	HUNTINGTON	WV	25706	
WSAZ-TV	645 FIFTH AVENUE	HUNTINGTON	WV	25701	
WAMX-FM	P. O. BOX 1150	HUNTINGTON	WV	25713	
WEMM-FM	703 THIRD AVENUE	HUNTINGTON	WV	25701	
WGNT-AM	P. O. BOX 1150	HUNTINGTON	WV	25713	
WTCR-AM	RADIO PARK ROAD	CATLETTSBURG	KY	41129	

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP	REMARKS
WTCR-FM	P. O. BOX 2186	HUNTINGTON	WV	25722	
WKEE-AM/FM	1034 SIXTH AVENUE	HUNTINGTON	WV	25701	
WMUL-FM	COMM. BLDG. MARSHALL UNIV.	HUNTINGTON	WV	25701	
WAEZ-FM	P. O. BOX 2324	HUNTINGTON	WV	25725	
WVAH-TV	23 BROADCAST PLAZA	HURRICANE	WV	25526	
WVKV-AM	BOX 1080	HURRICANE	WV	25526	
WEYS-FM	#1 BRUCE STREET	INSTITUTE	WV	25112	
WKLP-AM/WQZK-FM	DRAWER F	KEYSER	WV	26726	
WFSP-AM	P. O. BOX 567	KINGWOOD	WV	26537	
WKMM-FM	P. O. BOX 967	KINGWOOD	WV	26537	
WKCJ-FM	P. O. BOX 306	LEWISBURG	WV	24901	
WLOG-AM	BOX 1800	LOGAN	WV	25601	
WVOM-AM/FM	SEARS BLDG.	LOGAN	WV	25601	
WHBB-AM	ONE BROADCAST PLACE	MADISON	WV	25130	
WEPM-AM/WKML-FM	P.O. BOX 767	MARTINSBURG	WV	25401	
WRNR-AM	P. O. BOX 709	MARTINSBURG	WV	25401	
WHJC-AM	BOX 68	MATEWAN	WV	25678	
WNST-AM	P. O. BOX 266	MILTON	WV	25541	
WMOG-AM	BOX 750	MONTGOMERY	WV	25136	
WAJR-AM/WVAZ-FM	GREER BLDG. RT. 7	MORGANTOWN	WV	26505	
WOLG-AM/FM	BOX 885	MORGANTOWN	WV	26505	
WVVU-FM	MOUNTAINLAIR, WVU	MORGANTOWN	WV	26505	
WEIF-AM	317 7TH ST./P. O. 0	MOUNDSVILLE	WV	26041	
WTNJ-FM	609 MAIN STREET	MOUNT HOPE	WV	25880	
WPMW-FM	14 MORAN AVENUE	MULLENS	WV	25882	
WETZ-AM	P. O. BOX 249	NEW MARTINSVILLE	WV	26155	
WKGI-FM	P. O. BOX 267	NEW MARTINSVILLE	WV	26155	
WOAY-TV	P. O. BOX 251	OAK HILL	WV	25901	
WOAY-AM/FM	P. O. BOX 251	OAK HILL	WV	25901	
WTAP-RV	121 W. SEVENTH	PARKERSBURG	WV	26101	
WKYG-AM/WYKY-FM	1715/1717 ST. MARYS AVE.	PARKERSBURG	WV	26102	
WLTP-AM/WNUG-FM	BOX 428	SELPRE	OH	45714	
WXIL-FM	P.O. BOX 1228	PARKERSBURG	WV	26102	
WADC-AM/WMSP-FM	703 MARKET STREET	PARKERSBURG	WV	26101	
WAEY-AM/FM	BOX 5588	PRINCETON	WV	24740	
WKMY-FM	945 MERCER ST.	PRINCETON	WV	24740	
WRRL-AM/FM	BOX 764	RAINELLE	WV	25962	
WMOV-AM	81888 STREET	RAVENSWOOD	WV	26164	
WVAR-AM	BOX 349	RICHWOOD	WV	26261	
WCEF-FM	BOX 798	RIPLEY	WV	25271	
WRON-AM/FM	276 SENECA TRAIL NORTH	RONCEVERTE	WV	24970	
WYKM-AM	BOX 627, RT. 60	RUPERT	WV	25984	
WKAZ-AM/WKLC-FM	100 KANAWHA TERRACE	ST. ALBANS	WV	25177	
WRRR-FM	BOX 374, GREENS RUN ROAD	ST. MARYS	WV	26170	
WVRC-AM	106 RADIO ST.	SPENCER	WV	25276	

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP CODE	REMARKS
WCNV-FM	713 MAIN ST.	SUMMERSVILLE	WV	26651	
WSSB-AM/WCKA-FM	189A MAIN ST.	SUTTON	WV	26601	
WEIR-AM	3578 PENNSYLVANIA AVENUE	WEIRTON	WV	26062	
WELC-AM	BOX 949	WELCH	WV	24801	
WXEE-AM	P. O. BOX 1340	WELCH	WV	24801	
WHAW-AM/WSSN-FM	P. O. BOX 980	WESTON	WV	26452	
WMGC-FM	124 HOLLAND AVENUE	WESTOVER	WV	26505	
WTRF-TV	96 16TH STREET	WHEELING	WV	26003	
WKWK-AM/WEEL-FM	P. O. BOX 2258	WHEELING	WV	26003	
WZNN-AM/FM	98 16TH STREET	WHEELING	WV	26003	
WWVA-AM/WOVK-FM	CAPITOL MUSIC HALL	WHEELING	WV	26003	
WHLX-FM	P.O. BOX 6462	WHEELING	WV	26003	
WSLW-AM	P. O. BOX 610	WHITE SULPHUR SPRINGS	WV	24986	
WBTH-AM/WXCC-FM	5 1/2 E. SECOND AVE.	WILLIAMSON	WV	25661	
BECKLEY REGISTER/HERALD	P. O. BOX R	BECKLEY	WV	25801	DAILY-SUNDAY
THE MORGAN MESSENGER	P. O. BOX 567	BERKELEY SPRINGS	WV	25411	W-WED.
BLUEFIELD DAILY TELEGRAPH	412 BLAND STREET	BLUEFIELD	WV	24701	DAILY-SUNDAY
BUCKHANNON RECORD-DELTA	7 NORTH LOCUST ST.	BUCKHANNON	WV	26201	WEEKLY-MON & WED.
CHARLESTON DAILY MAIL	1001 VIRGINIA ST. E.	CHARLESTON	WV	25301	DAILY-SUNDAY
CHARLESON GAZETTE	1001 VIRGINIA ST. E.	CHARLESTON	WV	25301	DAILY-SUNDAY
SPIRIT OF JEFFERSON ADVOCATE	210 N. GEORGE ST.	CHARLES TOWN	WV	25414	WEEKLY-THURSDAY
CLARKSBURG EXPONENT/TELEGRAM	324-326 HEWES AVE.	CLARKSBURG	WV	26301	DAILY-SUNDAY
CLAY COUNTY FREE PRESS	BOX 180, CHURCH ST.	CLAY	WV	25043	WEEKLY-TUESDAY
WIRT COUNTY JOURNAL	BOX 98	ELIZABETH	WV	26143	WEEKLY-WEDNESDAY
THE INTER-MOUNTAIN	520 RAILROAD AVENUE	ELKINS	WV	26241	DAILY
GUYANDOTTE VOICE	RT. 10	CHAPMANVILLE	WV	25508	WEEKLY-WEDNESDAY
THE CATHOLIC SPIRIT	1213 BYRON ST.	WHEELING	WV	26003	WEEKLY-FRIDAY
TIMES-WEST VIRGINIAN	QUINCY & OGDEN AVENUE	FAIRMONT	WV	26554	DAILY-SUNDAY
THE FOLLANSBEE REVIEW	P. O. BOX 591	WELLSBURG	WV	26070	WEEKLY-THURSDAY
THE PENDLETON TIMES	BOX 428, MAIN ST.	FRANKLIN	WV	26807	WEEKLY-THURSDAY
THE GLENVILLE DEMOCRAT	P. O. BOX 430	GLENVILLE	WV	26351	WEEKLY-THURSDAY
THE GLENVILLE PATHFINDER	P. O. BOX 430	GLENVILLE	WV	26351	WEEKLY-THURSDAY
MOUNTAIN STATESMAN	914 WEST MAIN ST.	GRAFTON	WV	26354	WEEKLY-TUES. THURS. & SAT
THE CALHOUN CHRONICLE	P. O. BOX 400	GRANTSVILLE	WV	26147	WEEKLY-THURSDAY
GRANTSVILLE NEWS	BOX L, NO. RIVER ST.	GRANTSVILLE	WV	26147	WEEKLY-THURSDAY
THE LINCOLN JOURNAL	BOX 308, 337 WALNUT ST.	HAMLIN	WV	25523	WEEKLY-WEDNESDAY
THE WEEKLY NEWS SENTINEL	BOX 308, 337 WALNUT ST.	HAMLIN	WV	25523	WEEKLY-WEDNESDAY
THE RITCHIE GAZETTE	BOX 215, 112-116 E. MAIN ST.	HARRISVILLE	WV	26362	WEEKLY-THURSDAY
HINTON DAILY NEWS	BOX 1000, 210 SECOND AVE	HINTON	WV	25931	WEEKLY-TUESDAY
THE HERALD DISPATCH	946 5TH AVENUE	HUNTINGTON	WV	25720	DAILY, SUNDAY
HURRICANE BREEZE	2813 MAIN ST.	HURRICANE	WV	25526	WEEKLY-THURSDAY
INDUSTRIAL NEWS	P. O. BOX 188	IAEGER	WV	24844	WEEKLY-WEDNESDAY
MINERAL DAILY NEWS-TRIBUNE	24 ARMSTRONG ST.	KEYSER	WV	26726	DAILY
MOUNTAIN ECHO	24 ARMSTRONG ST.	KEYSER	WV	26726	WEEKLY-SATURDAY
PRESTON COUNTY JOURNAL	DRAWER A, 110 W. MAIN ST.	KINGWOOD	WV	26537	WEEKLY-MONDAY & THURSDAY

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP	REMARKS
WEST VIRGINIA DAILY NEWS	P. O. BOX 471, 200 S. COURT ST	LEWISBURG	WV	24901	DAILY
THE LOGAN BANNER	BOX 720, 435 STRATTON ST.	LOGAN	WV	25601	DAILY, SUNDAY
COAL VALLEY NEWS	60 AVENUE C	MADISON	WV	25130	WEEKLY-WEDNESDAY
THE POCAHONTAS TIMES	P. O. BOX 117, 810 SECOND AVE	MARLINTON	WV	24954	WEEKLY-THURSDAY
THE EVENING WEEKEND/JOURNAL	207 WEST KING STREET	MARTINSBURG	WV	25401	DAILY
CABELL RECORD	PO BOX 308, 1030 SMITH ST.	MILTON	WV	25541	WEEKLY-WEDNESDAY
THE MONTGOMERY HERALD	132 SO. MAIN ST.	MONTGOMERY	WV	25136	WEEKLY-THURSDAY
THE MOOREFIELD EXAMINER	132 SOUTH MAIN ST.	MOOREFIELD	WV	26836	WEEKLY-WEDNESDAY
DOMINION POST	GREER BLDG., SABRATON	MORGANTOWN	WV	26505	DAILY, SUNDAY
MOUNDSVILLE DAILY ECHO	P. O. BOX 369	MOUNDSVILLE	WV	26041	DAILY
THE MULLEN ADVOCATE	BOX 307	MULLENS	WV	25882	WEEKLY-THURSDAY
HANCOCK COUNTY COURIER	BOX 547	NEW CUMBERLAND	WV	26047	WEEKLY-THURSDAY
WETZEL CHRONICLE	P.O. BOX 289, 1100 3RD ST.	NEW MARTINSVILLE	WV	26155	WEEKLY-WEDNESDAY
FAYETTE TRIBUNE	417 MAIN STREET	DAK HILL	WV	25901	WEEKLY-MONDAY & THURSDAY
PARKERSBURG NEWS	519 JULIANA STREET	PARKERSBURG	WV	26101	DAILY-SUNDAY
PARKERSBURG SENTINEL	519 JULIANA STREET	PARKERSBURG	WV	26101	DAILY
PARSONS ADVOCATE	412 MAIN ST.	PARSONS	WV	26287	WEEKLY-WEDNESDAY
PENNSBORO NEWS	P. O. BOX 368	PENNSBORO	WV	26415	WEEKLY-WEDNESDAY
GRANT COUNTY PRESS	47 SOUTH MAIN ST.	PETERSBURG	WV	26847	WEEKLY-WEDNESDAY
BARBOUR DEMOCRAT	PO BOX 455, 113 CHURCH ST.	PHILIPPI	WV	26416	WEEKLY-WEDNESDAY
THE PIEDMONT HERALD	P. O. BOX 168	PIEDMONT	WV	26750	WEEKLY-TUESDAY
INDEPENDENT HERALD	P. O. BOX 100, RT. 10E	PINEVILLE	WV	24874	WEEKLY-WEDNESDAY
POINT PLEASANT REGISTER	P. O. BOX 237	POINT PLEASANT	WV	25550	DAILY
PRINCETON TIMES	P.O. BOX 1199	PRINCETON	WV	24740	WEEKLY-THURSDAY
MEADOW RIVER POST	BOX 747	RAINELLE	WV	25962	WEEKLY-THURSDAY
THE RAVENSWOOD NEWS	BOX 10, RACE STREET	RAVENSWOOD	WV	26164	WEEKLY-WED. & SATURDAY
THE NEWS LEADER	BOX 591	RICHWOOD	WV	26261	WEEKLY-WEDNESDAY
THE JACKSON HERALD	P.O. BOX 31/117 COURT ST.	RIPLEY	WV	25271	WEEKLY-WEDNESDAY
HAMPSHIRE REVIEW	25 SOUTH GRAFTON	ROMNEY	WV	26757	WEEKLY-WEDNESDAY
PLEASANTS COUNTY LEADER	206 GEORGE STREET	ST. MARYS	WV	26170	WEEKLY-SATURDAY
ST. MARYS ORACLE	206 GEORGE STREET	ST. MARYS	WV	26170	WEEKLY-WEDNESDAY
THE SHINNSTON NEWS	223 PIKE	SHINNSTON	WV	26431	WEEKLY-WEDNESDAY
TYLER STAR NEWS/CTY JOURNAL	BOX 191, DIAMOND STREET	SISTERSVILLE	WV	26175	WEEKLY-WEDNESDAY
THE CARBIDER	BOX 8361	SOUTH CHARLESTON	WV	25303	
THE GULF TIMES		SOPHIA	WV	25921	
ROANE COUNTY REPORTER	341 MAIN STREET	SPENCER	WV	25276	WEEKLY-THURSDAY
TIMES-RECORD	341 MAIN ST.	SPENCER	WV	25276	WEEKLY-THURSDAY
THE NICHOLAS CHRONICLE	BOX 503, WEBSTER ROAD	SUMMERSVILLE	WV	26651	WEEKLY-THURSDAY
BRAXTON DEMOCRAT/CENTRAL	P. O. BOX 427	SUTTON	WV	26601	WEEKLY-FRIDAY
BRAXTON CITIZEN'S NEWS	501 MAIN	SUTTON	WV	26601	WEEKLY-MONDAY
PRESTON COUNTY NEWS	BOX 225, 226 WASHINGTON AVE	TERRA ALTA	WV	26754	WEEKLY-THURSDAY
THE MONROE WATCHMAN	P. O. BOX 179	UNION	WV	24983	WEEKLY-THURSDAY
WAYNE COUNTY NEWS	310 CENTRAL AVENUE	WAYNE	WV	25570	WEEKLY-THURSDAY
THE WEBSTER ECHO	BACK FORK STREET	WEBSTER SPRINGS	WV	26288	WEEKLY-WEDNESDAY
THE WEBSTER REPUBLICAN	BACK FORK STREET	WEBSTER SPRINGS	WV	26288	WEEKLY-WEDNESDAY

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP CODE	REMARKS
WEIRTON DAILY TIMES	114 LEE AVENUE	WEIRTON	WV	26062	DAILY
WELCH DAILY NEWS	125 WYOMING ST.	WELCH	WV	24901	DAILY
THE BROOKE NEWS	105 EIGHTH STREET	WELLSBURG	WV	26070	WEEKLY-THURSDAY
WESTON DEMOCRAT	BOX 31	WESTON	WV	26452	WEEKLY-TUESDAY
HERALD RECORD	202 EAST MAIN	WEST UNION	WV	26456	WEEKLY-TUESDAY
THE INTELLIGENCER	15TH/MAIN STREETS	WHEELING	WV	26003	DAILY
WHEELING NEWS-REGISTER	15TH/MAIN STREETS	WHEELING	WV	26003	DAILY, SUNDAY
WILLIAMSON DAILY NEWS	P. O. BOX 1660	WILLIAMSON	WV	25661	DAILY
THE PUTNAM DEMOCRAT	P. O. BOX 128	WINFIELD	WV	25213	WEEKLY-THURSDAY

REGISTRATION OF PUBLIC  
AT  
STATE FIRE COMMISSION MEETINGS

Electrician Licensing (Public Hearing) DATE: July 17, 1989 Charleston, WV

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
✓ Steven W. Carr	1016 Orchard Dr. Belle WV	NAP	X 1:25
JOHN W. SANDERS	1001 W. STR AVE CHAS	IBEW 466	
Charles Davis	Route 7 Box 461 Fairmont WV	IBEW 495	
EDMUND J-YAHN	7 ENGLEWOOD AVE. W. GARDEN	YAHN ELEC CO INC.	
STEVEN A ALLRED	Box 318 Camp Ck Rd JULIEN WV	IREW 466	
J. B. Mize	3309 W. DuPont Belle WV	IBEW 466	
Tommy Thompson	PO Box 11 STAMFORD WV	IBEW 466	
A.M. D. Ray	P.O. Box 11 Beckley WV	IBEW 872	
✓ Michael W. Kinder	124 Greenbrier Ln. Dunbar WV	IBEW #466	X 1:53
C.D. Kinder	117 Edman Rd. CHAS.	IBEW #466	
JOHN C. PICKLESIMER	Rt. 8 Box 382-A, So. CHAS. WV	IBEW #466	
✓ Charles E. Belyard Sr	P.O. Box 159 Kingwood WV	WV Electrical Contractors Assn.	X 1:30
✓ Alvin C. Belyard Jr	1244 W. 7th St. Martinsburg WV	HVAC	X 1:43
✓ G. Swine Wentejeer	PO Box 33, Nitro WV 25745	WV MFG. Housing Assn.	X 1:47

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STATE FIRE COMMISSION

000702

WEST VIRGINIA STATE FIRE COMMISSION

IN THE MATTER OF:

STATE FIRE COMMISSION  
AMENDMENT TO SERIES 2  
ELECTRICIAN LICENSING

Transcript of proceedings had and testimony adduced in the above-styled matter, taken before the West Virginia State Fire Commission in the West Virginia State Capitol Complex, Conference Center, Rooms C and D, Charleston, Kanawha County, West Virginia, on the 17th day of July, 1989, commencing at 1:26 p.m.

BEFORE: JAMES FIFE, Chairman  
Member, State Fire Commission

ALSO PRESENT: WALTER SMITTLE, III, State Fire Marshal  
PAUL GILL, Deputy Fire Marshal  
DANA D. DAVIS, Deputy Attorney General  
ARNETT B. CORLEY, JR., State Fire  
Administrator

I N D E X

<u>SPEAKERS</u>	<u>PAGE</u>
Stephen Carr	3
Don Anderson	19
G. Shirie Westfall	22
Mike Kinder	29
<u>Reporter's Certificate</u>	32

## P R O C E E D I N G S

CHAIRMAN FIFE: We will go into the Electrician Licensing. First on the list I have Stephen Carr.

MR. CARR: My name is Stephen W. Carr from 1016 Orchard Drive, Rainelle, West Virginia. I am not representing any organization, but I am a member of Local 637 IBEW.

When I received this letter to renew my license back in May, I looked over it and read it, and ever since I have had my blasters' license back in '80 I pay \$4 per year for my renewal fees, and when I read this letter I thought it was a good thing, the first two paragraphs of it.

Then when it went to a \$50 fee for my license renewal per year I said, "Well, if they are going to do what they say, then that would be good."

That was all fine and good until about a month ago, until my phone has been ringing

off the hook constantly with people wanting me to give them permission to put my name and address on their license application so they can get a license.

They tell me -- which I read the application too -- if they pay \$25, which I have to pay \$50 for the same license -- they only have to pay \$25 for theirs -- and they get two licensed electricians to sign their application, they get a set of license mailed to them.

That wasn't the way that I went through the program. I went through a six year apprentice program and paid my dues and took my test and proved myself, and that is the way that I have always been able to get a jog.

I know that there are thousands and thousands of people in the state that are applying for their license, and I would say they were going to get them, and it is just not right.

I think that everybody that wants an electrician license ought to have to prove

themselves by taking a test; and the IBEW, I am a proud member to be in it, because I know that who I am working beside is a qualified electrician. They didn't buy their license, and that is what is going to happen.

When a construction company from out of state comes in here to build some kind of complex, there is going to be 50 master electricians apply for a job, and there isn't going to be no apprentices, because everybody has got a master electrician license.

Everybody that I have talked to is wanting a masters license. They are not even wanting a journeyman's license. I have had carpet salesmen; I have had everybody come in and ask me to sign their application so they can get a license.

I feel like if a person is qualified, he ought to be able to take the test; and if he passes the test, then he can have a license at any cost. I would pay \$50 or \$100 for my license if

I knew that that is what it took for this program to go ahead, but it looked just like a money deal to me.

They pass a law stating that all electrical work in the State of West Virginia has to be by a licensed electrician and then turn right around and sell licenses without the people being qualified to get them, without having to take no test under the grandfather clause. It is just not right.

It looks like to me just a way to generate revenue; and if they were operating on \$4 a year for my license with the amount of electricians they had back then or before this bill came out, I just couldn't imagine how much money they are going to be bringing in with \$50 per person except for the ones that are getting them through the grandfather clause which have to only pay \$25 for the same license.

If they get issued their license,

they get them for \$25. I am getting penalized because I already had my license. I just don't feel like it is right. That is all I have got to say.

CHAIRMAN FIFE: Thank you. Colonel Bolyard?

MR. BOLYARD: Mr. Chairman, my name is Charles E. Bolyard, Sr. I own and operate Charles E. Bolyard and Son, Incorporated in Kingwood, West Virginia.

We are electrical contractors doing industrial and commercial as well as residence and service and repair electrical work.

I am President of the West Virginia Electrical Contractors Association, and I am representing the members of that trade association as well as my own company in appearing before this public hearing today.

I served on the Electrician Licensing Advisory Committee formed by the State Fire Marshal and attended all meetings of that

group. I represented the electrical contractors' interests as well as the electricians' interests in making recommendations to the Fire Marshal for proposed rules and regulations that will govern, regulate and control the future of our trade and profession.

These regulations are extremely important, for they give the Fire Marshal the power to put me out of business, arrest me, control my activities and regularly collect fees from me.

The West Virginia Electrical Contractors Association does support the electrician licensing law in general and applauds the Legislature for adopting it in order to protect the public and property in West Virginia from substandard, unsafe and non-code-conforming electrical work. We view the law as a giant step forward.

The regulations being considered impact upon the public in general and upon all

West Virginia electricians in particular. We have submitted specific recommendations to be included in the rules during the Advisory Committee process.

Unfortunately, the Fire Marshal has elected not to include in his latest proposed draft regulations many of the points we were seeking. The law permits the Fire Marshal upon request for inspection and the payment of proposed fees of \$100 to inspect residential structures, business structures and mercantile structures as well as upon complaint either on his own initiative or upon request.

The law contemplates that the Fire Marshal's inspectors will determine if the work performed by the licensed electrician is in conformance to both the National Electrical Code, the State Fire Code, and meets the requirements of the laws and regulations.

The West Virginia Electrical Contractors Association is extremely concerned about

the qualifications of personnel employed by the State Fire Marshal to conduct such inspections. We advocate that the rules require that all employees of the State Fire Marshal's Office conducting inspections hold at least a West Virginia master license and that the license be obtained only by passing the required test and that the work experience and other factors involved be applied to them.

In addition, we believe that if the electrical inspector is going to propose to move against a licensed electrician under these laws and make a finding that can result in the loss of the license, employment, livelihood and the elimination of his business, then that inspector be totally knowledgeable.

Consequently, we urge that the regulations require that in addition to a masters license within two years of the adoption of the regulations all inspectors employed by the State

Fire Marshal's Office be required to gain certification as certified electrical inspectors and meet the requirements for certification as adopted by the International Association of Electrical Inspectors.

Our point is: how can an employee of the Fire Marshal's Office who is not totally knowledgeable about all phases of electrical work as proven through testing and certification make the determination of whether or not an electrician deserves to be cited under the law and thus require that electrician to defend himself with lawyers at hearings and in court?

Unqualified inspectors would mean that the law cannot be appropriately administered by the State Fire Marshal, and electricians could be subject to unfair regulation and losses of license as a result of the inspector's lack of knowledge.

We urge that the rules be amended to require the Fire Marshal to employ only those

inspectors who meet the standards as outlined. The last thing we want to see is an inspector from the Fire Marshal's Office who does not know what he is talking about.

Our Association projects that the electricians in West Virginia will contribute approximately one-half million dollars each year to the Fire Marshal in the form of fees, registrations, et cetera.

We believe the regulations should reflect that the Fire Marshal should account to the electricians of West Virginia for activities conducted with our money. If the Fire Marshal takes our fees and spends them to hold dinners and training courses of volunteer firemen, the law will be meaningless, and West Virginia will suffer.

Our Association believes that the Fire Marshal should prepare quarterly reports of monies received from the electricians licensing as well as the expenditures of those monies. We also

want the regulations to require that the Fire Marshal report quarterly the number of citations issued, the licenses cancelled, the tests given, inspections conducted, hearings held, and in general report to the electricians, the State Fire Commission, the Legislature, and public in general the benefits that are being derived from the expenditure of this money.

We support the license fees as well as the inspection fees, but we do want regulations requiring that the Fire Marshal account to the public for the method in which he expends these monies. In other words, we believe that the electrician licensing fees should be spent on licensing, testing, and enforcement of the law and at the same time protecting the public.

The law gives the State Fire Marshal and his deputies and employees almost complete power over the West Virginia electricians. Our industry recognizes the need for professional licensing,

testing and supervision of electricians. However, the State Fire Marshal or his designees could sometime in the future use the provisions of the law to harass electrical contractors, electricians and others.

While we do not anticipate this problem, we urge the State Fire Marshall to make provisions in the regulations that, while protecting the public, also protects electricians from the potential unfair, unknowledgeable or politically motivated citations.

We proposed during the Advisory Board process that the regulations require that the Fire Marshal be required to notify a licensed electrician of minor code deficiencies or of minor violations of law prior to employing the formal legal notification and hearing process for suspension or revocation contemplated under the administrative procedures set forth under Chapter 29A of the West Virginia Code.

All we are asking for is that the Fire Marshal or his employees send an electrician a letter giving him 15 days to correct any minor problems that might exist prior to formally implementing the legal process that could end up in the loss of license.

While the current Fire Marshal might be so kind as to do that sort of thing on his own, subsequent Fire Marshals and their employees may take a different approach. Consequently, we believe that the administrative letter requirements to protect the rights of electricians should be included in the regulations. Electrician licensing, like the licensing of doctors, lawyers and accountants, is our life-blood.

In those cases where an imminent, apparent, gross violation posing immediate danger to health, safety or property is clearly present we recognize that the Fire Marshal should not be required to send a 15-day notice of right to cure

the defect, and that immediate action should be taken on his part.

The only reason we seek this notice of right to cure the defect is to prevent subsequent regulators from abusing the awesome powers that this law conveys to the Fire Marshal.

My comments have primarily surrounded the future of the electrical trade as dictated by the rules and regulations being considered for adoption here today. However, I must take the opportunity to protest formally and publicly the action of the State Fire Marshal in issuing West Virginia electricians licenses to nonresident and nonqualified applicants from other states.

Our legal counsel has notified the State Fire Marshal of that fact and has indicated that the law is clear that only electricians who are working in the State of West Virginia on the date the law was effective and had been working in West

Virginia in the electrical trade for one year prior to the effective date are eligible for grandfathering.

The State Fire Marshal by ignoring those legal provisions clearly appears to be ignoring and violating West Virginia law, but most importantly the State Fire Marshal is not taking the necessary steps in performing his duties to protect the people of West Virginia from the nonresident electricians.

We are truly saddened that our own Fire Marshal's Office has apparently focused on the fees collected from out of state electricians rather than on the law that protects the people of West Virginia and the electrical industry and electricians of this state.

Our organization contemplates immediate legal action to compel the State Fire Marshal to follow the law as it is written and to cease issuing licenses to out of state electricians

and nonresident electricians who do not meet the criteria clearly outlined in the West Virginia Code 29-3B-6.

Subsequent to this testimony and prior to the end of the public comment period on these regulations our Association will present a draft of rules and amendments to existing rules that reflect these positions and others too numerous to mention at this hearing.

We urge the Fire Marshal to incorporate these suggestions as well as those others that we will submit into the final rule that he submits to the Legislature for their consideration.

Our Association will also be an advocate for those positions and the others outlined in our draft rules during the legislative process and will urge all West Virginia electricians to join in the process to make certain that the legislative intent as well as the spirit of the law is

maintained in the regulations.

I am submitting a copy of these remarks for the record of this public hearing.

Thank you, Mr. Chairman.

CHAIRMAN FIFE: Don Anderson.

MR. ANDERSON: My name is Don Anderson. I am from Huntington, West Virginia, 1240 Seventh Avenue. I own and operate Huntington Furnace and Air Conditioning Company, and I am speaking on behalf of the West Virginia Heating and Ventilating Association in Huntington.

I personally applaud the new law. By working in the City of Huntington for many years I and my employees have been required to meet electrical codes. We have been subject to inspections. We have had to be knowledgeable and trained and obtain permits and do the work according to national standards.

Consequently, it is little wonder that our employees are knowledgeable and trained in

their field. He have had thousands of inspections behind us to attest to that fact.

I was happy to make certain that our association supported electrician licensing. I was happy to see that the bill passed and that it gave comprehensive powers to the State Fire Marshal's Office.

My happiness ceased to exist, however, when I learned that the State Fire Marshal was accepting and processing applications for electrician licenses from people from South Point, Ohio; Ironton, Ohio; Ashland, Kentucky; Louisa, Kentucky; Columbus; you name it.

I have learned of individuals who have applied for and been issued electrician licenses when they have never done any electrical work in the State of West Virginia. These people received their licenses anyway, issued by the State Fire Marshal, just in case they ever want to do work in West Virginia. The law does not allow this

policy. However, the Fire Marshal has elected to issue these licenses anyway.

I support the electrical trade. I join our association in supporting professionalism in the practice of the electrical trade in West Virginia. We wholeheartedly support the new law.

We do not support the Fire Marshal's positions, policies and interpretations of that law. We believe that his failure to issue emergency rules for the grandfather provisions of the law was a grievous mistake.

In addition, the failure to follow the law in requiring an in-state or out of state resident to document the requirement of prior work in West Virginia is unforgivable.

The people of West Virginia deserve better. We hope that the Fire Marshal will reconsider -- short of legal action -- and remember that he works for the people of West Virginia and not for Ohio or Kentucky. Thank you.

CHAIRMAN FIFE: G. Shirie Westfall.

MS. WESTFALL: Good afternoon. My name is Shirie Westfall, and I am Office Manager of the West Virginia Manufactured Housing Association.

Our statewide trade association represents manufacturers, suppliers, lenders, dealers and installing contractors who manufacture, sell, distribute and install over 60 percent of all of the new housing in West Virginia.

We congratulate the Fire Marshal, the Legislature and the electrical industry for a major step forward in the requiring of licensing for electricians in West Virginia.

Since June 15, 1976 all manufactured homes built anywhere in this country have had to be built to the National Electrical Code, and the Federal government has an inspection system in place in each plant to assure that fact.

That system has proven the validity of the National Electric Code, and the incidence of

electrical problems, fire, et cetera in factory built housing since the adoption of the Code has been reduced dramatically.

We believe that if properly administered and enforced by the State Fire Marshal's Office, this new law can have the same results with regard to site built structures in West Virginia.

The State Fire Marshal's Office in one of its recent annual reports indicated that electrical fires were one of the primary causes of property loss as well as loss of life due to fire in West Virginia.

We are extremely proud of the fact that national as well as state statistics clearly point to the fact that manufactured housing is safer from electrical fire than any other class of housing. We know that this is directly attributable to the National Code and the inspection process.

We do know, however, that in West

Virginia there is a problem. In many cases retailers, contractors and others sell the factory built home, and the electrical service provided to that home is installed by a local, previously unlicensed and in many cases unqualified electrician.

The new electrician licensing law is a giant step forward. We believe that the law itself is adequate to protect the people and property of West Virginia. However, the key to the overall results lies in the hands of the State Fire Marshal and his deputies.

If the law is not administered properly and according to the legislative intent, the people of West Virginia will suffer.

Our industry's concern is primarily limited to the issue of the correct code governing installation of a code-built, inspected and approved designed unit.

When shipped from the factory our

homes meet the National Electrical Code. During installation and when the main power source is installed from the electric company to the home, that is the time when we find abuses, improper installation, unsafe electrical connections and Code nonconformance.

On behalf of the 3,000 West Virginia families who annually purchase manufactured homes, we urge strong, strict, aggressive and, above all, evenhanded, fair and legal enforcement of the statute by the State Fire Marshal's Office.

We will be submitting detailed written proposed amendments to the regulations subsequent to this public hearing, and we will be strong advocates for their adoption by the Fire Marshal and the Legislature.

We are truly thrilled with the new law, but our industry is saddened by the unresponsive, contradictory, ambiguous and apparently illegal application of the law to date by

the Fire Marshal's Office.

The failure of the Fire Marshal to include in his emergency rules and regulations filed with the Secretary of State's Office on May 19 at 11:50 a.m. language that provides the criteria for the issuance of a master, journeyman or apprentice electrician license under the grandfather provisions is irresponsible.

As a result of that failure, qualified electricians have been denied the ability to perform their trade; while on the other hand unqualified electricians have for some unknown reason been granted access to the main electrical boxes of our homes.

We find this situation to be in direct contradiction to the declaration of purpose stated by the Legislature in the law.

Our Association does not support, and it abhors, the policy established by the State Fire Marshal wherein his office ignores the

requirement that an applicant for electrician license without examination under the grandfather clause be issued a license only after that applicant provide conclusive evidence that he or she was working in this state on the effective date of the law and that he or she had been working here for a period of one year prior to the effective date of the law.

By failing to require this documentation, manufactured housing set-up crews in surrounding states are being issued electrician licenses under the grandfather clause.

The police powers to arrest, cite or withdraw licenses granted to the Fire Marshal under the law are severely hampered when the holder of the license is the resident of another state, and simply cancelling the license after the West Virginia home owner has been irreparably harmed is little help.

In addition, our industry is truly disappointed with the fact that the Fire Marshal's

Office has failed to provide responses to questions raised relative to his administration of the law. We urge the West Virginia Legislative Rule Making and Review Committee as well as the State Fire Marshal and his deputies to review their existing policies and procedures or the absence of policies and procedures in order to assure that the people of West Virginia and those who practice the electrical trade are treated fairly and legally.

We urge that all West Virginia licensed electricians and their employees support the new electrician licensing law, particularly the requirement that calls for all electrical work to be performed in compliance with the National Electrical Code. Our industry knows first-hand how beneficial that is.

Since manufactured homes are required to be built to the Code, we are gratified that now other builders will also begin to meet the Code here in West Virginia.

A copy of my remarks is being presented for the record...

CHAIRMAN FIFE: Thank you. Is there anyone else who wishes to speak on the electricians licensing?

MR. KINDER: My name is Mike Kinder. I live at 124 Greenbriar Lane in Dunbar, West Virginia, and I am representing the International Brotherhood of Electrical Workers.

We by and far support the electrician licensing law, and we would like to go on record as saying that we support the State Fire Marshal and his decisions regarding it.

We will file before the deadline a written proposal on what we would like to see in the legislative rules, but by and far we do support his emergency rules that he did file with the Secretary of State's Office.

As far as the grandfather clause -- I know there has been a lot of discussion on it

today -- but my understanding is it ends the 24th of July, and so it will probably not be covered by these legislative rules. Am I correct?

CHAIRMAN FIFE: I think so.

MR. KINDER: So the addressing as far as I am concerned of the grandfather clause in this hearing is useless, because it will not be addressed, because it will have expired by the time that these final rules are adopted.

We do think the Fire Marshal is doing a good job with this program. We think that it is new; it has a lot of problems with it when it is young that he has worked out, and we do ask this committee that you not tie the Fire Marshal's hands down to where that he has no powers under this.

We think that he is a fair and equitable man and that he will use the power accordingly, and we don't think he is abusive of the powers, and we don't think that the regulations should be so pinpointed that he would be structured

in everything that he does, that he should have some leeway to set policy and procedures in it. Thank you.

CHAIRMAN FIFE: Anyone else wishing to speak? Okay.

(Whereupon, at 1:55 p.m.,  
the hearing was concluded.)

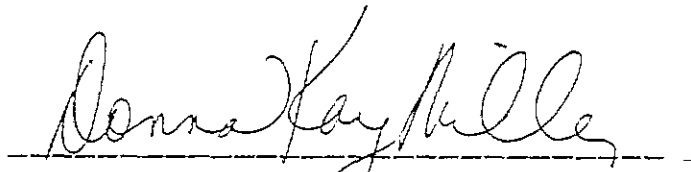
REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,  
COUNTY OF KANAWHA, to wit:

I, Donna Kay Miller, do hereby certify that the foregoing is, to the best of my skill and ability, a true and accurate transcript of all the testimony adduced or proceedings had in the aforementioned case as set forth in the caption hereof.

Given under my hand this 24th day of July, 1989.

My Commission expires November 4, 1992.



Certified Court Reporter

Notary Public

REMARKS BY

CHUCK LAMBERT, VICE PRESIDENT  
WEST VIRGINIA HEATING, VENTILATING AND AIR CONDITIONING ASSOCIATION  
205 FIRST AVENUE, NITRO, WEST VIRGINIA 25143

PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS  
PROMULGATED BY THE STATE FIRE MARSHAL/STATE FIRE COMMISSION  
TO IMPLEMENT THE PROVISIONS OF WEST VIRGINIA CODE 29-3B

JULY 17, 1989

MY NAME IS CHUCK LAMBERT. I AM THE VICE PRESIDENT OF THE WEST VIRGINIA HEATING, VENTILATING AND AIR CONDITIONING ASSOCIATION, AND I OWN LAMBERT'S REFRIGERATION IN BLUEFIELD, WEST VIRGINIA. A COPY OF MY REMARKS WILL BE PROVIDED TO YOU FOR THE RECORDS OF THIS HEARING, AND ADDITIONAL DRAFT LANGUAGE FOR THE PURPOSED REGULATIONS GOVERNING ELECTRICIAN LICENSING IN WEST VIRGINIA WILL ALSO BE SUBMITTED AT A LATER DATE PRIOR TO THE DEADLINE OUTLINED UNDER THE ADMINISTRATIVE PROCEDURES ACT OF WEST VIRGINIA.

I AM GRATEFUL FOR THIS PUBLIC HEARING AND THE OPPORTUNITY FOR WEST VIRGINIA ELECTRICIANS TO BE HEARD. THOSE OF US WHO DO ELECTRICAL WORK ON A CONTINUING BASIS AND HAVE FOR SEVERAL YEARS ARE TRULY HAPPY WITH THE PASSAGE OF THE NEW WEST VIRGINIA ELECTRICIAN LICENSING LAW. OUR ASSOCIATION DID TESTIFY AS AN ADVOCATE FOR THIS LAW AND THE NEED TO LICENSE THE ELECTRICAL TRADE TO ASSURE ADEQUATE PERFORMANCE.

I HOLD APPROPRIATE LICENSES IN THE STATE OF VIRGINIA. BEING FROM BLUEFIELD, WEST VIRGINIA, I KNOW ALL TOO WELL WHAT'S IT'S LIKE

TO WORK IN MORE THAN ONE STATE. FOR MANY YEARS, VIRGINIA HAS PROVIDED PROTECTION TO THEIR PEOPLE FROM ME. THEY MADE SURE THAT I TOOK A TEST, PURCHASED A LICENSE, PAID TAXES AND ADHERED TO THE INDUSTRY LAWS THAT POLICE THE ELECTRICAL TRADE IN VIRGINIA. DURING THOSE SAME YEARS, AND PRIOR TO THE ENACTMENT OF THIS NEW LAW, UNQUALIFIED VIRGINIANS, KENTUCKIANS, TENNESSEEANS, NORTH CAROLINIANS - AND EVERYBODY ELSE IN THE WORLD - COULD WORK WITH IMPUNITY AND WITHOUT QUALIFICATION OR STANDARDS IN WEST VIRGINIA. WHEN OUR ASSOCIATION PROVIDED ME WITH A COPY OF THE NEW LAW, I WAS THRILLED. I THOUGHT, "AT LONG LAST, THE LEGISLATURE HAS FINALLY DONE SOMETHING FOR THE PEOPLE AND FOR THE ELECTRICAL TRADE IN WEST VIRGINIA!" MY MEN AND I ARE THRILLED TO TAKE A TEST, PAY A FEE AND DO WHATEVER IS NECESSARY TO BRING OUR WORK INTO THE 20TH CENTURY!

I THOUGHT, "HOW WONDERFUL IT'S GOING TO BE THAT ELECTRICIANS IN OUR AREA WILL HAVE TO MEET CODE . . . WILL HAVE TO BE QUALIFIED . . . WILL HAVE TO BE ANSWERABLE TO THE STATE FIRE MARSHAL!" I THOUGHT THE FIRE MARSHAL WAS THE POLICEMAN WHO IS CHARGED WITH PROTECTING WEST VIRGINIANS IN REGULATING ELECTRICAL WORK. LITTLE DID I KNOW THAT THE POLICEMAN WOULD JOIN FORCES WITH THOSE WHO, FOR YEARS, HAVE CONTRIBUTED TO THE UNSAFE, ILLEGAL, UNLICENSED, SUBSTANDARD AND NON-CONFORMING ELECTRICAL WORK BEING DONE IN OUR AREA. I THOUGHT THE LAW WAS CLEAR. THE FIRE MARSHAL WAS SUPPOSED TO JOIN FORCES WITH THE GOOD GUYS TO PROTECT THE PUBLIC FROM THE BAD GUYS! UNFORTUNATELY, IT APPEARS THAT THE FIRE MARSHAL IS MORE INTERESTED IN THE FEES THAN IN ENFORCEMENT OF THE LAW AND PROTECTING THE

PUBLIC! MY FRIENDS, COMPETITORS AND ELECTRICIANS ALL OVER THE SOUTHEAST ARE LAUGHING OUT LOUD AS THEY APPLY FOR AND ARE GRANTED A WEST VIRGINIA ELECTRICIAN LICENSE - WITH NO TESTING AND NO CHECKS, EXCEPT THOSE THAT HAVE DOLLARS WRITTEN ON THEM!

I AM NOT AN ATTORNEY. BUT I CAN READ. THE LAW CLEARLY SAYS THAT FOR AN APPLICANT TO BE ELIGIBLE FOR A LICENSE WITHOUT TESTING, THAT APPLICANT HAS TO BE WORKING AS A JOURNEYMAN OR MASTER ELECTRICIAN IN WEST VIRGINIA AS OF THE EFFECTIVE DATE OF THE LAW, AND THAT HE HAD TO HAVE BEEN WORKING FOR A PERIOD OF ONE YEAR IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF THE LAW. VIRGINIA ELECTRICIANS WHO RARELY, IF EVER, DID ANY ELECTRICAL WORK IN WEST VIRGINIA ARE APPLYING FOR - AND BEING ISSUED - LICENSES.

WE THOUGHT THAT MAYBE WE WERE WRONG. MAYBE THERE WAS SOMETHING THAT WE DID NOT UNDERSTAND. SO WE GAVE YOUR LAW TO OUR ATTORNEY AND OUR ATTORNEY WROTE A LETTER WHICH WE SHARED WITH THE FIRE MARSHAL. THAT LETTER CLEARLY SAYS THAT BOTH IN-STATE AND OUT OF STATE APPLICANTS MUST GIVE CONCLUSIVE EVIDENCE THAT THEY MEET THE REQUIREMENTS, AS MENTIONED. I DON'T KNOW THE FIRE MARSHAL PERSONALLY AND HOLD NO PERSONAL ANIMOSITY TOWARD HIM. HOWEVER, I KNOW THAT OUR LEGISLATURE NEVER MEANT FOR UNQUALIFIED PEOPLE FROM OTHER STATES WHO, IN SOME CASES, CAN'T EVEN PASS THE VIRGINIA TEST, TO BE GIVEN LICENSES IN WEST VIRGINIA. ESPECIALLY IF THEY WERE NOT WORKING HERE ON THE EFFECTIVE DATE OF THE LAW, AND NOR WERE THEY WORKING FOR ONE YEAR PRIOR TO THE EFFECTIVE DATE.

THIS IS ONE WEST VIRGINIA BUSINESSMAN WHO IS THRILLED WITH THE LAW THAT HAS BEEN PASSED. THE FAILURE OF THE FIRE MARSHAL TO DEVELOP EMERGENCY RULES AND REGULATIONS TO COVER THE "GRANDFATHERING" PERIOD AND TO FILE THOSE EMERGENCY RULES AND REGULATIONS TIMELY . . . AND TO ESTABLISH CRITERIA . . . AND TO ENFORCE THE LAW AS IT IS WRITTEN IS INEXCUSABLE AND, BASED UPON OUR ATTORNEY'S OPINION, ILLEGAL. WE URGE THE FIRE MARSHAL TO RECONSIDER HIS EARLIER POSITION, SEEK COMPETENT LEGAL COUNSEL AND BEGIN TO ACT ON BEHALF OF THE PEOPLE OF WEST VIRGINIA AND NOT BE SO CONCERNED ABOUT LICENSING UNQUALIFIED OUT OF STATE ELECTRICIANS TO OPERATE IN WEST VIRGINIA.

I THOUGHT THE WEST VIRGINIA FIRE MARSHAL WOULD LOOK AFTER THE INTERESTS OF WEST VIRGINIANS, JUST THE SAME AS THE VIRGINIA FIRE MARSHAL LOOKS AFTER THE INTERESTS OF THE CITIZENS OF THAT STATE. UNFORTUNATELY, IT JUST ISN'T SO!

REMARKS OF

G. SHIRIE WESTFALL, OFFICE MANAGER  
WEST VIRGINIA MANUFACTURED HOUSING ASSOCIATION  
205 FIRST AVENUE, NITRO, WEST VIRGINIA 25143

PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS  
PROMULGATED BY THE STATE FIRE MARSHAL/STATE FIRE COMMISSION  
TO IMPLEMENT THE PROVISIONS OF WEST VIRGINIA CODE §29-3B

JULY 17, 1989

Good afternoon. My name is Shirie Westfall. I am the Office Manager of the West Virginia Manufactured Housing Association. Our statewide trade association represents manufacturers, suppliers, lenders, dealers and installing contractors who manufacture, sell, distribute and install over 60% of all of the new housing in West Virginia. We congratulate the Fire Marshal, the Legislature and the electrical industry for a major step forward in the requiring of licensing for electricians in West Virginia.

Since June 15, 1976, all manufactured homes built anywhere in this country have had to be built to the National Electrical Code and the Federal government has an inspection system in place in each plant to assure that fact. That system has proven the validity of the National Electric Code and the incidence of electrical problems, fires, etc. in factory built housing since the adoption of the Code has been reduced dramatically. We believe that if properly administered and enforced by the State Fire Marshal's Office, this new law can have the same results with regard to site built structures in West Virginia.

The State Fire Marshal's Office, in one of its recent annual reports, indicated that electrical fires were one of the primary

causes of property loss, as well as loss of life, due to fire causes in West Virginia. We're extremely proud of the fact that national, as well as state, statistics clearly point to the fact that manufactured housing is safer from electrical fire than any other class of housing. We know that this is directly attributable to the National Code and the inspection process.

We do know, however, that in West Virginia there is a problem. In many cases, retailers, contractors and others sell the factory built home and the electrical service provided to that home is installed by a local, previously unlicensed and - in many cases - untrained unqualified electrician. The new electrician licensing law is a giant step forward. We believe that the law itself is adequate to protect the people and property of West Virginia. However, the key to the overall results lies in the hands of the State Fire Marshal and his deputies. If the law is not administered properly and according to the legislative intent, the people of West Virginia will suffer.

Our industry's concern is primarily limited to the issue of the correct code governing installation of a code-built, inspected and approved designed unit. When shipped from the factory, our homes meet the National Electrical Code. During installation, and when the main power source is installed from the electric company to the home, that is the time when we find abuses, improper installation, unsafe electrical connections and Code non-conformance.

On behalf of the 3,000 West Virginia families who annually purchase manufactured homes, we urge strong, strict, aggressive and - above all - evenhanded, fair and legal enforcement of the statute by the State Fire Marshal's Office.

We will be submitting detailed written proposed amendments to the regulations subsequent to this public hearing, and we will be strong advocates for their adoption by the Fire Marshal and the Legislature.

We are truly thrilled with the new law; but our industry is saddened by the unresponsive, contradictory, ambiguous and apparently illegal application of the law to date by the Fire Marshal's Office. The failure of the Fire Marshal to include in his emergency rules and regulations filed with the Secretary of State's Office on May 19 at 11:50, AM language that provides the criteria for the issuance of a master, journeyman or apprentice electrician license under the grandfather provisions is irresponsible. As a result of that failure, qualified electricians have been denied the ability to perform their trade while, on the other hand, unqualified electricians have - for some unknown reason - been granted access to the main electrical boxes of our homes! We find this situation to be in direct contradiction to the declaration of purpose stated by the Legislature in the law!

Our Association does not support - and it abhors - the policy established by the State Fire Marshal wherein his Office ignores the requirement that an applicant for electrician license without examination under the grandfather clause be issued a license only after that applicant provides conclusive evidence that he or she was working in this state on the effective date of the law and that he or she had been working here for a period of one year prior to the effective date of the law. By failing to require this documentation, manufactured housing set-up crews in surrounding states are being issued electrician licenses under the grandfather

clause. The police powers to arrest, cite or withdraw licenses granted to the Fire Marshal under the law are severely hampered when the holder of the license is the resident of another state. And simply cancelling the license after the West Virginia home owner has been irreparably harmed is little help! In addition, our industry is truly disappointed with the fact that the Fire Marshal's Office has failed to provide responses to questions raised relative to his administration of the law. We urge the West Virginia Legislative Rule Making and Review Committee, as well as the State Fire Marshal and his deputies, to review their existing policies and procedures - or the absence of policies and procedures - in order to assure that the people of West Virginia and those who practice the electrical trade are treated fairly and legally.

We urge that all West Virginia licensed electricians and their employees support the new electrician licensing law, particularly the requirement that calls for all electrical work to be performed in compliance with the National Electrical Code. Our industry knows first hand how beneficial that is! Since manufactured homes are required to be built to the code, we are gratified that now other builders must also begin to meet the Code here in West Virginia. A copy of my remarks is being presented for the record.

REMARKS BY

DON ANDERSON, TREASURER  
WEST VIRGINIA HEATING, VENTILATING AND AIR CONDITIONING ASSOCIATION  
205 FIRST AVENUE, NITRO, WEST VIRGINIA 25143

PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS  
PROMULGATED BY THE STATE FIRE MARSHAL/STATE FIRE COMMISSION  
TO IMPLEMENT THE PROVISIONS OF WEST VIRGINIA CODE 29-3B

JULY 17, 1989

HELLO. MY NAME IS DON ANDERSON AND I OWN HUNTINGTON FURNACE. I AM ALSO THE TREASURER OF THE WEST VIRGINIA HEATING, VENTILATING AND AIR CONDITIONING ASSOCIATION. I PERSONALLY APPLAUD THE NEW LAW. BY WORKING IN THE CITY OF HUNTINGTON FOR MANY YEARS, I AND MY EMPLOYEES HAVE BEEN REQUIRED TO MEET ELECTRICAL CODES. WE HAVE BEEN SUBJECT TO INSPECTIONS. WE HAVE HAD TO BE KNOWLEDGEABLE AND TRAINED AND OBTAIN PERMITS AND DO THE WORK ACCORDING TO NATIONAL STANDARDS. CONSEQUENTLY, IT'S LITTLE WONDER THAT OUR EMPLOYEES ARE KNOWLEDGEABLE AND TRAINED IN THEIR FIELD. WE HAVE THOUSANDS OF INSPECTIONS BEHIND US TO ATTEST TO THAT FACT.

I WAS HAPPY TO MAKE CERTAIN THAT OUR ASSOCIATION SUPPORTED ELECTRICIAN LICENSING. I WAS HAPPY TO SEE THAT THE BILL PASSED AND THAT IT GAVE COMPREHENSIVE POWERS TO THE STATE FIRE MARSHAL'S OFFICE. MY HAPPINESS CEASED TO EXIST, HOWEVER, WHEN I LEARNED THAT THE STATE FIRE MARSHAL WAS ACCEPTING AND PROCESSING APPLICATIONS FOR ELECTRICIAN LICENSES FROM PEOPLE FROM SOUTH POINT, OHIO . . IRONTON, OHIO . . ASHLAND, KENTUCKY . . LOUISA, KENTUCKY . . COLUMBUS, OHIO . . YOU NAME IT!

I HAVE LEARNED OF INDIVIDUALS WHO HAVE APPLIED FOR AND BEEN ISSUED ELECTRICIAN LICENSES, WHEN THEY HAVE NEVER DONE ANY ELECTRICAL WORK IN THE STATE OF WEST VIRGINIA. THESE PEOPLE RECEIVED THEIR LICENSES ANYWAY - ISSUED BY THE STATE FIRE MARSHAL, JUST IN CASE THEY EVER WANT TO DO SOME WORK IN WEST VIRGINIA. THE LAW DOES NOT ALLOW THIS POLICY. HOWEVER, THE FIRE MARSHAL HAS ELECTED TO ISSUE THESE LICENSES ANYWAY.

I SUPPORT THE ELECTRICAL TRADE. I JOIN OUR ASSOCIATION IN SUPPORTING PROFESSIONALISM IN THE PRACTICE OF THE ELECTRICAL TRADE IN WEST VIRGINIA. WE WHOLEHEARTEDLY SUPPORT THE NEW LAW - WE DO NOT SUPPORT THE FIRE MARSHAL'S POSITIONS, POLICIES AND INTERPRETATIONS OF THAT LAW! WE BELIEVE THAT HIS FAILURE TO ISSUE EMERGENCY RULES FOR THE GRANDFATHER PROVISIONS OF THE LAW WAS A GRIEVOUS MISTAKE!

IN ADDITION, THE FAILURE TO FOLLOW THE LAW IN REQUIRING AN IN-STATE OR OUT OF STATE RESIDENT TO DOCUMENT THE REQUIREMENT OF PRIOR WORK IN WEST VIRGINIA IS UNFORGIVABLE. THE PEOPLE OF WEST VIRGINIA DESERVE BETTER. WE HOPE THAT THE FIRE MARSHAL WILL RECONSIDER - SHORT OF LEGAL ACTION - AND REMEMBER THAT HE WORKS FOR THE PEOPLE OF WEST VIRGINIA AND NOT FOR OHIO OR KENTUCKY!

REMARKS BY

CHARLES E. BOLYARD, President  
West Virginia Electrical Contractors Association  
205 First Avenue, Nitro, WV 25143

PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS  
PROMULGATED BY THE STATE FIRE MARSHAL/STATE FIRE COMMISSION  
TO IMPLEMENT THE PROVISIONS OF WEST VIRGINIA CODE 29-3B

July 17, 1989

My name is Charles E. Bolyard, Sr. I own and operate Charles E. Bolyard & Son, Inc. in Kingwood, West Virginia. We are electrical contractor doing industrial and commercial, as well as resident and service/repair electrical work. In addition, my company does heating, ventilating and air conditioning work. I am President of the West Virginia Electrical Contractors Association and I am representing the members of that trade association, as well as my own company, in appearing before this public hearing today.

I served on the Electrician Licensing Advisory Committee formed by the State Fire Marshal and attended all meetings of that group. I represented the electrical contractors' interests, as well as electricians' interests, in making recommendations to the Fire Marshal for the proposed rules and regulations that will govern, regulate and control the future of our trade and profession. These regulations are extremely important, for they give the Fire Marshal the power to put me out of business, arrest me, control my activities and regularly collect license fees from me.

The West Virginia Electrical Contractors Association does support the electrician licensing law in general and applauds the Legislature for adopting it in order to protect the public and property in West Virginia from substandard, unsafe and non-code-conforming electrical work. We view the law as a giant step forward.

The regulations being considered impact upon the public in general and upon all West Virginia electricians in particular. We have submitted specific recommendations to be included in the rules during the Advisory Committee process. Unfortunately, the Fire Marshal has elected not to include in his latest proposed draft regulations many of the points we were seeking. The law permits the Fire Marshal, upon request for inspection and the payment of a proposed fee of \$100, to inspect residential structures, business structures and mercantile structures, as well as upon complaint, either on his own initiative or upon request. The law contemplates that the Fire Marshal's inspectors will determine if the work performed by licensed electricians is in conformance to both the National Electrical Code and the State Fire Code and meets the requirements of other laws and regulations.

The West Virginia Electrical Contractors Association is extremely concerned about the qualifications of the personnel employed by the Fire Marshal to conduct such inspections. We advocate that the rules require that all employees of the State Fire

Marshal's Office conducting inspections hold at least a West Virginia master licenses and that the license be obtained only by passing the required test and that the work experience and other factors involved be applied to them. And, in addition, we believe that if an electrical inspector is going to propose to move against a licensed electrician under this law and make a finding that can result in his loss of license, employment and livelihood and the elimination of his business, then that inspector should be totally knowledgeable.

Consequently, we urge that the regulations require that, in addition to a master license, within two years of the adoption of the regulations all inspectors employed by the Fire Marshal's Office be required to gain certification as certified electrical inspectors and meet the requirements for certification as adopted by the International Association of Electrical Inspectors. Our point is: How can an employee of the Fire Marshal's Office who is not totally knowledgeable about all phases of electrical work, as proven through testing and certification, make a determination of whether or not an electrician deserves to be cited under the law and thus require that electrician to defend himself with lawyers, at hearings and in court? Unqualified inspectors would mean that the law cannot be appropriately administered by the Fire Marshal and electricians could be subjected to unfair regulation and loss of license as a result of an inspector's lack of knowledge. We urge that the rules be amended to require the Fire Marshal to employ only those

inspectors who meet the standards as outlined. The last thing we want to see is an inspector from the Fire Marshal's Office who doesn't know what he's talking about!

Our Association projects that electricians in West Virginia will contribute approximately one-half million dollars each year to the Fire Marshal in the form of fees, registration, etc. We believe the regulations should reflect that the Fire Marshal should account to the electricians of West Virginia for activities conducted with our money. If the Fire Marshal takes our fees and spends them to hold dinners and training courses for volunteer firemen, the law will be meaningless and West Virginia will suffer. Our Association believes that the Fire Marshal should prepare quarterly a report of monies received from electrician licensing, as well as the expenditures of those monies. We also want the regulations to require that the Fire Marshal report quarterly the number of citations issued, licenses cancelled, tests given, inspections conducted, hearings held and, in general, report to the electricians, the State Fire Commission, the Legislature and the public in general the benefits that are being derived from the expenditure of this money.

We support the license fees, as well as the inspection fees. But we do want regulations requiring that the Fire Marshal account to the public for the method in which he expends these monies. In other words, we believe that electrician licensing fees should be spent on licensing, testing and enforcement of the law and, at the same time, protecting the public.

The law gives the State Fire Marshal and his deputies and employees almost complete power over West Virginia's electricians. Our industry recognizes the need for professional licensing, testing and supervision of electricians. However, the State Fire Marshal or his designees could, sometime in the future, use the provisions of law to harass electrical contractors, electricians and others. While we do not anticipate this problem, we urge the State Fire Marshal to make provisions in the regulations that, while protecting the public, also protects electricians from the potential unfair, unknowledgeable or politically motivated citations.

We proposed during the Advisory Board process that the regulations require that the Fire Marshal be required to notify a licensed electrician of minor code deficiencies or of minor violations of law prior to employing the formal legal notification and hearing process for suspension or revocation contemplated under the Administrative Procedures set forth under Chapter 29A of the West Virginia code. All we're asking for is that the Fire Marshal or his employees send an electrician a letter giving him 15 days to correct any minor problems that might exist prior to formally implementing the legal process that could end up in the loss of license. While the current Fire Marshal might be so kind as to do that sort of thing on his own, subsequent Fire Marshals and their employees may take a different approach. Consequently, we believe that the administrative letter requirements to protect the rights of electricians should be included in the regulations. Electrician

licensing - like the licensing of doctors, lawyers and accountants - is our life-blood.

In those cases where an imminent, apparent, gross violations posing immediate danger to health, safety or property is clearly present, we recognize that the Fire Marshal should not be required to send a 15-day notice of right to cure a defect and that immediate action should be taken on his part. The only reason we seek this notice of right to cure defect is to prevent subsequent regulators from abusing the awesome powers that this law conveys to the Fire Marshal.

My comments have primarily surrounded the future of the electrical trade as dictated by the rules and regulations being considered for adoption here today. However, I must take this opportunity to protest formally and publicly the action of the State Fire Marshal in issuing West Virginia electrician licenses to nonresidents and non-qualifying applicants from other states. Our legal counsel has notified the State Fire Marshal of that fact and that counsel has indicated that the law is clear that only electricians who are working in West Virginia on the date the law was effective and had been working in West Virginia in the electrical trade for one year prior to that effective date are eligible for grandfathering. The State Fire Marshal, by ignoring those legal provisions, clearly appears to be ignoring and violating West Virginia law. But, most importantly, the State Fire Marshal is not taking the necessary

steps in performing his duties to protect the people of West Virginia from nonresident electricians.

We are truly saddened that our own Fire Marshal's Office has apparently focused on the fees collected from out of state electricians, rather than on the law that protects the people of West Virginia and the electrical industry and electricians of this state. Our organization contemplates immediate legal action to compel the Fire Marshal to follow the law as it is written and to cease issuing licenses to out of state electricians and nonresident electricians who do not meet the criteria clearly outlined in West Virginia Code 29-3B-6.

Subsequent to this testimony and prior to the end of the public comment period on these regulations, our Association will present draft rules or amendments to existing rules that reflect these positions and other to numerous to mention at this hearing. We urge the Fire Marshal to incorporate these suggestions, as well as those others that we will submit, into the final rule that he submits to the Legislature for their consideration. Our Association will also be an advocate for these positions and the others outlined in our draft rules during the legislative process and will urge all West Virginia electricians to join in the process to make certain that the legislative intent, as well as the spirit, of the law is maintained in the regulations. I am submitting a copy of these remarks for the record of this public hearing.

# Certification Examinations For Construction Code Inspectors

The Construction Code Inspector Certification Examinations have been developed by several model code groups, national inspection organizations and 12 states in collaboration with Educational Testing Service. These organizations have joined together to establish a testing program that will provide nationally recognized evidence of competence and professionalism in construction code enforcement. The examinations are based on the model codes for each discipline.

The purpose of the examination program is to provide a basis for determining competency of a person as a construction inspector or plan reviewer. In order to take an examination you must register with one of the states, organizations or authorized agents listed in the *Candidate Bulletin of Information*. This *Bulletin of Information* is available free by writing to the International office: IAIEI, 930 Busse Highway, Park Ridge, Illinois 60068-2398. The states, organizations or authorized agents have agreed to recognize the scores obtained on an examination.

The examinations are scheduled semi-annually and are given at approximately 75 locations throughout the United States in spring and fall.

There are 14 separate examinations designed to measure competence in the areas of building, electrical, fire protection, mechanical, plumbing and elevator. All examinations are open-book examinations. A list of specific code books (by examination area) that may be used and recommendation regarding other reference materials are given in the Practice Test section of the *Bulletin of Information*. However, the use of published copyrighted materials other than those listed in the *Bulletin* are permitted.

The 14 examinations are as follows:

- Building 1 & 2 Family Dwelling
- Electrical 1 & 2 Family Dwelling
- Mechanical 1 & 2 Family Dwelling
- Plumbing 1 & 2 Family Dwelling
- Building General
- Electrical General
- Fire Protection General
- Mechanical General
- Plumbing General
- Elevator General
- Building Plan Review
- Electrical Plan Review
- Fire Protection Plan Review
- Plumbing Plan Review

The emphasis in the one and two-family dwelling tests is on inspection and basic plan review functions.

The general inspection tests cover structures/installations other than one and two family. The emphasis is on the major occupancy/use/installation problems in one to four-story structures. (Some basic high-rise-specific problems are covered.)

The plan review tests are mainly concerned with the identification of design errors, the ability to perform required calculations accurately, and verification that proposed installations, systems, devices, or materials meet code requirements. Emphasis is on the occupancy/use/hazard classifications and problems that are most frequently encountered.

In several of the examinations, Building Plan Review, Plumbing General, and Building General, you are presented

with a set of plans (or layout of an installation) and you are asked to identify the design (or the installation) errors. You then must answer questions about the errors that you found.

It is recognized that on-the-job you should always have access to a set of plans (and until or unless a particular installation is covered, you can always review the layout). The point is that once you have made a determination as to what is wrong (errors of omission and commission), a report is made. What needs to be evaluated is the completeness and accuracy of the reported list of errors. The only way to test this in an objective manner is to have you list all the errors that you would include in a report and then have you use this list to answer questions about possible design or installation errors.

The first national test was administered in September 1980.

Future test dates are:

Saturday October 29, 1988

Saturday April 22, 1989

## How To Register

In order to be properly registered and to avoid any delay, it is extremely important that the registration form be carefully and correctly completed.

The following instructions correspond to items on the registration form:

1. **NAME.** Print your last name, first name, and middle initial, one letter to a box. Do not use nicknames.
2. **HOME ADDRESS.** Print only one number or letter to a box, and skip a box where a space would normally appear. Be sure to enter your U.S. ZIP code in the appropriate boxes provided. Use Postal Service approved abbreviations for completing this section.
3. **DATE OF BIRTH.** Enter day, month, year, using numerals only. This information is important for research purposes.
4. **TELEPHONE NUMBER.** Enter the telephone number at which you may be contacted during the day concerning your registration.
5. **TEST CENTER.** Select the city most convenient for you from the test center list printed below and in the *Bulletin of Information*. Your admission ticket will show the specific location to which you should report. **TEST CENTERS WILL ONLY BE OPENED IF 5 OR MORE CANDIDATES REGISTER.**

In response to candidate inquiries concerning longer sessions so they may take a maximum of four tests, specific test sites have been designated that will offer this option and these test sites are marked with an asterisk. These centers will be open all day therefore allowing candidates the time to sit for a maximum of four exams. Candidates registering for three or four tests must request these test sites. Candidates taking only one to two tests may also attend these centers. All other test centers will only be open for one long morning session therefore allowing candidates to take one or two tests.

6. **TEST DATE.** This registration form will be processed, if received with appropriate fee and completed, for the test date indicated.



7. **EDUCATION.** Check the appropriate box for the highest level attained.

8. **BIOGRAPHICAL INFORMATION.** Check the appropriate boxes.

9. **TESTS.** Mark the boxes next to the test(s) you plan to take. You may take up to four tests. Candidates taking the Elevator General test may only take three tests.

10. **STATE, ORGANIZATION OR AUTHORIZED AGENT.** Using the list of State Codes provided, fill in your two digit state code in the appropriate boxes.

11. **TEST FEES.** Count the number of boxes you have marked for the 1 & 2 Family tests. Multiply this number by \$30. Next, count the number of boxes you have marked for the General and/or Plan Review tests. Multiply this number by \$30. Add the Registration Fee of \$25 and compute your total fee.

Write the fee in the space provided and pay the amount shown. Be sure to include a check or money order for the full

amount made payable to N.C.P.C.I. Do not send cash. Registrations received with incorrect fees will be returned to the applicant.

In the space provided please indicate whether the fee is being paid by the employer or by the candidate. In this way, we will know to whom we should send the check should a refund be requested.

**SIGNATURE.** Sign your name as you would sign a check or other document.

Return your registration form and check or money order to:

National Certification Program  
For Construction Code Inspectors

P.O. Box 6508

Princeton, New Jersey 08541-6508

Registration Deadline Date: September 19, 1988

Test Date: October 29, 1988

**Note:** A list of persons awarded certificates for the certification exams given April 23, 1988 will be printed in the September/October 1988 issue of *IAEI News*.

### State Codes & Probable Test Center Locations

Test centers available for candidates who wish to take more than two exams have been marked with an asterisk.

Test centers will only be opened if 5 or more candidates register.

10 Alabama 0101 Birmingham	21 Hawaii 1201 Honolulu	30 Maryland 2101 Baltimore*	38 Nevada 2902 Reno	45 Oklahoma 3701 Oklahoma City 3705 Tulsa*	54 Utah 4501 Salt Lake City
11 Alaska 0201 Anchorage	22 Idaho 1301 Boise	31 Massachusetts 2201 Boston 2202 Springfield	39 New Hampshire 3001 Concord	47 Oregon 3801 Portland 3802 Salem*	55 Vermont 4601 Burlington
12 Arizona 0301 Phoenix	23 Illinois 1402 Chicago 1403 Peoria*	32 Michigan 2303 Muskegon 2304 Ann Arbor	40 New Jersey 3101 Montclair 3102 Trenton* 3103 Camden 3104 Mays Landing 3105 Toms River* 3106 Englewood	48 Pennsylvania 3901 Altoona 3902 Harrisburg* 3903 Philadelphia 3904 Pittsburgh 3905 Scranton 3906 State College	56 Virginia 4701 Alexandria 4702 Norfolk 4703 Richmond* 4704 Roanoke 4705 Charlottesville 4706 Winchester
13 Arkansas 0401 Little Rock	24 Indiana 1503 Indianapolis* 1505 Elkhart*	33 Minnesota 2402 Minneapolis	41 New Mexico 3201 Albuquerque	49 Rhode Island 4001 Providence	57 Washington 4801 Seattle 4802 Spokane
14 California 0501 Los Angeles 0504 San Francisco	25 Iowa 1601 Des Moines	34 Mississippi 2502 Jackson	42 New York 3301 Albany	50 South Carolina 4101 Charleston	58 West Virginia 4901 Charleston
15 Colorado 0601 Denver	26 Kansas 1701 Wichita	35 Missouri 2602 St. Louis 2603 Kansas City*	43 North Carolina 3402 Charlotte 3403 Raleigh	51 South Dakota 4202 Sioux Falls	59 Wisconsin 5001 Madison 5002 Milwaukee* 5003 Wausau
16 Connecticut 0701 New Haven*	27 Kentucky 1801 Louisville 1803 Lexington*	36 Montana 2701 Billings 2702 Helena	44 North Dakota 3501 Bismarck*	52 Tennessee 4303 Nashville 4305 Johnson City*	60 Wyoming 5101 Cheyenne 5105 Powell
19 Florida 1001 Miami 1002 Orlando*	28 Louisiana 1901 New Orleans	37 Nebraska 2801 Omaha	45 Ohio 3601 Cincinnati 3602 Cleveland 3603 Columbus*	53 Texas 4404 Houston 4407 Lubbock	
20 Georgia 1101 Atlanta	29 Maine 2001 Portland				

## APPLICATION FOR 25 YEAR MEMBERSHIP CERTIFICATE

Have you been a member of the IAEI for 25 consecutive years or more? If you qualify and would like to receive a certificate, please fill out the application form below, clip it out, and mail it to:

International Association of Electrical Inspectors  
930 Busse Highway, Park Ridge, IL 60068

Member's Name		Active Associate	<input type="checkbox"/>	Member's Number
Street Address	City	State	Zip Code	
Month, year and name of state when joining IAEI		Member's Signature		
Have you been a member continuously since joining?		YES <input type="checkbox"/>	Date	
		NO <input type="checkbox"/>		

REMARKS BY HAROLD E. FORLOINE, PRESIDENT  
WEST VIRGINIA HEATING, VENTILATING & AIR CONDITIONING ASSOCIATION  
205 FIRST AVENUE, NITRO, WEST VIRGINIA 25143  
AT A PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS PROMULGATED BY THE  
STATE FIRE MARSHAL AND THE STATE FIRE COMMISSION TO IMPLEMENT  
THE PROVISIONS OF WEST VIRGINIA CODE §29-3B

JULY 17, 1989

My name is Harold E. Forloine. I am President of Teays Valley Heating and Cooling. I also serve as President of the West Virginia Heating, Ventilating and Air Conditioning Association, which represents over 800 contractors who do heating, ventilating and air conditioning work throughout West Virginia. In the case of my own company and many other members of the Association, we do industrial, commercial and residential work. Although the name of my business says "heating and cooling", we also do general contracting, electrical work, plumbing and other specialized craft work.

As President of the West Virginia HVAC Association, I was happy to serve on the Advisory Committee that advised the State Fire Marshal about the rules and regulations regarding electrician licensing. I am happy to say that the Fire Marshal has, in his latest draft, adopted many of the suggestions submitted by our Association, as well as the West Virginia Electrical Contractors Association. I am happy that many of my fellow Advisory Board members saw fit to include many of those suggestions. At the same time, I am also perplexed by the fact that the Fire Marshal has failed to incorporate other suggestions which we think are extremely important.

I am not going to try to outline our entire formal draft of amendments to the proposed rules and regulations. Those will be submitted to the Fire Marshal and subsequently to the Legislative Review Committee during the allocated time frame and in an appropriate manner. During this hearing, my goal is to outline and repeat our strong advocacy for additions and/or amendments to the draft regulations. We would respectfully submit that the law clearly and without question requires, in Chapter 29-3B-2, that the electrician's license must be posted on any job in which electrical work is being performed for hire. We urge that "posting" of the license be defined. Without an adequate definition of "posting", electricians doing work could be cited, fined or even lose their license for "failure to post". By defining and clarifying "posting" in the regulations, a "grey area" for those doing electrical work will be cleared up, as well as the police powers granted to you and others under the law.

The law also states that no electrical work may be performed, offered or engaged in for compensation and hire within the state of West Virginia without a license. "Performing or engaging in electrical work" is clear. However, we urge that the rules define what constitutes an "offer to do electrical work". Unless the rules clearly identify what constitutes an offer to do electrical work, your Office will be caught in a "grey area" in trying to prosecute people who offer to do electrical work without a license.

We believe that it is "offering to do electrical work" when you announce, display, provide notice, advise, provide written or verbal price quotations with the intention to provide electrical

work for here. We urge the inclusion of such a definition in the proposed regulations.

The law provides the State Fire Marshal with broad, comprehensive police powers granted by the Legislature. Those police powers are expanded by the rule stating that electrical work that is not performed in accordance with the National Electrical Code is justification for suspension or revocation of an electrician's license. We subscribe to that concept. However, which edition of the National Electrical Code will be enforced? The State Fire Commission adopts a specific edition of the Code as a part of the Uniform Statewide Building Code. The Code is revised periodically. In exercising your strong police power, which edition of the National Electrical Code will be enforced? The same one promulgated by the State Fire Commission? The most recent edition published by the NFPA? Or the edition of the Code book that your designee happens to possess?

Since the Code changes and the rules will not, we urge that the rules be modified to indicate that the edition of the Code being used under the Uniform Statewide Building Code be the same edition of the Code that is enforced under the provisions of these regulations.

We have been advised by our legal counsel that this law contemplates broad police powers being vested in the State Fire Marshal and his deputites in regulating licensed electricians. We, consequently, urge the Fire Marshal to adopt as a part of the rules a formal policy of issuing administrative notices for minor non-compliances with the law prior to implementing and initiating

proceedings that would result in the suspension or revocation of an electrician's ability to earn a living in West Virginia. We, likewise, recognize that such notice to cure a minor defect or administrative notice to comply would not be issued in the event that the Fire Marshal or his deputy determined that an imminent safety hazard or danger to the health, welfare and safety of the public or public or private property exists.

We will submit to the Fire Marshal and to the Legislature, and urge their inclusion in the regulations, language that will require the Fire Marshal to expend fees collected from electrician licensing directly into the enforcement of this law and its regulations. We urge the Fire Marshal's aggressive pursuit of unlicensed unqualified and illegal electricians throughout West Virginia. We believe the regulations should reflect and require the Fire Marshal to make appropriate public reports of his activities and performance in enforcing this law and to generally account to the people of West Virginia for the expenditure of the estimated \$500,000 annually that will be paid by licensed electricians to the Fire Marshal.

We further support the proposal that the Fire Marshal's staff be qualified and certified by appropriate testing agencies as electrical inspectors. We further urge - and will submit language that will establish - the clarification of the authority granted to the various classes of licenses under the law. Since the passage of the law, the State Fire Marshal has been unclear, unresponsive to requests, contradictory and ambiguous about the authority granted to journeymen, apprentices and master electricians.

Now it is vital that I comment that it is the opinion of thousands of West Virginia workers that our Association represents that the Fire Marshal is in violation of West Virginia law in issuing licenses without examination to applicants for such licenses under West Virginia Code §29-3B-6. In view of the fact that the Legislature was specific in granting police powers to the Fire Marshal, we believe that the Fire Marshal has ignored the requirements of his responsibility under the law and has operated in such a manner that fails to protect the health, safety and welfare of the people, as well as the public and private property, of our state. Of special concern to our Association is the fact that electricians in West Virginia are being subjected to mismanagement, arbitrary and capricious acts, misstatements by the Fire Marshal and his staff, as a result of the administration of this law.

We urge that the Fire Marshal immediately revise his procedures accordingly. A copy of these remarks is available for the hearing records and our Association reserves the right to file written comments prepared by our members and/or our legal counsel within the time frame specified.

205 FIRST AVENUE



NITRO, WV 25143 (304) 727-7441

July 26, 1989

**RECEIVED**  
JUL 27 1989

**WV FIRE COMM  
STATE FIRE MARSHAL**

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2100 Washington Street, East  
Charleston, WV 25305

RE: Comments on Proposed Rules of State Fire Commission  
Title 87; Chapter 29, Article 3, Section 5; Series II  
Electrician Licensing Legislative Rules

Dear Mr. Smittle:

Please consider the comments outlined below in addition to those comments I have prepared and submitted earlier during the public hearing held on this issue:

1) The West Virginia Electrical Contractors Association recognizes that the very heart of the legislation regulating electricians is the testing requirement as outlined in West Virginia Code §29-3B-5(c). In addition, it is vitally important that West Virginia electricians licensed under the new law have an opportunity to practice the electrical trade in other states under reciprocal agreements with licensing and testing government entities in those states. We would urge that the permanent rule include language that assures that any tests or examinations that are proposed to be used by the Fire Marshal to determine an applicant's qualifications, experience, knowledge, etc. are developed professionally.

The West Virginia Electrical Contractors Association recognizes the professional services provided most testing jurisdictions nationally by the Educational Testing Service, a firm recognized for its testing of all types of construction and building trades, craftsmen and tradesmen. Frankly, we fear that those who develop the test in West Virginia will be inexperienced and lack the professional background to establish a testing program that is both cost effective and recognized as meeting national standards. Although the law simply states that the tests must be based on and derived from the National Electrical Code and provides that, in order to pass the test, a minimum grade of 80% must be attained, this language does little to assure that a professional level is established in the testing procedure.

LETTER: Walter Smittle, III, State Fire Marshal  
RE: Public Comments on Proposed Electrician  
Licensing Legislative Rules  
DATE: July 26, 1989  
PAGE: Two

Consequently, we would urge that the rules (a) include and reference the Educational Testing Service as an option to provide the tests to the Fire Marshal or (b) require that that firm (or another similar one) be employed to review any tests that may be developed by the Bureau of Vocational, Technical and Adult Education, State Department of Education and/or others, including the State Fire Marshal. Without nationally recognized expertise in reviewing the difficulty of and level of experience required to pass the test, we feel that other states will be hesitant to accept West Virginia licensees as qualified tradesmen. Just as devastating would be a test that is too easy and does not adequately test the applicant's knowledge in appropriate areas. And, in addition, the test will be no better than the qualifications of the individual(s) who develop the testing mechanism, criteria, etc.

In review, we would urge that a national testing agency be required to (a) develop the test for the Fire Marshal to administer or (b) review the test prior to the Fire Marshal administering it to certify that it is in general conformance with similar tests given in other states and jurisdictions.

2) Since the passage of the law, our industry has had great difficulty in receiving direct, factual, concise answers to inquiries submitted in writing or verbally. As a result of the fact that many of the administrative issues that have surfaced to date were not professionally addressed in your emergency rules and regulations now in effect, we feel that many West Virginia electricians - employers as well as employees - and the public in general have been done great harm. We are unable to definitely ascertain the extent of our damages in view of the fact that many policy decisions, administrative matters and legal interpretations by your office are still unclear and unstated and are not included in any rule, regulation, interpretive letter or other document we have sought.

Consequently, we would urge that the rules and regulations specifically indicate what, if any, limitations are placed upon the holders of licenses of various classes. Employees of your office have indicated that the holders of journeyman licenses can do "any kind of HVAC work with a journeyman license". Others discussing the same topic with you or your personnel have received conflicting information.

LETTER: Walter Smittle, III, State Fire Marshal  
RE: Public Comments on Proposed Electrician  
Licensing Legislative Rules  
DATE: July 26, 1989  
PAGE: Three

In addition, it appears that the rules are unclear as to what constitutes "posting" as required under 29-3B-2. We would also urge that your rules define what constitutes "offered" or "offering to do electrical work for compensation or hire".

3) Of continuing concern to our industry is the failure of your draft rules and regulations and your emergency rules and regulations to clearly reconcile your interpretation of the words "National Electrical Code" with the same requirement incorporated in the State Building Code as prescribed by West Virginia Code §29-3-5b and its resultant Legislative Rule. It would appear that unless some language exists in either your proposed rules or the existing rule of the State Fire Commission relative to the Statewide Building Code that no clear legal direction is given relative to which edition of the National Electrical Code is being enforced under the various sections. By your own admission, the Code books that your employees currently possess are old and antiquated. Our records indicate that the Uniform Statewide Building Code has incorporated within its criteria the 1987 edition of the National Electrical Code. Your draft rules just simply state the "National Electrical Code". Your rules should specifically indicate a linkage between the edition that you will enforce under this statute and the one enforced under §29-3-5b, as well as Rules Title 87, Series 4, relative to the Statewide Building Code.

Submitted on behalf of the West Virginia  
Electrical Contractors Association,

*Charles E. Bolyard, Jr.*

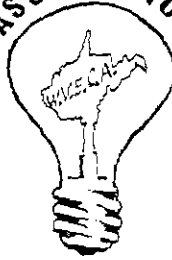
Charles E. Bolyard, President, WVECA

CEB:gs

CC: WV Legislative Rule Making & Review Committee

205 FIRST AVENUE

WEST VIRGINIA  
ELECTRICAL CONTRACTORS  
ASSOCIATION



NITRO, WV 25143 (304) 727-7441

July 26, 1989

**RECEIVED**  
JUL 27 1989

**WV FIRE COMM  
STATE FIRE MARSHAL**

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2100 Washington Street, East  
Charleston, WV 25305

RE: Comments on Proposed Rules of State Fire Commission  
Title 87; Chapter 29, Article 3, Section 5; Series II  
Electrician Licensing Legislative Rules

Dear Mr. Smittle:

Attached and made a part of these comments are copies of the following items:

- Our Executive Director's letter to you dated May 30, 1989 requesting clarification on your policy of accepting out of state individuals as attesting electricians on applications for electrician license.
- Your letter of June 6, 1989 in response to my May 30, 1989 inquiry.
- My June 21, 1989 letter to you relative to the employment of private legal counsel to interpret the law and comment on your administrative policies relative to its enforcement.
- Our June 27, 1989 letter to you relative to the legal opinion issued by the legal counsel we retained jointly with the West Virginia HVAC Association.
- Our letter of July 13, 1989 requesting a response to our previous inquiries.
- Your July 17 response to my letter of July 13, 1989.

Also enclosed is a copy of my remarks presented at the public hearing held on July 17, 1989.

LETTER: -Walter Smittle, III, State Fire Marshal  
RE: Public Comments on Proposed Electrician  
Licensing Legislative Rules  
DATE: July 26, 1989  
PAGE: Two

These documents are presented as a part of the public record. You are hereby requested to include them in the materials submitted to the Legislative Rule Making and Review Committee for consideration in the drafting the rules and regulations.

These documents clearly point to the fact that certain issues have not been addressed in your emergency rules and regulations or in the proposed Legislative Rules. On behalf of the West Virginia Electrical Contractors Association, I urge that you seriously consider our suggestions for inclusion in the Rules.

Sincerely yours,

*Charles E. Bolyard, Sr.*

Charles E. Bolyard, Sr.  
President

CEB:gsw  
Enc.

205 FIRST AVENUE



NITRO, WV 25143 (304) 727-7441

May 30, 1989

Mr. Walter Smittle, III  
State Fire Marshal  
2000 Quarrier Street  
Charleston, W. Va. 25305

Dear Mr. Smittle:

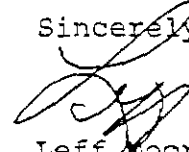
A few days ago, I contacted you by telephone to pose the following question; in order to obtain a West Virginia electrician's license under the grandfathering provisions of the new law, the form requests and requires that two "electricians" be required to attest to the applicant's qualifications. The question is, does the licensed electrician attesting to the qualifications of the applicant have to hold a current West Virginia electrician's license? My notes indicate that your reply to that question was yes. I subsequently had a conversation with Mr. David Woods, your Deputy, the reason I contacted Mr. Woods was several electricians from other parts of West Virginia have contacted me and indicated that they have received conflicting information from Mr. Woods. Upon putting the question to Mr. Woods, he indicated that it was only necessary for the attesting electrician to have an electrician's license. In other words, an electrician from another state could attest to the qualifications of the West Virginia applicant. The purpose of this letter is to request your clarification and a ruling on your department's position on this matter.

In the way of comment, the West Virginia Electrical Contractors Association would like to point out that the law and the regulations suggest that if an electrician attests to the competency of another and it is later found that the attesting electrician did so inappropriately, that in itself is cause to lost your West Virginia license. If we accept the recommendations of out of state electricians, what if any enforcement does the State Fire Marshal have in regard to revoking the license of those licensed in another jurisdiction?

Mr. Walter Smittle, III  
Page Two  
May 30, 1989

Your prompt response to this inquiry on behalf of our Association members would be greatly appreciated in as much as there appears to be a good deal of confusion in the marketplace. We are grateful for your help and assistance and continued leadership in the areas of safety and professionalism in the electrical trade.

Sincerely yours,



Leff Moore  
Executive Director

LM/cs  
cc: Board of Director  
State Fire Commission Board

STATE OF WEST VIRGINIA



WALTER SMITTLE III  
State Fire Marshal

L. DARL CROSS  
Deputy State Fire Marshal

GASTON CAPERTON  
Governor

STATE FIRE MARSHAL  
CHARLESTON, W. VA. 25305

2100 WASHINGTON STREET, E.  
PHONE: (304) 348-2191

JUN 9 1989

June 6, 1989

Leff Moore  
Executive Director  
WV Electrical Contractors Association  
205 First Avenue  
Nitro, WV 25143

Dear Mr. Moore:

The purpose of this letter is to clarify the ambiguity of the requirement for certification as an electrician under Chapter 29, Article 3B, Section 6 (License without examination) of the West Virginia Code.

Originally and pursuant to our conversation, it was intended to have licensed electricians by this office to be utilized as part of the certification program. However, 29-3B-5 expands on the concept of "affidavits or other documents" regarding the qualifications of the applicant. Nothing in this section requires the electrician to be a licensed electrician but refers to "other electricians, engineers and others with knowledge of the applicant's qualifications" to be used in determining qualifications.

Therefore, what was originally valued by having West Virginia licensed electricians for checking the qualifications was not consistent with the intent with 29-3B-5. Because of this concern and attempting to provide a fair and equitable program, the "West Virginia" licensed electrician was modified as part of the affidavit to obtain a license without examination. Only "licensed electricians" will be required including other state licenses of electricians, as well as engineers and architects of other states.

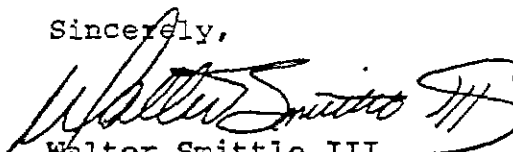
The enforcement of licenses of another jurisdiction (out of state) is self-explanatory. This office, as you well know, has no authority in other states. However, if an individual (out of state) electrician attests to an applicant's competency and later

Mr. Leff Moore  
June 6, 1989  
Page Two

found to be inappropriate will result in legal action being taken to revoke or suspend the applicant's license and/or the same regarding the out of state electrician, if licensed by this office. Also records will be maintained for future reference regarding individuals who have provided misleading information.

I apologize for the ambiguous interpretation on the implementation of this program. However, with loss of resources, it has become a burden to accomplish our responsibility under the statute. We will continue to do our very best even though at times, some information seems to have two directions.

Sincerely,



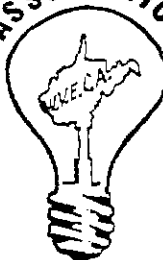
Walter Smittle III  
State Fire Marshal

WSIII/nlo

cc: State Fire Commission

205 FIRST AVENUE

WEST VIRGINIA  
ELECTRICAL CONTRACTORS  
ASSOCIATION



NITRO, WV 25143 (304) 727-7441

June 21, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

2000 Quarrier  
Charleston

Dear Mr. Smittle:

Dear Mr.

You have been mailed, under separate cover and bearing today's date, a letter from Harold E. Forloine, President of the West Virginia Heating, Ventilating and Air Conditioning Association. This letter is to advise you that the position of the West Virginia HVAC Association substantially conforms to that of the West Virginia Electrical Contractors Association with regard to electrician licensing issues.

Our associations have jointly retained the law firm of Robinson & McElwee and our association is sharing the legal expenses for the research being done by that firm relative to the new West Virginia electrician licensing law. We are grateful for your spirit of cooperation and willingness to work with our industry. We understand that your agency does not have attorneys on staff and must rely upon the Attorney General's Office to provide you with - at considerable cost to your agency - legal advice.

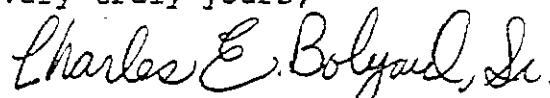
The West Virginia Electrical Contractors Association is vitally interested in the administrative policies that you have developed under your unofficial interpretation of the law. We share your interest in assuring that the law is followed in its spirit, intent and letter. We feel that it is to the advantage of all concerned to make certain that our legal perceptions are well founded. Consequently, we are joining with the West Virginia HVAC Association in paying for the necessary legal research to verify your administrative position.

As soon as that legal work is completed - hopefully by the end of the week - we have asked the attorneys to share the information developed with you, with the idea of either

LETTER: Walter Smittle, III, State Fire Marshal  
RE: Grandfathering of Out of State Electricians  
DATE: June 21, 1989  
PAGE: Two

reaffirming your administrative decision or shedding new light on the legal issues involved. Either way, we're grateful for your cooperation, help and assistance.

Very truly yours,



Charles E. Bolyard, Sr.  
President

CEB:gsw

CEB:gsw

CC: Officers and Members of the Board of Directors

205 FIRST AVENUE



NITRO, WV 25143 (304) 727-7441

June 27, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Charleston

Dear Mr. Smittle:

Dear Mr.

As a result of a joint effort of the West Virginia Electrical Contractors Association and the West Virginia Heating, Ventilating and Air Conditioning Association, we have submitted to you a copy of a letter and legal opinion issued by our joint counsel at the law firm of Robinson & McElwee. The West Virginia Electrical Contractors Association and our electrician employees urge you in the strongest of terms to immediately adopt procedures within your office to make certain that any out of state electrician who wishes to be grandfathered under the new electrician licensing law fully complies with the letter and spirit of the law. The requirements of the law are reviewed in our attorney's opinion, a copy of which is enclosed.


Mr. Smittle, we are fully aware of your longstanding interest in upgrading the electrical industry and trade in West Virginia and in protecting the people of our state from substandard, non-code-conforming work. We applaud your past leadership in this area. However, at this critical juncture, when out of state individuals are applying to West Virginia for a license under the grandfather clause, we urge you to protect the people of your state, as well as the tradesmen of this state, by implementing the law in a proper and correct form.

The licensing of out of state residents as West Virginia electricians without fully assuring and documenting the necessary requirements for them to be grandfathered will do great harm to the people of West Virginia and to our trade. We would urge that you take any steps necessary to assure that out of state, non-resident applicants fully comply with the letter of the law before issuing them a license. Because of the short period of time available to West Virginia, as well as non-resident, electricians to obtain a license under the provisions of West Virginia Code 29-3B-6, we would urge that you advise all non-state applicants of the provisions of the Code in order to give them an opportunity to provide the appropriate documents - if they can.

LETTER: State Fire Marshal  
RE: Electrician Licensing  
DATE: June 27, 1989  
PAGE: Two

I look forward to meeting with you personally on Friday. Our entire industry is anxious to learn of your position regarding licensing of out of state applicants. We look forward to your positive response on this matter and we are prepared to make our attorneys available to you, at no cost, for any questions you might have regarding West Virginia Code 29-3B-1-10.

Sincerely yours,



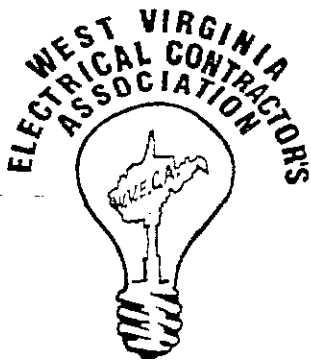
Charles E. Bolyard  
President

CEB:gsw

Enc.

CC: West Virginia State Fire Commission Members  
State Fire Marshal Electrician Licensing Advisory Group Members  
Charlie Brown, West Virginia Attorney General  
Harold Forloine, President, West Virginia HVAC Association  
Association Officers and Board of Directors  
All Members

205 FIRST AVENUE



NITRO, WV 25143 (304) 727-7441

July 13, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

The West Virginia Electrical Contractors Association contacted you over my signature on June 27, 1989. A copy of that letter is attached.

By that letter, we furnished you with a legal opinion from our counsel. We urged you to advise the electrical contractors of this state of your position regarding the letter and the opinion of our legal counsel relative to the grandfathering issue. As of this date, we have received no response.

This letter is to notify you that if we do not receive information in the form of an explanation and legal basis for your action within 24 hours of the time of your receipt of this letter, we will have no recourse but to refer this matter to legal counsel for appropriate action under West Virginia law. Your failure to respond to our inquiries relative to your position on this issue is important to all West Virginia electricians, while at the same time continuing to inappropriately issue licenses to electricians in other states, leaves us no choice but to seek immediate relief through the courts.

Sincerely yours,

*Charles E. Bolyard, Sr.*

Charles E. Bolyard, Sr.  
President

CEB:gsw  
Attchmt.

CC: Cabinet Secretary Joseph J. Skaff  
West Virginia State Fire Commission Members  
Charlie Brown, West Virginia Attorney General  
Harold Forloine, President, WV HVAC Association  
Association Officers and Board of Directors  
All Members

205 FIRST AVENUE



NITRO, WV 25143 (304) 727-7441

June 27, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

As a result of a joint effort of the West Virginia Electrical Contractors Association and the West Virginia Heating, Ventilating and Air Conditioning Association, we have submitted to you a copy of a letter and legal opinion issued by our joint counsel at the law firm of Robinson & McElwee. The West Virginia Electrical Contractors Association and our electrician employees urge you in the strongest of terms to immediately adopt procedures within your office to make certain that any out of state electrician who wishes to be grandfathered under the new electrician licensing law fully complies with the letter and spirit of the law. The requirements of the law are reviewed in our attorney's opinion, a copy of which is enclosed.

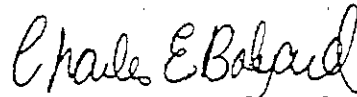
Mr. Smittle, we are fully aware of your longstanding interest in upgrading the electrical industry and trade in West Virginia and in protecting the people of our state from substandard, non-code-conforming work. We applaud your past leadership in this area. However, at this critical juncture, when out of state individuals are applying to West Virginia for a license under the grandfather clause, we urge you to protect the people of your state, as well as the tradesmen of this state, by implementing the law in a proper and correct form.

The licensing of out of state residents as West Virginia electricians without fully assuring and documenting the necessary requirements for them to be grandfathered will do great harm to the people of West Virginia and to our trade. We would urge that you take any steps necessary to assure that out of state, non-resident applicants fully comply with the letter of the law before issuing them a license. Because of the short period of time available to West Virginia, as well as non-resident, electricians to obtain a license under the provisions of West Virginia Code 29-3B-6, we would urge that you advise all non-state applicants of the provisions of the Code in order to give them an opportunity to provide the appropriate documents - if they can.

LETTER: State Fire Marshal  
RE: Electrician Licensing  
DATE: June 27, 1989  
PAGE: Two

I look forward to meeting with you personally on Friday. Our entire industry is anxious to learn of your position regarding licensing of out of state applicants. We look forward to your positive response on this matter and we are prepared to make our attorneys available to you, at no cost, for any questions you might have regarding West Virginia Code 29-3B-1-10.

Sincerely yours,



Charles E. Bolyard  
President

CEB:gsw

CEB:gs

Enc.

CC: West Virginia State Fire Commission Members  
State Fire Marshal Electrician Licensing Advisory Group Members  
Charlie Brown, West Virginia Attorney General  
Harold Forloine, President, West Virginia HVAC Association  
Association Officers and Board of Directors  
All Members

STATE OF WEST VIRGINIA



JUL 19 1989

WALTER SMITTLE III  
State Fire Marshal  
  
L. DARL CROSS  
Deputy State Fire Marshal

GASTON CAPERTON  
Governor  
**STATE FIRE MARSHAL**  
CHARLESTON, W. VA. 25305

2100 WASHINGTON STREET, E.  
PHONE: (304) 348-2191

July 17, 1989

Charles E. Bolyard, Sr.  
President  
West Virginia Electrical Contractors Association  
205 First Avenue  
Nitro, WV 25143

Dear Mr. Bolyard:

In response to your July 13, 1989 letter and previous communications, please be advised this office will continue to issue electrician licenses to out of state applicants who meet the requirements in accordance with 29-3B of the West Virginia Code.

I have reviewed this matter with the Attorney General's Office and this office is within the legal jurisdiction of the law.

Sincerely,

A handwritten signature in dark ink, appearing to read "Walter Smittle III".

Walter Smittle III  
State Fire Marshal

WSIII/nlo

cc: Cabinet Secretary Joseph Skaff  
cc: State Fire Commission  
cc: Attorney General  
cc: WV HVAC Association

REMARKS BY

CHARLES E. BOLYARD, President  
West Virginia Electrical Contractors Association  
205 First Avenue, Nitro, WV 25143

PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS  
PROMULGATED BY THE STATE FIRE MARSHAL/STATE FIRE COMMISSION  
TO IMPLEMENT THE PROVISIONS OF WEST VIRGINIA CODE 29-3B

July 17, 1989

My name is Charles E. Bolyard, Sr. I own and operate Charles E. Bolyard & Son, Inc. in Kingwood, West Virginia. We are electrical contractor doing industrial and commercial, as well as resident and service/repair electrical work. In addition, my company does heating, ventilating and air conditioning work. I am President of the West Virginia Electrical Contractors Association and I am representing the members of that trade association, as well as my own company, in appearing before this public hearing today.

I served on the Electrician Licensing Advisory Committee formed by the State Fire Marshal and attended all meetings of that group. I represented the electrical contractors' interests, as well as electricians' interests, in making recommendations to the Fire Marshal for the proposed rules and regulations that will govern, regulate and control the future of our trade and profession. These regulations are extremely important, for they give the Fire Marshal the power to put me out of business, arrest me, control my activities and regularly collect license fees from me.

The West Virginia Electrical Contractors Association does support the electrician licensing law in general and applauds the Legislature for adopting it in order to protect the public and property in West Virginia from substandard, unsafe and non-code-conforming electrical work. We view the law as a giant step forward.

The regulations being considered impact upon the public in general and upon all West Virginia electricians in particular. We have submitted specific recommendations to be included in the rules during the Advisory Committee process. Unfortunately, the Fire Marshal has elected not to include in his latest proposed draft regulations many of the points we were seeking. The law permits the Fire Marshal, upon request for inspection and the payment of a proposed fee of \$100, to inspect residential structures, business structures and mercantile structures, as well as upon complaint, either on his own initiative or upon request. The law contemplates that the Fire Marshal's inspectors will determine if the work performed by licensed electricians is in conformance to both the National Electrical Code and the State Fire Code and meets the requirements of other laws and regulations.

The West Virginia Electrical Contractors Association is extremely concerned about the qualifications of the personnel employed by the Fire Marshal to conduct such inspections. We advocate that the rules require that all employees of the State Fire

Marshal's Office conducting inspections hold at least a West Virginia master licenses and that the license be obtained only by passing the required test and that the work experience and other factors involved be applied to them. And, in addition, we believe that if an electrical inspector is going to propose to move against a licensed electrician under this law and make a finding that can result in his loss of license, employment and livelihood and the elimination of his business, then that inspector should be totally knowledgeable.

Consequently, we urge that the regulations require that, in addition to a master license, within two years of the adoption of the regulations all inspectors employed by the Fire Marshal's Office be required to gain certification as certified electrical inspectors and meet the requirements for certification as adopted by the International Association of Electrical Inspectors. Our point is: How can an employee of the Fire Marshal's Office who is not totally knowledgeable about all phases of electrical work, as proven through testing and certification, make a determination of whether or not an electrician deserves to be cited under the law and thus require that electrician to defend himself with lawyers, at hearings and in court? Unqualified inspectors would mean that the law cannot be appropriately administered by the Fire Marshal and electricians could be subjected to unfair regulation and loss of license as a result of an inspector's lack of knowledge. We urge that the rules be amended to require the Fire Marshal to employ only those

inspectors who meet the standards as outlined. The last thing we want to see is an inspector from the Fire Marshal's Office who doesn't know what he's talking about!

Our Association projects that electricians in West Virginia will contribute approximately one-half million dollars each year to the Fire Marshal in the form of fees, registration, etc. We believe the regulations should reflect that the Fire Marshal should account to the electricians of West Virginia for activities conducted with our money. If the Fire Marshal takes our fees and spends them to hold dinners and training courses for volunteer firemen, the law will be meaningless and West Virginia will suffer. Our Association believes that the Fire Marshal should prepare quarterly a report of monies received from electrician licensing, as well as the expenditures of those monies. We also want the regulations to require that the Fire Marshal report quarterly the number of citations issued, licenses cancelled, tests given, inspections conducted, hearings held and, in general, report to the electricians, the State Fire Commission, the Legislature and the public in general the benefits that are being derived from the expenditure of this money.

We support the license fees, as well as the inspection fees. But we do want regulations requiring that the Fire Marshal account to the public for the method in which he expends these monies. In other words, we believe that electrician licensing fees should be spent on licensing, testing and enforcement of the law and, at the same time, protecting the public.

The law gives the State Fire Marshal and his deputies and employees almost complete power over West Virginia's electricians. Our industry recognizes the need for professional licensing, testing and supervision of electricians. However, the State Fire Marshal or his designees could, sometime in the future, use the provisions of law to harass electrical contractors, electricians and others. While we do not anticipate this problem, we urge the State Fire Marshal to make provisions in the regulations that, while protecting the public, also protects electricians from the potential unfair, unknowledgeable or politically motivated citations.

We proposed during the Advisory Board process that the regulations require that the Fire Marshal be required to notify a licensed electrician of minor code deficiencies or of minor violations of law prior to employing the formal legal notification and hearing process for suspension or revocation contemplated under the Administrative Procedures set forth under Chapter 29A of the West Virginia code. All we're asking for is that the Fire Marshal or his employees send an electrician a letter giving him 15 days to correct any minor problems that might exist prior to formally implementing the legal process that could end up in the loss of license. While the current Fire Marshal might be so kind as to do that sort of thing on his own, subsequent Fire Marshals and their employees may take a different approach. Consequently, we believe that the administrative letter requirements to protect the rights of electricians should be included in the regulations. Electrician

licensing - like the licensing of doctors, lawyers and accountants - is our life-blood.

In those cases where an imminent, apparent, gross violations posing immediate danger to health, safety or property is clearly present, we recognize that the Fire Marshal should not be required to send a 15-day notice of right to cure a defect and that immediate action should be taken on his part. The only reason we seek this notice of right to cure defect is to prevent subsequent regulators from abusing the awesome powers that this law conveys to the Fire Marshal.

My comments have primarily surrounded the future of the electrical trade as dictated by the rules and regulations being considered for adoption here today. However, I must take this opportunity to protest formally and publicly the action of the State Fire Marshal in issuing West Virginia electrician licenses to nonresidents and non-qualifying applicants from other states. Our legal counsel has notified the State Fire Marshal of that fact and has indicated that the law is clear that only electricians who are working in West Virginia on the date the law was effective and had been working in West Virginia in the electrical trade for one year prior to that effective date are eligible for grandfathering. The State Fire Marshal, by ignoring those legal provisions, clearly appears to be ignoring and violating West Virginia law. But, most importantly, the State Fire Marshal is not taking the necessary

steps in performing his duties to protect the people of West Virginia from nonresident electricians.

We are truly saddened that our own Fire Marshal's Office has apparently focused on the fees collected from out of state electricians, rather than on the law that protects the people of West Virginia and the electrical industry and electricians of this state. Our organization contemplates immediate legal action to compel the Fire Marshal to follow the law as it is written and to cease issuing licenses to out of state electricians and nonresident electricians who do not meet the criteria clearly outlined in West Virginia Code 29-3B-6.

Subsequent to this testimony and prior to the end of the public comment period on these regulations, our Association will present draft rules or amendments to existing rules that reflect these positions and other to numerous to mention at this hearing. We urge the Fire Marshal to incorporate these suggestions, as well as those others that we will submit, into the final rule that he submits to the Legislature for their consideration. Our Association will also be an advocate for these positions and the others outlined in our draft rules during the legislative process and will urge all West Virginia electricians to join in the process to make certain that the legislative intent, as well as the spirit, of the law is maintained in the regulations. I am submitting a copy of these remarks for the record of this public hearing.

# Certification Examinations For Construction Code Inspectors

The Construction Code Inspector Certification Examinations have been developed by several model code groups, national inspection organizations and 12 states in collaboration with Educational Testing Service. These organizations have joined together to establish a testing program that will provide nationally recognized evidence of competence and professionalism in construction code enforcement. The examinations are based on the model codes for each discipline.

The purpose of the examination program is to provide a basis for determining competency of a person as a construction inspector or plan reviewer. In order to take an examination you must register with one of the states, organizations or authorized agents listed in the *Candidate Bulletin of Information*. This *Bulletin of Information* is available free by writing to the International office: IAEI, 930 Busse Highway, Park Ridge, Illinois 60065-2395. The states, organizations or authorized agents have agreed to recognize the scores obtained on an examination.

The examinations are scheduled semi-annually and are given at approximately 75 locations throughout the United States in spring and fall.

There are 14 separate examinations designed to measure competence in the areas of building, electrical, fire protection, mechanical, plumbing and elevator. All examinations are open-book examinations. A list of specific code books (by examination area) that may be used and recommendation regarding other reference materials are given in the Practice Test section of the *Bulletin of Information*. However, the use of published copyrighted materials other than those listed in the *Bulletin* are permitted.

The 14 examinations are as follows:  
Building 1 & 2 Family Dwelling  
Electrical 1 & 2 Family Dwelling  
Mechanical 1 & 2 Family Dwelling  
Plumbing 1 & 2 Family Dwelling  
Building General  
Electrical General  
Fire Protection General  
Mechanical General  
Plumbing General  
Elevator General  
Building Plan Review  
Electrical Plan Review  
Fire Protection Plan Review  
Plumbing Plan Review

The emphasis in the one and two-family dwelling tests is on inspection and basic plan review functions.

The general inspection tests cover structures/installations other than one and two family. The emphasis is on the major occupancy/use/installation problems in one to four-story structures. (Some basic high-rise-specific problems are covered.)

The plan review tests are mainly concerned with the identification of design errors, the ability to perform required calculations accurately, and verification that proposed installations, systems, devices, or materials meet code requirements. Emphasis is on the occupancy/use/hazard classifications and problems that are most frequently encountered.

In several of the examinations, Building Plan Review, Plumbing General, and Building General, you are presented

with a set of plans (or layout of an installation) and you are asked to identify the design (or the installation) errors. You then must answer questions about the errors that you found.

It is recognized that on-the-job you should always have access to a set of plans (and until or unless a particular installation is covered, you can always review the layout). The point is that once you have made a determination as to what is wrong (errors of omission and commission), a report is made. What needs to be evaluated is the completeness and accuracy of the reported list of errors. The only way to test this in an objective manner is to have you list all the errors that you would include in a report and then have you use this list to answer questions about possible design or installation errors.

The first national test was administered in September 1980.

Future test dates are:

Saturday October 29, 1985

Saturday April 22, 1989

## How To Register

In order to be properly registered and to avoid any delay, it is extremely important that the registration form be carefully and correctly completed.

The following instructions correspond to items on the registration form:

1. **NAME.** Print your last name, first name, and middle initial, one letter to a box. Do not use nicknames.

2. **HOME ADDRESS.** Print only one number or letter to a box, and skip a box where a space would normally appear. Be sure to enter your U.S. ZIP code in the appropriate boxes provided. Use Postal Service approved abbreviations for completing this section.

3. **DATE OF BIRTH.** Enter day, month, year, using numerals only. This information is important for research purposes.

4. **TELEPHONE NUMBER.** Enter the telephone number at which you may be contacted during the day concerning your registration.

5. **TEST CENTER.** Select the city most convenient for you from the test center list printed below and in the *Bulletin of Information*. Your admission ticket will show the specific location to which you should report. **TEST CENTERS WILL ONLY BE OPENED IF 5 OR MORE CANDIDATES REGISTER.**

In response to candidate inquiries concerning longer sessions so they may take a maximum of four tests, specific test sites have been designated that will offer this option and these test sites are marked with an asterisk. These centers will be open all day therefore allowing candidates the time to sit for a maximum of four exams. Candidates registering for three or four tests must request these test sites. Candidates taking only one to two tests may also attend these centers. All other test centers will only be open for one long morning session therefore allowing candidates to take one or two tests.

6. **TEST DATE.** This registration form will be processed, if received with appropriate fee and completed, for the test date indicated.

*continued*



7. **EDUCATION.** Check the appropriate box for the highest level attained.

8. **BIOGRAPHICAL INFORMATION.** Check the appropriate boxes.

9. **TESTS.** Mark the boxes next to the test(s) you plan to take. You may take up to four tests. Candidates taking the Elevator General test may only take three tests.

10. **STATE, ORGANIZATION OR AUTHORIZED AGENT.** Using the list of State Codes provided, fill in your two digit state code in the appropriate boxes.

11. **TEST FEES.** Count the number of boxes you have marked for the 1 & 2 Family tests. Multiply this number by \$30. Next, count the number of boxes you have marked for the General and/or Plan Review tests. Multiply this number by \$30. Add the Registration Fee of \$25 and compute your total fee.

Write the fee in the space provided and pay the amount shown. Be sure to include a check or money order for the full

amount made payable to NCPCCI. Do not send cash. Registrations received with incorrect fees will be returned to the applicant.

In the space provided please indicate whether the fee is being paid by the employer or by the candidate. In this way, we will know to whom we should send the check should a refund be requested.

**SIGNATURE.** Sign your name as you would sign a check or other document.

Return your registration form and check or money order to:

National Certification Program  
For Construction Code Inspectors

P.O. Box 6508

Princeton, New Jersey 08541-6508

Registration Deadline Date: September 19, 1988

Test Date: October 29, 1988

**Note:** A list of persons awarded certificates for the certification exams given April 23, 1988 will be printed in the September/October 1988 issue of *IAEI News*.

### State Codes & Probable Test Center Locations

Test centers available for candidates who wish to take more than two exams have been marked with an asterisk.  
Test centers will only be opened if 5 or more candidates register.

10 Alabama 0101 Birmingham	21 Hawaii 1201 Honolulu	30 Maryland 2101 Baltimore*	38 Nevada 2902 Reno	46 Oklahoma 3701 Oklahoma City 3705 Tulsa*	54 Utah 4501 Salt Lake City
11 Alaska 0201 Anchorage	22 Idaho 1301 Boise	31 Massachusetts 2201 Boston 2202 Springfield	39 New Hampshire 3001 Concord	47 Oregon 3801 Portland 3802 Salem*	55 Vermont 4601 Burlington
12 Arizona 0301 Phoenix	23 Illinois 1402 Chicago 1403 Peoria*	32 Michigan 2303 Muskegon 2304 Ann Arbor	40 New Jersey 3101 Montclair 3102 Trenton* 3103 Camden 3104 Mays Landing 3105 Toms River* 3106 Englewood	48 Pennsylvania 3901 Altoona 3902 Harrisburg* 3903 Philadelphia 3904 Pittsburgh 3905 Scranton 3906 State College	56 Virginia 4701 Alexandria 4702 Norfolk 4703 Richmond* 4704 Roanoke 4705 Charlottesville 4706 Winchester
13 Arkansas 0401 Little Rock	24 Indiana 1503 Indianapolis* 1505 Elkhart*	33 Minnesota 2402 Minneapolis	41 New Mexico 3201 Albuquerque	49 Rhode Island 4001 Providence	57 Washington 4801 Seattle 4802 Spokane
14 California 0501 Los Angeles 0504 San Francisco	25 Iowa 1601 Des Moines	34 Mississippi 2502 Jackson	42 New York 3301 Albany	50 South Carolina 4101 Charleston	58 West Virginia 4901 Charleston
15 Colorado 0601 Denver	26 Kansas 1701 Wichita	35 Missouri 2602 St. Louis 2603 Kansas City*	43 North Carolina 3402 Charlotte 3403 Raleigh	51 South Dakota 4202 Sioux Falls	59 Wisconsin 5001 Madison 5002 Milwaukee* 5003 Wausau
16 Connecticut 0701 New Haven*	27 Kentucky 1801 Louisville 1803 Lexington*	36 Montana 2701 Billings 2702 Helena	44 North Dakota 3501 Bismarck*	52 Tennessee 4303 Nashville 4305 Johnson City*	60 Wyoming 5101 Cheyenne 5105 Powell
19 Florida 1001 Miami 1002 Orlando*	28 Louisiana 1901 New Orleans	37 Nebraska 2801 Omaha	45 Ohio 3601 Cincinnati 3602 Cleveland 3603 Columbus*	53 Texas 4404 Houston 4407 Lubbock	
20 Georgia 1101 Atlanta	29 Maine 2001 Portland				

## APPLICATION FOR 25 YEAR MEMBERSHIP CERTIFICATE

Have you been a member of the IAEI for 25 consecutive years or more? If you qualify and would like to receive a certificate, please fill out the application form below, clip it out, and mail it to:

International Association of Electrical Inspectors  
930 Busse Highway, Park Ridge, IL 60068

Member's Name		Active Associate	<input type="checkbox"/>	Member's Number
Street Address	City	State	Zip Code	
Month, year and name of state when joining IAEI				
Have you been a member continuously since joining?		YES	<input type="checkbox"/>	Member's Signature
		NO	<input type="checkbox"/>	Date



WEST VIRGINIA HEATING, VENTILATING  
AND AIR CONDITIONING ASSOCIATION, INC.

209 FIRST AVENUE  
NITRO, WEST VIRGINIA 25143  
(304) 727-7431

**RECEIVED**  
JUL 27 1989

July 26, 1989

**W.V. FIRE COMM  
STATE FIRE MARSHAL**

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2100 Washington Street, East  
Charleston, WV 25305

RE: Comments on Proposed Rules of State Fire Commission  
Title 87; Chapter 29, Article 3, Section 5; Series II  
Electrician Licensing Legislative Rules

Dear Mr. Smittle:

Attached and made a part of these comments are copies of the following items:

- Our June 21, 1989 letter to you relative to the licensing of out of state residents under the "grandfather" provisions of the law.
- Our June 27, 1989 letter to you transmitting a legal opinion submitted by our attorneys.
- A June 23, 1989 letter from the law firm of Robinson & McElwee setting forth their legal opinion relative to the "grandfathering" of out of state, unqualified electricians.
- Our June 30, 1989 letter to you, with attachment, requesting information on the criteria used to issue the various classes of electrician licenses.
- Our letter of July 13, 1989 requesting a response to our previous letters.
- Your letter to me of July 18, 1989 in response to my inquiry of June 30, 1989.

Also enclosed are copies of oral remarks presented by Don Anderson, Treasurer of the West Virginia HVAC Association, at the public hearing held on July 17, 1989, as well as my written testimony and that of Chuck Lambert, Vice President of our Association, also submitted at that hearing.

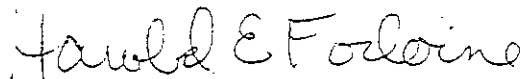
LETTER: Walter Smittle, III, State Fire Marshal  
RE: Public Comments on Proposed Electrician  
Licensing Legislative Rules  
DATE: July 26, 1989  
PAGE: Two

Please consider these documents as a part of the record of the public hearing and subsequent public comment period and include them with other materials submitted to the West Virginia Legislative Rule Making and Review Committee as a part of the process of drafting the rules and regulations.

In addition to the attached documents, I would comment for the record that these documents clearly outline certain areas wherein your emergency rules were defective and deficient. Your failure to address these issues in the emergency rules and/or the proposed Legislature Rules has caused great problems for our industry, as well as the people of West Virginia.

Clearly, if these issues are not addressed in the permanent rules, our state's electricians and the public will be forced to rely upon frequent communication with your office and day-to-day interpretations of the law.

Very truly yours,



Harold E. Forloine  
President

HEF:gsw  
Enc.



WEST VIRGINIA HEATING, VENTILATING  
AND AIR CONDITIONING ASSOCIATION, INC.

209 FIRST AVENUE  
NITRO, WEST VIRGINIA 25143  
(304) 727-7431

June 21, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

OUR ASSOCIATION REPRESENTS HUNDREDS OF WEST VIRGINIA CONTRACTORS WHO ARE DIRECTLY IMPACTED BY THE NEW ELECTRICIAN LICENSING LAW. Our Officers, Board of Directors and general membership are extremely concerned relative to your legal interpretation of the new law. Our concern emanates from the fact that you feel the law requires you to license electricians who are residents of other states and/or are employees of contractors from other states under the "grandfathering" provisions of the new law.

WE UNDERSTAND THAT THE WEST VIRGINIA ATTORNEY GENERAL'S OFFICE REQUIRES THE PAYMENT OF FUNDS FROM YOUR SPENDING BUDGET BEFORE THEY WILL ISSUE LEGAL ADVICE AND OPINIONS TO YOU. Needless to say, this results in your being required to operate without the benefit of professional legal advice. Before our Association assumes a position relative to your administrative decision to grandfather electricians who reside in other states or companies or corporations who are in other states, we felt it important to seek the advise of competent legal counsel.

THE PRESTIGIOUS CHARLESTON LAW FIRM OF ROBINSON & McELWEE HAS BEEN RETAINED BY OUR ASSOCIATION TO REVIEW THE NEW LAW. We are particularly interested in their legal opinion as it regards your administrative policy of licensing electricians from other states. Our goal in approaching this issue in this fashion is to, first of all, determine for ourselves if your legal intuition is correct with regard to this issue. Since the matter is of extreme concern to our industry, we want to make certain that we have competent legal advice on the issue. We hope to have a written legal opinion before the end of this week. If our attorneys' research indicates that your

LETTER: Walter Smittle, III, State Fire Marshal  
RE: Grandfathering of Out of State Electricians  
DATE: June 21, 1989  
PAGE: Two

policy is in conflict with West Virginia law, we have asked our attorneys to advise you of their findings and the basis in law of those findings. On the contrary, if they find no legal opposition to your administrative decision, a contact from them would be unnecessary.

OUR ONLY GOAL IS TO MAKE CERTAIN THAT THE LETTER, SPIRIT AND INTENT OF THE LAW IS FOLLOWED. Based on earlier conversations with you, we know that you personally do not relish the licensing of individuals from other states under the grandfather clause. Clearly, West Virginia's businesses, consumers and government structure all benefit from competency testing of out of state electricians. At the same time, by freely offering West Virginia licenses under the grandfather clause to electricians in other states, there is little impetus left for neighboring states to seek and grant licensing reciprocity to benefit West Virginians.

OUR ORGANIZATION APPROACHES THIS ISSUE IN A MOST POSITIVE FASHION. We hope to provide you with the benefit of our legal research without any cost or obligation to you.

Very truly yours,

*Harold E. Forloine*

Harold E. Forloine  
President

HEF:gsw

CC: All Officers and Board Members



WEST VIRGINIA HEATING, VENTILATING  
AND AIR CONDITIONING ASSOCIATION, INC.

209 FIRST AVENUE  
NITRO, WEST VIRGINIA 25143  
(304) 727-7431

June 27, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

Please find enclosed a copy of a letter sent to our Association from our legal counsel. This letter is in response to our inquiry regarding your practice of issuing electrician licenses to out of state residents under the grandfather provision of West Virginia Code 29-3B-6.

As I pointed out to you in my letter dated June 21, our Association is extremely concerned about the fact that electricians from other states may be obtaining licenses in West Virginia without fully meeting the requirements of state law. We are unhappy to learn that the law does permit you to license both residents and non-residents. Most importantly, however, our legal counsel indicates that for a non-resident to be licensed, it must be documented that the applicant was working in West Virginia on April 8, 1989 and that he or she had been working in that capacity for one year prior to that date.

Based upon my interpretation of our attorney's letter, your current affidavit does not provide enough information for you to determine if, in fact, an out of state resident meets the qualifications to obtain a license under West Virginia Code 29-3B-6. On behalf of the hundreds of electricians who work in our industry and the hundreds of small businesses that our Association represents, we would urge that you review your administrative practice of issuing a license to non-resident electricians without adequate evidence of their compliance with the new law.

Because of your acknowledgement of the fact that legal opinions granted to State agencies by the Attorney General's Office are expensive, our Association is happy to provide this legal research for you. We do understand, however, that you may want to ask the Attorney General to review this legal opinion to see if, in fact, he - as your counsel - agrees with its findings and conclusions.

LETTER: State Fire Marshal  
RE: Electrician Licensing  
DATE: June 27, 1989  
PAGE: Two

Because of the potential negative effect on the health, safety and welfare of the people of West Virginia by licensing out of state, non-resident electricians who may be beyond the reach of West Virginia law after their work is completed, we would urge that you immediately review this matter. We would also urge that you immediately implement administrative policies and procedures that assure that any non-resident issued an electrician license fully meets the requirements of the law. Clearly, other states do not assume such a liberal position in regard to issuing licenses for electricians in West Virginia wishing to provide electrical work in their jurisdictions.

We realize that you cannot go beyond the scope of the law, but we do urge you, in the strongest terms, to take steps immediately to see that the law as it is presently constituted be fully enforced, particularly with regard to the requirement that a non-resident must have been performing electrical work in West Virginia on the effective date of this law and should provide evidence to that effect. Their inability to provide such evidence would clearly demonstrate that they do not meet the requirements of the grandfather provision of the law and should be tested, just as electricians from West Virginia are tested in other states.

We hope you will act positively on this matter immediately in order to assure that the people of West Virginia are protected from out of state, unqualified, ill-trained and substandard electrical work. It is my plan to meet with you and the members of your electrician licensing advisory group on Friday. I respectfully request that you advise me at that time as to your position regarding this important legal opinion.

Sincerely yours,

*Harold E. Forloine*

Harold E. Forloine  
President

HEF:gsw

Enc.

CC: West Virginia State Fire Commission Members  
State Fire Marshal Electrician Licensing Advisory Group Members  
Charlie Brown, West Virginia Attorney General  
Charles Bolyard, President, WV Electrical Contractors Assn.  
Association Officers and Board of Directors  
All Members

LAW OFFICES  
ROBINSON & McELWEE  
P. O. BOX 1791  
CHARLESTON, WEST VIRGINIA 25328

CHARLESTON

E. GLENN ROBINSON  
CHARLES McELWEE  
JOHN C. PALMER  
DAVID M. FLANNERY  
JOSEPH S. BEESON  
DAVID K. HIGGINS  
M. ANN BRADLEY  
ROBERT D. FLUHARTY  
JOSEPH M. PRICE  
KIM BROWN POLAND  
MICHAEL B. VICTORSON  
DAVID L. KYGER  
TIMOTHY M. MILLER  
WILLIAM C. FORTH, JR.  
LYNN A. SMITH  
HENRY C. BOWEN  
WILLIAM E. ROBINSON  
EDWARD L. KROPP\*

TELEPHONE (304) 344-5800  
TELECOPIER (304) 344-9566  
600 UNITED CENTER

LEXINGTON OFFICE  
P. O. BOX 1580  
LEXINGTON, KENTUCKY 40592  
TELEPHONE (606) 231-8131  
LEXINGTON FINANCIAL CENTER

DOUGLAS C. McELWEE  
REBECCA L. STEPTO  
BRENT D. BENJAMIN  
DAVID L. YAUBSSY  
ROBERT E. LANNAN, II  
SARAH STUMP KOLS  
CHRISTOPHER S. POWER  
R. CLARKE VANDERVORT  
KENT J. GEORGE  
KATHY G. BECKETT  
SCOTT A. CHURILLA  
DAVID S. RUSSO  
KEITH J. GEORGE

LEXINGTON  
EDWARD N. HALL\*\*  
R. ALLAN WEBB

June 23, 1989

\*ADMITTED TO PRACTICE IN  
OHIO AND VIRGINIA  
\*\*ADMITTED TO PRACTICE IN  
KENTUCKY AND WEST VIRGINIA

Mr. Leff Moore  
Executive Director  
West Virginia Heating Ventilating &  
Air Conditioning Association, Inc.  
209 First Avenue  
Nitro, West Virginia 25143

Re: Interpretation and administration of electrician  
licensing and legislation and regulations

Dear Leff:

You have called my attention to a recent enactment of the West Virginia Legislature, West Virginia Code § 29-3B-1 through 10, which provides a system for licensing electricians in this State and requires the State Fire Marshal to administer it. You have pointed out that under a "grandfather" provision contained in West Virginia Code § 29-3B-6 within 90 days following the effective date of the enactment, April 8, 1989, the State Fire Marshal may issue licenses to applicants under certain circumstances without requiring them to take an examination. The State Fire Marshal can do so under two circumstances, namely when

any applicant ... furnishes the state fire marshal with satisfactory evidence showing that such applicant is working as a journeyman electrician or master electrician in this state as of the effective date of this article and that he has been working for a period of one year immediately prior to the effective date of this article, or ... gives conclusive evidence of possession of a Certificate of Competency issued by the state fire marshal prior to the effective date of this article....

The State Fire Marshal has accordingly developed a document entitled "Application for Electrician Licensing Without Examination" and a document entitled "Affidavit" whereby an applicant attests to the truth of information he provides respecting work history and references. The applicant must provide

ROBINSON & McELWEE

Mr. Leff Moore  
June 23, 1989  
Page 2

names of at least two licensed electricians who will attest to his qualifications. The purpose of the latter form, the Affidavit, appears primarily to be to require the applicant to provide information to show that he meets the first of the two circumstances which would permit issuance of a license without examination. You have explained that the State Fire Marshal has created regulations for implementing the enactment and that the regulations are presently in the process of being approved. You have directed my attention to Regulation 5.01 which provides that "[a]ny 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. . . . provided the other state agrees to the reciprocal agreement with the State of West Virginia." You have told me that you understand that there are presently no reciprocal agreements between West Virginia and any other State. You have explained that the State Fire Marshal is issuing licenses to individuals who are not residents of West Virginia without examination based upon information provided in their Affidavits and you have asked that I determine whether the "grandfather" provision allows this or applies only to West Virginia electricians. My opinion follows.

As a general rule, license legislation which discriminates against non-residents of a state by foreclosing them from obtaining licenses altogether or by permitting them to obtain licenses only if they meet higher standards or additional requirements beyond those required of residents, where not required under the police power of the state for protection of the local citizens, is void as violating Article 4, § 2 of the United States Constitution and § 1 of the Fourteenth Amendment to the United States Constitution. Article 4, § 2 of the United States Constitution provides that

the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

Section 1 of the Fourteenth Amendment to the United States Constitution provides that

no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

West Virginia Code § 29-3B-1 through 10, and particularly the

## ROBINSON & McELWEE

Mr. Leff Moore  
June 23, 1989  
Page 3

"grandfather" provision in § 29-3B-6(a), cannot be read to mean that the Legislature intended it to apply any differently to non-residents than to residents of West Virginia. Accordingly, the State Fire Marshal must treat residents and non-residents equally in administering the new enactment. Both residents and non-residents of this State must meet the requirements stated in West Virginia Code § 29-3B-6 in order to avail themselves of the privilege of obtaining a license without examination thereunder. Tracking the language of that section, an applicant, whether resident or non-resident, must furnish the State Fire Marshal with satisfactory evidence that he or she was working as a journeyman electrician or a master electrician in West Virginia as of April 8, 1989, and that he or she worked anywhere in that capacity (presumably) for one year before that date before he or she can obtain a license without taking an examination during the 90-day grace period provided by that statute. An applicant, whether resident or non-resident, who was not working in West Virginia on April 8, 1989, but who was working as an electrician elsewhere for a year or more before then cannot obtain a license without an examination; and conversely, an applicant who was working as an electrician in West Virginia on that date but who had not been working in that capacity for a year or more cannot obtain a license without an examination, and his or her application must be denied.

Ordinarily, "grandfather" provisions specify that the applicant claiming the privilege conferred must submit to the administering agency some proof that he or she meets the specified requirements and qualifies for issuance of a license. Generally, the mere filing of an affidavit as proof of such facts is not conclusive as to the right of the applicant to the privilege even though the provision may specify the filing of an affidavit as proof of qualification since the critical fact for the exercise of privilege is that the applicant meets the qualifications. Some additional and independent verification is necessary. See 4 A.L.R. 2nd 667, Construction of "Grandfather Clause" of Statute or Ordinance Regulating or Licensing Business or Occupation; 51 Am Jur 2nd, Licenses and Permits, § 37. Accordingly, the State Fire Marshal should not simply rely upon each applicant's Affidavit and must make some inquiry beyond it to learn if indeed the applicant meets the qualifications set forth in West Virginia Code § 29-3B-6, namely whether he or she was working as an electrician in West Virginia on April 8, 1989, and had worked in such capacity anywhere for a year before then. The State Fire Marshal has no doubt seen fit to require that each applicant list the names of two individuals who will "attest" to the critical facts, and I suspect that the State Fire Marshal is calling the individuals whom applicants name since there is a place for the applicants to list their references' telephone numbers. A better practice, in my

ROBINSON & McEILWEE

Mr. Leff Moore  
June 23, 1989  
Page 4

opinion, would be to require applicants to provide documentation in support of facts critical for licensing and the addresses of their references and for the State Fire Marshall to send form affidavits to references, requiring references to "attest" to the critical facts.

In sum, based upon my examination of the legal treatises, I have concluded that the State Fire Marshal can license all applicants, residents and non-residents, under West Virginia Code § 29-3B-6 as long as they meet the requirements stated therein but, in my opinion, he should obtain documentation and statements of references evidencing that applicants meet the stated requirements.

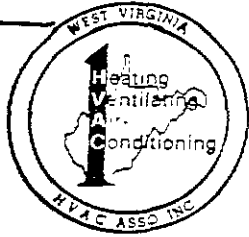
If you have any questions concerning the above analysis or if you have any additional questions whatsoever in this regard, please do not hesitate to give me a call. In any event, I look forward to speaking with you soon.

Very truly yours,

  
R. Clarke VanDervort

RCV/bac

THIS LETTER HAND-DELIVERED  
TO WALTER SMITTLE, III  
BY HAROLD FORLOINE ON JUNE 30, 1989



WEST VIRGINIA HEATING, VENTILATING  
AND AIR CONDITIONING ASSOCIATION, INC.

209 FIRST AVENUE  
NITRO, WEST VIRGINIA 25143  
(304) 727-7431

June 30, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

Please find enclosed a copy of a FAX transmission I have received from one of the members of our trade association. This copy of a letter to you dated June 28 indicates that Richard K. Steele, the owner of Sycamore Plumbing and Heating, applied for a master license, completed and submitted your required documentation and was subsequently issued a journeyman license. By the same token, many of the employees of my own company, Teays Valley Heating and Cooling/Service America, similarly provided the information requested by your office with accompanying affidavits and were similarly denied master licenses.

I currently hold, and have held for years, a master license issued by your office. I am personally acquainted with the competence level of each of my personnel and did personally attest to their competence. While Mr. Steele's letter does not indicate who attested to his competence, it is obvious that he clearly met your requirements. I have talked with numerous other individuals who are practicing the electrical trade, full- or part-time, or who are trained in the electrical field. Many of them, after having submitted the same documentation as Mr. Steele and my own personnel, were granted a master electrician license by your office.

This letter is a formal request for information. Please identify for me, on behalf of my employees, Mr. Steele and other members of the West Virginia Heating, Ventilating and Air Conditioning Association, the criteria you used in denying Mr. Steele, as well as my employees, a master electrician license. Please indicate what information you have at your disposal that was not available to me when I attested to my employees' competence. It would appear that there is some unknown, unidentified formula that is being used by your office to grant some people master licenses and deny them to others.

LETTER: Walter Smittle, III, State Fire Marshal  
RE: Electrician Licensing  
DATE: June 30, 1989  
PAGE: Two

I am personally acquainted with the abilities of those individuals for whom I did attest. Your denying them a master license appears, on the surface, to be arbitrary and capricious and without any basis in fact. I am not only concerned about Mr. Steele and his situation and that of my own employees, but I am extremely concerned by what appears to be a grossly unfair, unprofessional and administratively unsound practice of the arbitrary issuing of master licenses to some applicants while, at the same time and based upon the same documentation and attestation, denying others.

What administrative appeal is available to my employees, Mr. Steele and other members of our Association, short of legal action? We are most anxious to resolve this matter in an amicable fashion. However, the ability of Mr. Steele and hundreds of others like him to practice their trade under West Virginia law is in jeopardy. In view of the deadline imposed under 29-3B-6 of the West Virginia Code, your immediate attention to this request is imperative.

Sincerely yours,

Harold E. Forloine  
President

CC: Cabinet Secretary Joseph J. Skaff  
WV State Fire Commission Members  
Fire Marshal Electrician Advisory Committee Members  
Attorney General Charlie Brown  
Association Officers and Board Members  
Richard K. Steele, Sycamore Plumbing & Heating  
All Association Members

SYCAMORE PLUMBING & HEATING  
P.O. BOX 2005  
MORGANTOWN, WV 26502

June 28, 1989

Walter Smittle, III, Fire Marshall  
State Fire Marshal's Office  
2000 Quarrier St.  
Charleston, WV 25305

Journeyman's License  
Number J06822

Dear Sir:

This is in regard to my application for a Master's Electrician License for the State of West Virginia. I was issued a Journeyman's License.

I feel I meet all the requirements for a Master's License. I filled out the necessary forms with the necessary signatures and sent it in the time provided to fall under the "Grandfather's Clause".

I am the owner of the company and under West Virginia law, this requires me to have a Master's License. Also, I am required to have a Master's License to supervise work done by any employees I may have.

In effect, by issuing me a Journeyman's License, I cannot do any electrical work in West Virginia and therefore, you are putting me out of business.

Please review my case and send a formal response within 5 working days.

Sincerely,

  
Richard K. Steele, Owner



ELECTRICIAN'S LICENSE  
JOURNEYMAN

RICHARD K. STEELE

NAME

RT 8 BOX 212 LT 159

STREET & NUMBER

MORGANTOWN, WV 26505

CITY, STATE ZIP

J06822

LICENSE NUMBER

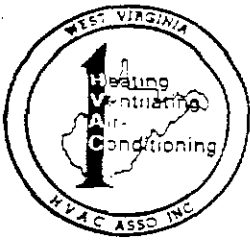
233-90-5753

SOCIAL SECURITY NUMBER

EXPIRATION DATE

06/30/90

Walter Smittle III  
Fire Marshal



WEST VIRGINIA HEATING, VENTILATING  
AND AIR CONDITIONING ASSOCIATION, INC.

209 FIRST AVENUE  
NITRO, WEST VIRGINIA 25143  
(304) 727-7431

July 13, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

I personally hand delivered a letter to you on June 30, 1989. A copy of that letter is attached hereto for your review. In that letter, I requested that you provide me with the criteria you use in denying Mr. Richard Steele, as well as my employees, a master electrician license. I asked you to also please indicate what information you had at your disposal that was not available to me when I attested to my employees' competence. I also requested you to inform me as to what administrative appeal is available to my employees, Mr. Steele and other members of our Association, short of legal action. In that letter, I requested your immediate attention to my request because of the deadline imposed under West Virginia Code 29-3B-6.

Also attached is a copy of my June 27 letter to you relative to your practice of grandfathering electricians from other states without fully meeting the requirements of West Virginia law. Your attention is directed to the paragraph wherein I request that you advise me on June 30 of your position regarding this important legal opinion. You notified me at that time that you would make no comment on the legal opinion until you had met with your attorney. I understand that you have met with your attorney and our industry still does not have your response.

As of this date, July 13, 1989, I have received no response from you to either of these letters. This letter is to notify you that unless a reply is received within 24 hours of your receipt of this letter, this entire matter will be presented to our Association's legal counsel for appropriate action under West Virginia law.

Very truly yours,

*Harold E. Forloine*

Harold E. Forloine  
President

LETTER: Walter Smittle, III, State Fire Marshal  
DATE: July 13, 1989  
RE: Electrician Licensing  
PAGE: Two

HEF:gsw  
Attchmt.

CC: Cabinet Secretary Joseph J. Skaff  
WV State Fire Commission Members  
Attorney General Charlie Brown  
Richard K. Steele, Sycamore Plumbing & Heating  
Association Officers and Board Members  
All Association Members



WEST VIRGINIA HEATING, VENTILATING  
AND AIR CONDITIONING ASSOCIATION, INC.

209 FIRST AVENUE  
NITRO, WEST VIRGINIA 25143  
(304) 727-7431

THIS LETTER IS BEING  
SENT TO WALTER SMITTLE, III  
BY HAROLD FORLOINE ON JUNE 30, 1989

June 30, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

RECEIVED  
JUN 30 1989  
2000 QUARRIER  
STREET  
CHARLESTON, WV

Dear Mr. Smittle:

Please find enclosed a copy of a FAX transmission I have received from one of the members of our trade association. This copy of a letter to you dated June 28 indicates that Richard K. Steele, the owner of Sycamore Plumbing and Heating, applied for a master license, completed and submitted your required documentation and was subsequently issued a journeyman license. By the same token, many of the employees of my own company, Teays Valley Heating and Cooling/Service America, similarly provided the information requested by your office with accompanying affidavits and were similarly denied master licenses.

I currently hold, and have held for years, a master license issued by your office. I am personally acquainted with the competence level of each of my personnel and did personally attest to their competence. While Mr. Steele's letter does not indicate who attested to his competence, it is obvious that he clearly met your requirements. I have talked with numerous other individuals who are practicing the electrical trade, full- or part-time, or who are trained in the electrical field. Many of them, after having submitted the same documentation as Mr. Steele and my own personnel, were granted a master electrician license by your office.

This letter is a formal request for information. Please identify for me, on behalf of my employees, Mr. Steele and other members of the West Virginia Heating, Ventilating and Air Conditioning Association, the criteria you used in denying Mr. Steele, as well as my employees, a master electrician license. Please indicate what information you have at your disposal that was not available to me when I attested to my employees' competence. It would appear that there is some unknown, unidentified formula that is being used by your office to grant some people master licenses and deny them to others.

LETTER: State Fire Marshal  
RE: Electrician Licensing  
DATE: June 27, 1989  
PAGE: Two

Because of the potential negative effect on the health, safety and welfare of the people of West Virginia by licensing out of state, non-resident electricians who may be beyond the reach of West Virginia law after their work is completed, we would urge that you immediately review this matter. We would also urge that you immediately implement administrative policies and procedures that assure that any non-resident issued an electrician license fully meets the requirements of the law. Clearly, other states do not assume such a liberal position in regard to issuing licenses for electricians in West Virginia wishing to provide electrical work in their jurisdictions.

We realize that you cannot go beyond the scope of the law, but we do urge you, in the strongest terms, to take steps immediately to see that the law as it is presently constituted be fully enforced, particularly with regard to the requirement that a non-resident must have been performing electrical work in West Virginia on the effective date of this law and should provide evidence to that effect. Their inability to provide such evidence would clearly demonstrate that they do not meet the requirements of the grandfather provision of the law and should be tested, just as electricians from West Virginia are tested in other states.

We hope you will act positively on this matter immediately in order to assure that the people of West Virginia are protected from out of state, unqualified, ill-trained and substandard electrical work. It is my plan to meet with you and the members of your electrician licensing advisory group on Friday. I respectfully request that you advise me at that time as to your position regarding this important legal opinion.

Sincerely yours,

*Harold E. Forloine*

Harold E. Forloine  
President

HEF:gsw

Enc.

CC: West Virginia State Fire Commission Members  
State Fire Marshal Electrician Licensing Advisory Group Members  
Charlie Brown, West Virginia Attorney General  
Charles Bolyard, President, WV Electrical Contractors Assn.  
Association Officers and Board of Directors  
All Members

SYCAMORE PLUMBING & HEATING  
P.O. BOX 2005  
MORGANTOWN, WV 26502

June 28, 1989

Walter Smittle, III, Fire Marshall  
State Fire Marshal's Office  
2000 Quarrier St.  
Charleston, WV 25305

Journeyman's License  
Number J06822

Dear Sir:

This is in regard to my application for a Master's Electrician License for the State of West Virginia. I was issued a Journeyman's License.

I feel I meet all the requirements for a Master's License. I filled out the necessary forms with the necessary signatures and sent it in the time provided to fall under the "Grandfather's Clause".

I am the owner of the company and under West Virginia law, this requires me to have a Master's License. Also, I am required to have a Master's License to supervise work done by any employees I may have.

In effect, by issuing me a Journeyman's License, I cannot do any electrical work in West Virginia and therefore, you are putting me out of business.

Please review my case and send a formal response within 5 working days.

Sincerely,

*Richard K. Steele*  
Richard K. Steele, Owner



ELECTRICIAN'S LICENSE  
JOURNEYMAN

RICHARD K. STEELE

NAME

RT 8 BOX 212 LT 159

STREET & NUMBER

MORGANTOWN, WV 26505

CITY, STATE & ZIP

J06822

233-90-5753

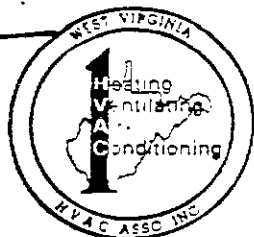
LICENSE NUMBER

SOCIAL SECURITY NUMBER

EXPIRATION DATE

06/30/90

Water Safety II  
See Manual



WEST VIRGINIA HEATING, VENTILATING  
AND AIR CONDITIONING ASSOCIATION, INC.

209 FIRST AVENUE  
NITRO, WEST VIRGINIA 25143  
(304) 727-7431

June 27, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

Please find enclosed a copy of a letter sent to our Association from our legal counsel. This letter is in response to our inquiry regarding your practice of issuing electrician licenses to out of state residents under the grandfather provision of West Virginia Code 29-3B-6.

As I pointed out to you in my letter dated June 21, our Association is extremely concerned about the fact that electricians from other states may be obtaining licenses in West Virginia without fully meeting the requirements of state law. We are unhappy to learn that the law does permit you to license both residents and non-residents. Most importantly, however, our legal counsel indicates that for a non-resident to be licensed, it must be documented that the applicant was working in West Virginia on April 8, 1989 and that he or she had been working in that capacity for one year prior to that date.

Based upon my interpretation of our attorney's letter, your current affidavit does not provide enough information for you to determine if, in fact, an out of state resident meets the qualifications to obtain a license under West Virginia Code 29-3B-6. On behalf of the hundreds of electricians who work in our industry and the hundreds of small businesses that our Association represents, we would urge that you review your administrative practice of issuing a license to non-resident electricians without adequate evidence of their compliance with the new law.

Because of your acknowledgement of the fact that legal opinions granted to State agencies by the Attorney General's Office are expensive, our Association is happy to provide this legal research for you. We do understand, however, that you may want to ask the Attorney General to review this legal opinion to see if, in fact, he - as your counsel - agrees with its findings and conclusions.

STATE OF WEST VIRGINIA



WALTER SMITTLE III  
State Fire Marshal  
L. DARL CROSS  
Deputy State Fire Marshal

GASTON CAPERTON  
Governor  
**STATE FIRE MARSHAL**  
CHARLESTON, W. VA. 25305

2100 WASHINGTON STREET, E.  
PHONE: (304) 348-2191

July 18, 1989

Mr. Harold E. Forloine, President  
West Virginia Heating, Ventilating  
and Air Conditioning Association, Inc.  
P. O. Box 176  
Hurricane, WV 25526

Dear Mr. Forloine:

I am providing the following information regarding your letter of June 30, 1989:

Attached is a copy of my response to Mr. Steele regarding his application. Contrary to your belief, the decision to issue Mr. Steele a journeyman license rather than a masters' was neither unprofessional or arbitrary. The information submitted by Mr. Steele did not contain documentation of electrical experience or education to justify the requested license.

I have invited Mr. Steele to provide the additional documentation for further review, if he desires. Contrary to Mr. Steele's letter, West Virginia law does not require that he have a Master's license to work in West Virginia.

This office is endeavoring to issue licenses to in-state or out-of-state applicants that meet the requirements of law.

Sincerely,

A handwritten signature in dark ink, appearing to read "Walter Smittle III".

Walter Smittle III  
State Fire Marshal

WSIII/nlo

cc: State Fire Commission  
cc: Attorney General's Office

REMARKS BY

DON ANDERSON, TREASURER  
WEST VIRGINIA HEATING, VENTILATING AND AIR CONDITIONING ASSOCIATION  
205 FIRST AVENUE, NITRO, WEST VIRGINIA 25143

PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS  
PROMULGATED BY THE STATE FIRE MARSHAL/STATE FIRE COMMISSION  
TO IMPLEMENT THE PROVISIONS OF WEST VIRGINIA CODE 29-3B

JULY 17, 1989

HELLO. MY NAME IS DON ANDERSON AND I OWN HUNTINGTON FURNACE. I AM ALSO THE TREASURER OF THE WEST VIRGINIA HEATING, VENTILATING AND AIR CONDITIONING ASSOCIATION. I PERSONALLY APPLAUD THE NEW LAW. BY WORKING IN THE CITY OF HUNTINGTON FOR MANY YEARS, I AND MY EMPLOYEES HAVE BEEN REQUIRED TO MEET ELECTRICAL CODES. WE HAVE BEEN SUBJECT TO INSPECTIONS. WE HAVE HAD TO BE KNOWLEDGEABLE AND TRAINED AND OBTAIN PERMITS AND DO THE WORK ACCORDING TO NATIONAL STANDARDS. CONSEQUENTLY, IT'S LITTLE WONDER THAT OUR EMPLOYEES ARE KNOWLEDGEABLE AND TRAINED IN THEIR FIELD. WE HAVE THOUSANDS OF INSPECTIONS BEHIND US TO ATTEST TO THAT FACT.

I WAS HAPPY TO MAKE CERTAIN THAT OUR ASSOCIATION SUPPORTED ELECTRICIAN LICENSING. I WAS HAPPY TO SEE THAT THE BILL PASSED AND THAT IT GAVE COMPREHENSIVE POWERS TO THE STATE FIRE MARSHAL'S OFFICE. MY HAPPINESS CEASED TO EXIST, HOWEVER, WHEN I LEARNED THAT THE STATE FIRE MARSHAL WAS ACCEPTING AND PROCESSING APPLICATIONS FOR ELECTRICIAN LICENSES FROM PEOPLE FROM SOUTH POINT, OHIO . . . IRONTON, OHIO . . . ASHLAND, KENTUCKY . . . LOUISA, KENTUCKY . . . COLUMBUS, OHIO . . . YOU NAME IT!

I HAVE LEARNED OF INDIVIDUALS WHO HAVE APPLIED FOR AND BEEN ISSUED ELECTRICIAN LICENSES, WHEN THEY HAVE NEVER DONE ANY ELECTRICAL WORK IN THE STATE OF WEST VIRGINIA. THESE PEOPLE RECEIVED THEIR LICENSES ANYWAY - ISSUED BY THE STATE FIRE MARSHAL, JUST IN CASE THEY EVER WANT TO DO SOME WORK IN WEST VIRGINIA. THE LAW DOES NOT ALLOW THIS POLICY. HOWEVER, THE FIRE MARSHAL HAS ELECTED TO ISSUE THESE LICENSES ANYWAY.

I SUPPORT THE ELECTRICAL TRADE. I JOIN OUR ASSOCIATION IN SUPPORTING PROFESSIONALISM IN THE PRACTICE OF THE ELECTRICAL TRADE IN WEST VIRGINIA. WE WHOLEHEARTEDLY SUPPORT THE NEW LAW - WE DO NOT SUPPORT THE FIRE MARSHAL'S POSITIONS, POLICIES AND INTERPRETATIONS OF THAT LAW! WE BELIEVE THAT HIS FAILURE TO ISSUE EMERGENCY RULES FOR THE GRANDFATHER PROVISIONS OF THE LAW WAS A GRIEVOUS MISTAKE!

IN ADDITION, THE FAILURE TO FOLLOW THE LAW IN REQUIRING AN IN-STATE OR OUT OF STATE RESIDENT TO DOCUMENT THE REQUIREMENT OF PRIOR WORK IN WEST VIRGINIA IS UNFORGIVABLE. THE PEOPLE OF WEST VIRGINIA DESERVE BETTER. WE HOPE THAT THE FIRE MARSHAL WILL RECONSIDER - SHORT OF LEGAL ACTION - AND REMEMBER THAT HE WORKS FOR THE PEOPLE OF WEST VIRGINIA AND NOT FOR OHIO OR KENTUCKY!

REMARKS BY HAROLD E. FORLOINE, PRESIDENT  
WEST VIRGINIA HEATING, VENTILATING & AIR CONDITIONING ASSOCIATION  
205 FIRST AVENUE, NITRO, WEST VIRGINIA 25143  
AT A PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS PROMULGATED BY THE  
STATE FIRE MARSHAL AND THE STATE FIRE COMMISSION TO IMPLEMENT  
THE PROVISIONS OF WEST VIRGINIA CODE §29-3B

JULY 17, 1989

My name is Harold E. Forloine. I am President of Teays Valley Heating and Cooling. I also serve as President of the West Virginia Heating, Ventilating and Air Conditioning Association, which represents over 800 contractors who do heating, ventilating and air conditioning work throughout West Virginia. In the case of my own company and many other members of the Association, we do industrial, commercial and residential work. Although the name of my business says "heating and cooling", we also do general contracting, electrical work, plumbing and other specialized craft work.

As President of the West Virginia HVAC Association, I was happy to serve on the Advisory Committee that advised the State Fire Marshal about the rules and regulations regarding electrician licensing. I am happy to say that the Fire Marshal has, in his latest draft, adopted many of the suggestions submitted by our Association, as well as the West Virginia Electrical Contractors Association. I am happy that many of my fellow Advisory Board members saw fit to include many of those suggestions. At the same time, I am also perplexed by the fact that the Fire Marshal has failed to incorporate other suggestions which we think are extremely important.

I am not going to try to outline our entire formal draft of amendments to the proposed rules and regulations. Those will be submitted to the Fire Marshal and subsequently to the Legislative Review Committee during the allocated time frame and in an appropriate manner. During this hearing, my goal is to outline and repeat our strong advocacy for additions and/or amendments to the draft regulations. We would respectfully submit that the law clearly and without question requires, in Chapter 29-3B-2, that the electrician's license must be posted on any job in which electrical work is being performed for hire. We urge that "posting" of the license be defined. Without an adequate definition of "posting", electricians doing work could be cited, fined or even lose their license for "failure to post". By defining and clarifying "posting" in the regulations, a "grey area" for those doing electrical work will be cleared up, as well as the police powers granted to you and others under the law.

The law also states that no electrical work may be performed, offered or engaged in for compensation and hire within the state of West Virginia without a license. "Performing or engaging in electrical work" is clear. However, we urge that the rules define what constitutes an "offer to do electrical work". Unless the rules clearly identify what constitutes an offer to do electrical work, your Office will be caught in a "grey area" in trying to prosecute people who offer to do electrical work without a license.

We believe that it is "offering to do electrical work" when you announce, display, provide notice, advise, provide written or verbal price quotations with the intention to provide electrical

work for here. We urge the inclusion of such a definition in the proposed regulations.

The law provides the State Fire Marshal with broad, comprehensive police powers granted by the Legislature. Those police powers are expanded by the rule stating that electrical work that is not performed in accordance with the National Electrical Code is justification for suspension or revocation of an electrician's license. We subscribe to that concept. However, which edition of the National Electrical Code will be enforced? The State Fire Commission adopts a specific edition of the Code as a part of the Uniform Statewide Building Code. The Code is revised periodically. In exercising your strong police power, which edition of the National Electrical Code will be enforced? The same one promulgated by the State Fire Commission? The most recent edition published by the NFPA? Or the edition of the Code book that your designee happens to possess?

Since the Code changes and the rules will not, we urge that the rules be modified to indicate that the edition of the Code being used under the Uniform Statewide Building Code be the same edition of the Code that is enforced under the provisions of these regulations.

We have been advised by our legal counsel that this law contemplates broad police powers being vested in the State Fire Marshal and his deputites in regulating licensed electricians. We, consequently, urge the Fire Marshal to adopt as a part of the rules a formal policy of issuing administrative notices for minor non-compliances with the law prior to implementing and initiating

proceedings that would result in the suspension or revocation of an electrician's ability to earn a living in West Virginia. We, likewise, recognize that such notice to cure a minor defect or administrative notice to comply would not be issued in the event that the Fire Marshal or his deputy determined that an imminent safety hazard or danger to the health, welfare and safety of the public or public or private property exists.

We will submit to the Fire Marshal and to the Legislature, and urge their inclusion in the regulations, language that will require the Fire Marshal to expend fees collected from electrician licensing directly into the enforcement of this law and its regulations. We urge the Fire Marshal's aggressive pursuit of unlicensed unqualified and illegal electricians throughout West Virginia. We believe the regulations should reflect and require the Fire Marshal to make appropriate public reports of his activities and performance in enforcing this law and to generally account to the people of West Virginia for the expenditure of the estimated \$500,000 annually that will be paid by licensed electricians to the Fire Marshal.

We further support the proposal that the Fire Marshal's staff be qualified and certified by appropriate testing agencies as electrical inspectors. We further urge - and will submit language that will establish - the clarification of the authority granted to the various classes of licenses under the law. Since the passage of the law, the State Fire Marshal has been unclear, unresponsive to requests, contradictory and ambiguous about the authority granted to journeymen, apprentices and master electricians.

Now it is vital that I comment that it is the opinion of thousands of West Virginia workers that our Association represents that the Fire Marshal is in violation of West Virginia law in issuing licenses without examination to applicants for such licenses under West Virginia Code §29-3B-6. In view of the fact that the Legislature was specific in granting police powers to the Fire Marshal, we believe tht the Fire Marshal has ignored the requirements of his reponsibility under the law and has operated in such a manner that fails to protect the health, safety and welfare of the people, as well as the public and private property, of our state. Of special concern to our Association is the fact that electricians in West Virginia are being subjected to mismanagement, arbitrary and capricious acts, misstatements by the Fire Marshal and his staff, as a result of the administration of this law.

We urge tht the Fire Marshal immediately revise his procedures accordingly. A copy of these remarks is available for the hearing records and our Association reserves the right to file written comments prepared by our members and/or our legal counsel within the time frame specified.

REMARKS BY

CHUCK LAMBERT, VICE PRESIDENT  
WEST VIRGINIA HEATING, VENTILATING AND AIR CONDITIONING ASSOCIATION  
205 FIRST AVENUE, NITRO, WEST VIRGINIA 25143

PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS  
PROMULGATED BY THE STATE FIRE MARSHAL/STATE FIRE COMMISSION  
TO IMPLEMENT THE PROVISIONS OF WEST VIRGINIA CODE 29-3B

JULY 17, 1989

MY NAME IS CHUCK LAMBERT. I AM THE VICE PRESIDENT OF THE WEST VIRGINIA HEATING, VENTILATING AND AIR CONDITIONING ASSOCIATION, AND I OWN LAMBERT'S REFRIGERATION IN BLUEFIELD, WEST VIRGINIA. A COPY OF MY REMARKS WILL BE PROVIDED TO YOU FOR THE RECORDS OF THIS HEARING, AND ADDITIONAL DRAFT LANGUAGE FOR THE PURPOSED REGULATIONS GOVERNING ELECTRICIAN LICENSING IN WEST VIRGINIA WILL ALSO BE SUBMITTED AT A LATER DATE PRIOR TO THE DEADLINE OUTLINED UNDER THE ADMINISTRATIVE PROCEDURES ACT OF WEST VIRGINIA.

I AM GRATEFUL FOR THIS PUBLIC HEARING AND THE OPPORTUNITY FOR WEST VIRGINIA ELECTRICIANS TO BE HEARD. THOSE OF US WHO DO ELECTRICAL WORK ON A CONTINUING BASIS AND HAVE FOR SEVERAL YEARS BEEN TRULY HAPPY WITH THE PASSAGE OF THE NEW WEST VIRGINIA ELECTRICIAN LICENSING LAW. OUR ASSOCIATION DID TESTIFY AS AN ADVOCATE FOR THIS LAW AND THE NEED TO LICENSE THE ELECTRICAL TRADE TO ASSURE ADEQUATE PERFORMANCE.

I HOLD APPROPRIATE LICENSES IN THE STATE OF VIRGINIA. BEING FROM BLUEFIELD, WEST VIRGINIA, I KNOW ALL TOO WELL WHAT'S IT'S LIKE

TO WORK IN MORE THAN ONE STATE. FOR MANY YEARS, VIRGINIA HAS PROVIDED PROTECTION TO THEIR PEOPLE FROM ME. THEY MADE SURE THAT I TOOK A TEST, PURCHASED A LICENSE, PAID TAXES AND ADHERED TO THE INDUSTRY LAWS THAT POLICE THE ELECTRICAL TRADE IN VIRGINIA. DURING THOSE SAME YEARS, AND PRIOR TO THE ENACTMENT OF THIS NEW LAW, UNQUALIFIED VIRGINIANS, KENTUCKIANS, TENNESSEEANS, NORTH CAROLINIANS - AND EVERYBODY ELSE IN THE WORLD - COULD WORK WITH IMPUNITY AND WITHOUT QUALIFICATION OR STANDARDS IN WEST VIRGINIA. WHEN OUR ASSOCIATION PROVIDED ME WITH A COPY OF THE NEW LAW, I WAS THRILLED. I THOUGHT, "AT LONG LAST, THE LEGISLATURE HAS FINALLY DONE SOMETHING FOR THE PEOPLE AND FOR THE ELECTRICAL TRADE IN WEST VIRGINIA!" MY MEN AND I ARE THRILLED TO TAKE A TEST, PAY A FEE AND DO WHATEVER IS NECESSARY TO BRING OUR WORK INTO THE 20TH CENTURY!

I THOUGHT, "HOW WONDERFUL IT'S GOING TO BE THAT ELECTRICIANS IN OUR AREA WILL HAVE TO MEET CODE . . . WILL HAVE TO BE QUALIFIED . . . WILL HAVE TO BE ANSWERABLE TO THE STATE FIRE MARSHAL!" I THOUGHT THE FIRE MARSHAL WAS THE POLICEMAN WHO IS CHARGED WITH PROTECTING WEST VIRGINIANS IN REGULATING ELECTRICAL WORK. LITTLE DID I KNOW THAT THE POLICEMAN WOULD JOIN FORCES WITH THOSE WHO, FOR YEARS, HAVE CONTRIBUTED TO THE UNSAFE, ILLEGAL, UNLICENSED, SUBSTANDARD AND NON-CONFORMING ELECTRICAL WORK BEING DONE IN OUR AREA. I THOUGHT THE LAW WAS CLEAR. THE FIRE MARSHAL WAS SUPPOSED TO JOIN FORCES WITH THE GOOD GUYS TO PROTECT THE PUBLIC FROM THE BAD GUYS! UNFORTUNATELY, IT APPEARS THAT THE FIRE MARSHAL IS MORE INTERESTED IN THE FEES THAN IN ENFORCEMENT OF THE LAW AND PROTECTING THE

PUBLIC! MY FRIENDS, COMPETITORS AND ELECTRICIANS ALL OVER THE  
SOUTHEAST ARE LAUGHING OUT LOUD AS THEY APPLY FOR AND ARE GRANTED A  
WEST VIRGINIA ELECTRICIAN LICENSE - WITH NO TESTING AND NO CHECKS,  
EXCEPT THOSE THAT HAVE DOLLARS WRITTEN ON THEM!

I AM NOT AN ATTORNEY. BUT I CAN READ. THE LAW CLEARLY SAYS  
THAT FOR AN APPLICANT TO BE ELIGIBLE FOR A LICENSE WITHOUT TESTING,  
THAT APPLICANT HAS TO BE WORKING AS A JOURNEYMAN OR MASTER  
ELECTRICIAN IN WEST VIRGINIA AS OF THE EFFECTIVE DATE OF THE LAW,  
AND THAT HE HAD TO HAVE BEEN WORKING FOR A PERIOD OF ONE YEAR  
IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF THE LAW. VIRGINIA  
ELECTRICIANS WHO RARELY, IF EVER, DID ANY ELECTRICAL WORK IN WEST  
VIRGINIA ARE APPLYING FOR - AND BEING ISSUED - LICENSES.

WE THOUGHT THAT MAYBE WE WERE WRONG. MAYBE THERE WAS SOMETHING  
THAT WE DID NOT UNDERSTAND. SO WE GAVE YOUR LAW TO OUR ATTORNEY AND  
OUR ATTORNEY WROTE A LETTER WHICH WE SHARED WITH THE FIRE MARSHAL.  
THAT LETTER CLEARLY SAYS THAT BOTH IN-STATE AND OUT OF STATE  
APPLICANTS MUST GIVE CONCLUSIVE EVIDENCE THAT THEY MEET THE  
REQUIREMENTS, AS MENTIONED. I DON'T KNOW THE FIRE MARSHAL  
PERSONALLY AND HOLD NO PERSONAL ANIMOSITY TOWARD HIM. HOWEVER,  
KNOW THAT OUR LEGISLATURE NEVER MEANT FOR UNQUALIFIED PEOPLE FROM  
OTHER STATES WHO, IN SOME CASES, CAN'T EVEN PASS THE VIRGINIA TEST,  
TO BE GIVEN LICENSES IN WEST VIRGINIA. ESPECIALLY IF THEY WERE NOT  
WORKING HER ON THE EFFECTIVE DATE OF THE LAW, AND NOR WERE THEY  
WORKING FOR ONE YEAR PRIOR TO THE EFFECTIVE DATE.

THIS IS ONE WEST VIRGINIA BUSINESSMAN WHO IS THRILLED WITH THE LAW THAT HAS BEEN PASSED. THE FAILURE OF THE FIRE MARSHAL TO DEVELOP EMERGENCY RULES AND REGULATIONS TO COVER THE "GRANDFATHERING" PERIOD AND TO FILE THOSE EMERGENCY RULES AND REGULATIONS TIMELY . . . AND TO ESTABLISH CRITERIA . . . AND TO ENFORCE THE LAW AS IT IS WRITTEN IS INEXCUSABLE AND, BASED UPON OUR ATTORNEY'S OPINION, ILLEGAL. WE URGE THE FIRE MARSHAL TO RECONSIDER HIS EARLIER POSITION, SEEK COMPETENT LEGAL COUNSEL AND BEGIN TO ACT ON BEHALF OF THE PEOPLE OF WEST VIRGINIA AND NOT BE SO CONCERNED ABOUT LICENSING UNQUALIFIED OUT OF STATE ELECTRICIANS TO OPERATE IN WEST VIRGINIA.

I THOUGHT THE WEST VIRGINIA FIRE MARSHAL WOULD LOOK AFTER THE INTERESTS OF WEST VIRGINIANS, JUST THE SAME AS THE VIRGINIA FIRE MARSHAL LOOKS AFTER THE INTERESTS OF THE CITIZENS OF THAT STATE. UNFORTUNATELY, IT JUST ISN'T SO!



# WEST VIRGINIA MANUFACTURED HOUSING ASSOCIATION

Clyde B. White  
President

Leff Moore  
Executive Director

209 First Avenue

Nitro, WV 25143

Phone: (304) 727-7431

July 26, 1989

**RECEIVED**  
JUL 27 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2100 Washington Street, East  
Charleston, WV 25305.

**W.V. FIRE COMM  
STATE FIRE MARSHAL**

RE: Comments on Proposed Rules of State Fire Commission  
Title 87; Chapter 29, Article 3, Section 5; Series II  
Electrician Licensing Legislative Rules

Dear Mr. Smittle:

Attached and made a part of this letter are copies of the  
following items:

- My letter to you dated June 27, 1989 soliciting a formal letter from you relative to the level and scope of work a journeyman electrician may perform and the criteria for the issuance of the different classes of electrician license.
- A copy of my July 3 letter asking for an immediate ruling relative to your administrative policies.
- My July 13, 1989 letter to you requesting responses to many unanswered questions relative to the licensing of electricians.

Also enclosed is a copy of oral remarks submitted by G. Shirie Westfall, Office Manager of the West Virginia Manufactured Housing Association at the July 17, 1989 public hearing.

Please consider these documents as a part of the record of the public hearing and comment period relative to the above referenced

LETTER: Walter Smittle, III, State Fire Marshal  
RE: Public Comments on Proposed Electrician  
Licensing Legislative Rules  
DATE: July 26, 1989  
PAGE: Two

proposed Legislative Rules. We request that you submit them along with other information presented to the State Legislative Rule Making and Review Committee as a part of the rule making process.

It is our opinion that if the issues raised in these communications are not specifically addressed in the permanent Legislative Rules, that omission will result in untold harm to the business community and citizens of West Virginia. If you have any questions, or if I may amplify or clarify any of the material submitted, please do not hesitate to contact me.

Sincerely yours,

*Leff Moore/gsw*  
Leff Moore  
Executive Director

LM:gsw

Enc.



# WEST VIRGINIA MANUFACTURED HOUSING ASSOCIATION

Clyde B. White  
President

Leff Moore  
Executive Director

209 First Avenue

Nitro, WV 25143

Phone: (304) 727-7431

June 27, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

I have been contacted by several electricians who also do work in the manufactured housing industry. It appears that they had applied for a master electrician license under the provisions of West Virginia Code 29-3B-6. They also indicated that they had met all of the requirements for documentation that your office has requested. The applicants have notified me that they have subsequently been issued journeyman licenses, rather than the master licenses for which they applied. They indicate that they have subsequently contacted your representatives and have been told that they are free to do electrical work with a journeyman license and practice the electrical trade on their own. In other words, they are not "subject to supervision by a master electrician". It appears that 29-3B-2 of the Code of West Virginia clearly states just the opposite in 29-3B-2(d).

The reason for this correspondence is to request a formal letter from you indicating whether or not, in your opinion, the holder of a journeyman card issued under the provisions of 29-3B-6 can perform electrical work on his own in West Virginia without the supervision of, or not subject to the supervision of, a master electrician. In addition, those members of our Association who applied for master electrician licenses and who have fully met the requirements for documentation and information requested by you are confused as to what criteria your office is using to determine which of those applicants should receive master electrician and which should receive journeyman electrician licenses.

It would appear that several individuals who have submitted the exact same documentation to you have received master licenses, while others were relegated to journeyman status. Could you please advise us of the criteria you are using over and above the required documentation to make the decision on who is permitted to continue to work in West Virginia on their own and who must either hire another to work with them or cease to do electrical work [29-3B-2(d)]. If your office has established guidelines for making

LETTER: State Fire Marshal  
RE: Electrician Licensing

DATE: June 27, 1989  
PAGE: Two


such decisions based on the submitted documentation or other factors, would you please immediately furnish me a copy of those guidelines so I can advise applicants of the criteria they must meet to qualify for the various types of licenses under the grandfather clause.

Walter, many of the people who work in the manufactured housing industry not only practice the electrical trade, but - like so many other small West Virginia tradesmen - must also practice carpentry, roofing and other trades in order to make a living. Many of these individual tradesmen are highly skilled and have years of experience in the electrical field. Many have received formal and informal training through their careers. Most are qualified to do electrical work far and above the level of skill required to meet the needs of the housing industry, although they choose to remain as a vital component of the housing industry rather than seek employment in the industrial or electrical fields. Based on my interpretation of the journeyman electrician definition, it would appear that if you arbitrarily insist on licensing qualified electricians as journeymen, then you are, in effect, eliminating their ability to make a living on their own as a contractor or an employee!

Clearly, many West Virginia manufactured housing retailers, service companies, installing contractors and others would be faced with the necessity of terminating electricians who do not possess the legal basis to do work on their own and would be forced to seek to employ only electricians who hold a master license, since most of these firms can only afford to have one electrician in their employ. As you can see, the criteria for your in-house determination of who gets a master and who gets a journeyman license is extremely important. Again, please furnish us a copy of your policies in this regard. In addition, please indicate what, if any, appeal a person applying for a master license who is arbitrarily issued a journeyman license has under your current administrative policies.

Because of the abbreviated time frame offered West Virginia electricians under the law, your prompt response to this letter of inquiry is respectfully requested.

Very truly yours,

  
Left Moore  
Executive Director

LM:gsW

CC: State Fire Commission Members  
State Fire Marshal Electrician Licensing Advisory Group Members  
Association Officers and Board of Directors  
All Members



# WEST VIRGINIA MANUFACTURED HOUSING ASSOCIATION

Clyde B. White  
President

Leff Moore  
Executive Director

209 First Avenue

Nitro, WV 25143

Phone: (304) 727-7431

July 3, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

THIS LETTER IS TO REQUEST IMMEDIATE INFORMATION WHICH IS CRITICAL TO HUNDREDS OF SMALL BUSINESSES IN WEST VIRGINIA. In order for our Association to provide them with accurate information, your letter in prompt response is respectfully requested.

Can an electrician who holds a journeyman license issued by your Office under West Virginia Code §29-3B-1 et. seq. legally perform electrical work - including installing wires, conduits, apparatus, equipment, fixtures and other appliances - without being supervised, directly or indirectly, by another? Does a journeyman license issued by your Office mean that an individual/sole proprietor who owns his own contracting company do electrical work without a master electrician supervising - directly or indirectly - that work?

Last Friday, June 30, I had a conversation with Mr. Darl Cross, your Chief Deputy. I expressed concern to Mr. Cross about the fact that personnel in the State Fire Marshal's Office were indicating to applicants for electrician licenses that journeyman electricians cannot work unsupervised and on their own, and that no one in their company, firm or corporation had to possess a master electrician license in order for them to continue to work independently. On June 30, my office received a telephone call from an individual in Fairmont. I returned that call today. The electrician in question currently holds a journeyman license issued under the old law by your Office. According to my conversation with him, he talked to Mr. Dave Woods in your Office and Mr. Woods indicated that I was giving inaccurate information to him when I indicated that journeyman electricians were "subject to supervision by a master electrician". I referred this individual to West Virginia Code §29-3B-2(d).

I have talked with many other individuals who are applying to your Office for license under West Virginia Code §29-3B-6, who indicate that they have also been "verbally" informed by your Office

LETTER: Walter Smittle, III, State Fire Marshal  
RE: Electrician Licensing  
DATE: July 3, 1989  
PAGE: Two

personnel that a master license is not necessary to work independent of others in West Virginia. On behalf of those member firms who belong to our statewide trade association whose personnel only hold journeyman electrician licenses, we hope that this reported position taken by your personnel is legal and accurate. It is vitally important, however, that the small business people in West Virginia who must hold electrician licenses to perform their business activities have a prompt, clear and decisive ruling from you on this matter. This is particularly true in view of the ramifications of West Virginia Code §29-3B-3 relative to time frames for obtaining the required license under that section. Unclear, incorrect, indecisive, or inappropriate information furnished to West Virginia businesses by my office or by your Office could result in serious consequences for their business future and their ultimate ability to remain viable West Virginia businesses.

It would appear that my reading of the journeyman electrician definition is in conflict with your interpretation. A written letter issued immediately by your Office outlining your official position on the scope of work that may be performed by a holder of a journeyman license is critical. Your immediate attention to this matter is again respectfully requested.

Sincerely yours,



Leff Moore  
Executive Director

LM:gsW

CC: Cabinet Secretary Joseph J. Skaff ✓  
Members of the State Fire Commission ✓  
WVMHA Officers and Board Members ✓  
West Virginia HVAC Association ✓  
WV Electrical Contractors Association ✓  
Del. Jim Humphreys, Chairman, Leg. Rule Making Committee ✓



# WEST VIRGINIA MANUFACTURED HOUSING ASSOCIATION

Clyde B. White  
President

Leff Moore  
Executive Director

209 First Avenue

Nitro, WV 25143

Phone: (304) 727-7431

July 13, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

In a letter to you dated July 3 (a copy is attached) I requested information as follows:

"Can an electrician who holds a journeyman license issued by your Office under West Virginia Code 29-3B-1 et. seq. legally perform electrical work - including installing wires, conduits, apparatus, equipment, fixtures and other appliances - without being supervised, directly or indirectly, by another? Does a journeyman license issued by your Office mean that an individual/sole proprietor who owns his own contracting company can do electrical work without a master electrician supervising - directly or indirectly - that work? . . ."

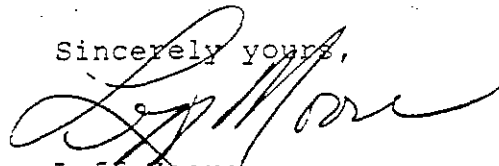
Please also find attached a copy of a letter forwarded to you on June 27, 1989. That letter requests a formal letter from you indicating whether or not the holder of a journeyman license issued by you under the provisions of West Virginia Code 29-3B-6 can perform electrical work on his own in West Virginia without the performance of supervision, or without being subject to the supervision, of a master electrician. That letter also requests that you advise us of the criteria you used over and above the required documentation you circulated to make the decision on who is permitted to continue to work in West Virginia on his own and who must hire another to work with them or cease to do electrical work under the provisions of West Virginia Code 29-3B-2(b). The letter further requests copies of the guidelines your Office has established as the basis for your decisions as to who qualifies and what criteria you assigned to the various types of licenses under the grandfather clause. A copy of your policies and procedures was requested. In addition, the question was posed as to what appeal a person applying for a master license who is arbitrarily issued a journeyman license has under your current administrative policies.

My request for a written letter issued by your Office outlining your official position on the scope of the work that may be performed by the holder of a journeyman license and the other

LETTER: Walter Smittle, III, State Fire Marshal  
DATE: July 13, 1989  
RE: Electrician Licensing  
PAGE: Two

questions outlined in my letters of June 27 and July 3 is critical. Because the issues outlined are relative to the grandfather clause in the West Virginia electrician licensing law, I have been instructed by the leadership of the West Virginia Manufactured Housing Association to notify you that if a reply to these questions is not received within 24 hours of the time of your receipt of this letter, then this matter will be referred to legal counsel for immediate action.

Sincerely yours,



Leff Moore  
Executive Director

LM:gsw  
Attchmt.

CC: Cabinet Secretary Joseph J. Skaff  
Members of the State Fire Commission  
WVMHA Officers and Board Members  
West Virginia HVAC Association  
WV Electrical Contractors Association  
Del. Jim Humphreys, Chairman, Leg. Rule Making Committee



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July 3, 1989

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Last Friday, June 30, I had a conversation with Mr. Darl Cross, your Chief Deputy. I expressed concern to Mr. Cross about the fact that personnel in the State Fire Marshal's Office were indicating to applicants for electrician licenses that journeyman electricians can work unsupervised and on their own, and that no one in their company, firm or corporation had to possess a master electrician license in order for them to continue to work independently. On June 30, my office received a telephone call from an individual in Fairmont. I returned that call today. The electrician in question currently holds a journeyman license issued under the old law by your Office. According to my conversation with him, he talked to Mr. Dave Woods in your Office and Mr. Woods indicated that I was giving inaccurate information to him when I indicated that journeyman electricians were "subject to supervision by a master electrician". I referred this individual to West Virginia Code §29-3B-2(d).

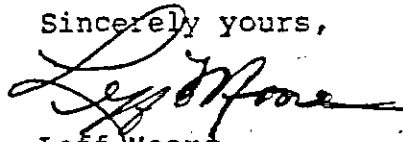
I have talked with many other individuals who are applying to your Office for license under West Virginia Code §29-3B-6, who indicate that they have also been "verbally" informed by your Office

LETTER: Walter Smittle, III, State Fire Marshal  
RE: Electrician Licensing  
DATE: July 3, 1989  
PAGE: Two

personnel that a master license is not necessary to work independent of others in West Virginia. On behalf of those member firms who belong to our statewide trade association whose personnel only hold journeyman electrician licenses, we hope that this reported position taken by your personnel is legal and accurate. It is vitally important, however, that the small business people in West Virginia who must hold electrician licenses to perform their business activities have a prompt, clear and decisive ruling from you on this matter. This is particularly true in view of the ramifications of matter: West Virginia Code §29-3B-3 relative to time frames for obtaining the required license under that section. Unclear, incorrect, the required indecisive, or inappropriate information furnished to West Virginia businesses by my office or by your Office could result in serious consequences for their business future and their ultimate ability to remain viable West Virginia businesses.

It would appear that my reading of the journeyman electrician definition is in conflict with your interpretation. A written letter issued immediately by your Office outlining your official position on the scope of work that may be performed by a holder of a journeyman license is critical. Your immediate attention to this matter is again respectfully requested.

Sincerely yours,



Leff Moore  
Executive Director

LM:gsw

CC: Cabinet Secretary Joseph J. Skaff ✓  
Members of the State Fire Commission ✓  
WVMHA Officers and Board Members ✓  
West Virginia HVAC Association ✓  
WV Electrical Contractors Association ✓  
Del. Jim Humphreys, Chairman, Leg. Rule Making Committee ✓



# WEST VIRGINIA MANUFACTURED HOUSING ASSOCIATION

Clyde B. White  
President

Leff Moore  
Executive Director

209 First Avenue

Nitro, WV 25143

Phone: (304) 727-7431

June 27, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

I have been contacted by several electricians who also do work in the manufactured housing industry. It appears that they had applied for a master electrician license under the provisions of West Virginia Code 29-3B-6. They also indicated that they had met all of the requirements for documentation that your office has requested. The applicants have notified me that they have subsequently been issued journeyman licenses, rather than the master licenses for which they applied. They indicate that they have subsequently contacted your representatives and have been told that they are free to do electrical work with a journeyman license and practice the electrical trade on their own. In other words, they are not "subject to supervision by a master electrician". It appears that 29-3B-2 of the Code of West Virginia clearly states just the opposite in 29-3B-2(d).

The reason for this correspondence is to request a formal letter from you indicating whether or not, in your opinion, the holder of a journeyman card issued under the provisions of 29-3B-6 can perform journeyman electrical work on his own in West Virginia without the supervision of, or not subject to the supervision of, a master electrician. In addition, those members of our Association who applied for master electrician licenses and who have fully met the requirements for documentation and information requested by you are confused as to what criteria your office is using to determine which of those applicants should receive master electrician and which should receive journeyman electrician licenses.

It would appear that several individuals who have submitted the exact same documentation to you have received master licenses, while others were relegated to journeyman status. Could you please advise us of the criteria you are using over and above the required documentation to make the decision on who is permitted to continue to work in West Virginia on their own and who must either hire another to work with them or cease to do electrical work [29-3B-2(d)]. If your office has established guidelines for making

LETTER: State Fire Marshal  
RE: Electrician Licensing

DATE: June 27, 1989  
PAGE: Two

such decisions based on the submitted documentation or other factors, would you please immediately furnish me a copy of those guidelines so I can advise applicants of the criteria they must meet to qualify for the various types of licenses under the grandfather clause.

Walter, many of the people who work in the manufactured housing industry not only practice the electrical trade, but - like so many other small West Virginia tradesmen - must also practice carpentry, roofing and other trades in order to make a living. Many of these individual tradesmen are highly skilled and have years of experience in the electrical field. Many have received formal and informal training through their careers. Most are qualified to do electrical work far and above the level of skill required to meet the needs of the housing industry, although they choose to remain as a vital component of the housing industry rather than seek employment in the industrial or electrical fields. Based on my interpretation of the journeyman electrician definition, it would appear that if you arbitrarily insist on licensing qualified electricians as journeymen, then you are, in effect, eliminating their ability to make a living on their own as a contractor or an employee!

Clearly, many West Virginia manufactured housing retailers, service companies, installing contractors and others would be faced with the necessity of terminating electricians who do not possess the legal basis to do work on their own and would be forced to seek to employ only electricians who hold a master license, since most of these firms can only afford to have one electrician in their employ. As you can see, the criteria for your in-house determination of who gets a master and who gets a journeyman license is extremely important. Again, please furnish us a copy of your policies in this regard. In addition, please indicate what, if any, appeal a person applying for a master license who is arbitrarily issued a journeyman license has under your current administrative policies.

Because of the abbreviated time frame offered West Virginia electricians under the law, your prompt response to this letter of inquiry is respectfully requested.

Very truly yours,



Leff Moore  
Executive Director

LM:gsW

CC: State Fire Commission Members  
State Fire Marshal Electrician Licensing Advisory Group Members  
Association Officers and Board of Directors  
All Members

REMARKS OF

G. SHIRIE WESTFALL, OFFICE MANAGER  
WEST VIRGINIA MANUFACTURED HOUSING ASSOCIATION  
205 FIRST AVENUE, NITRO, WEST VIRGINIA 25143

PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS  
PROMULGATED BY THE STATE FIRE MARSHAL/STATE FIRE COMMISSION  
TO IMPLEMENT THE PROVISIONS OF WEST VIRGINIA CODE §29-3B

JULY 17, 1989

Good afternoon. My name is Shirie Westfall. I am the Office Manager of the West Virginia Manufactured Housing Association. Our statewide trade association represents manufacturers, suppliers, lenders, dealers and installing contractors who manufacture, sell, distribute and install over 60% of all of the new housing in West Virginia. We congratulate the Fire Marshal, the Legislature and the electrical industry for a major step forward in the requiring of licensing for electricians in West Virginia.

Since June 15, 1976, all manufactured homes built anywhere in this country have had to be built to the National Electrical Code and the Federal government has an inspection system in place in each plant to assure that fact. That system has proven the validity of the National Electric Code and the incidence of electrical problems, fires, etc. in factory built housing since the adoption of the Code has been reduced dramatically. We believe that if properly administered and enforced by the State Fire Marshal's Office, this new law can have the same results with regard to site built structures in West Virginia.

The State Fire Marshal's Office, in one of its recent annual reports, indicated that electrical fires were one of the primary

causes of property loss, as well as loss of life, due to fire in West Virginia. We're extremely proud of the fact that national, as well as state, statistics clearly point to the fact that manufactured housing is safer from electrical fire than any other class of housing. We know that this is directly attributable to the National Code and the inspection process.

We do know, however, that in West Virginia there is a problem. In many cases, retailers, contractors and others sell the factory built home and the electrical service provided to that home is installed by a local, previously unlicensed and - in many cases - unqualified electrician. The new electrician licensing law is a giant step forward. We believe that the law itself is adequate to protect the people and property of West Virginia. However, the key to the overall results lies in the hands of the State Fire Marshal and his deputies. If the law is not administered properly and according to the legislative intent, the people of West Virginia will suffer.

Our industry's concern is primarily limited to the issue of the correct code governing installation of a code-built, inspected and approved designed unit. When shipped from the factory, our homes meet the National Electrical Code. During installation, and when the main power source is installed from the electric company to the home, that is the time when we find abuses, improper installation, unsafe electrical connections and Code non-conformance.

On behalf of the 3,000 West Virginia families who annually purchase manufactured homes, we urge strong, strict, aggressive and - above all - evenhanded, fair and legal enforcement of the statute by the State Fire Marshal's Office.

We will be submitting detailed written proposed amendments to the regulations subsequent to this public hearing, and we will be strong advocates for their adoption by the Fire Marshal and the Legislature.

We are truly thrilled with the new law; but our industry is saddened by the unresponsive, contradictory, ambiguous and apparently illegal application of the law to date by the Fire Marshal's Office. The failure of the Fire Marshal to include in his emergency rules and regulations filed with the Secretary of State's Office on May 19 at 11:50, AM language that provides the criteria for the issuance of a master, journeyman or apprentice electrician license under the grandfather provisions is irresponsible. As a result of that failure, qualified electricians have been denied the ability to perform their trade while, on the other hand, unqualified electricians have - for some unknown reason - been granted access to the main electrical boxes of our homes! We find this situation to be in direct contradiction to the declaration of purpose stated by the Legislature in the law!

Our Association does not support - and it abhors - the policy established by the State Fire Marshal wherein his Office ignores the requirement that an applicant for electrician license without examination under the grandfather clause be issued a license only after that applicant provides conclusive evidence that he or she was working in this state on the effective date of the law and that he or she had been working here for a period of one year prior to the effective date of the law. By failing to require this documentation, manufactured housing set-up crews in surrounding states are being issued electrician licenses under the grandfather


clause. The police powers to arrest, cite or withdraw licenses granted to the Fire Marshal under the law are severely hampered when the holder of the license is the resident of another state. And simply cancelling the license after the West Virginia home owner has been irreparably harmed is little help! In addition, our industry is truly disappointed with the fact that the Fire Marshal's Office has failed to provide responses to questions raised relative to his administration of the law. We urge the West Virginia Legislative Rule Making and Review Committee, as well as the State Fire Marshal and his deputies, to review their existing policies and procedures - or the absence of policies and procedures - in order to assure that the people of West Virginia and those who practice the electrical trade are treated fairly and legally.

We urge that all West Virginia licensed electricians and their employees support the new electrician licensing law, particularly the requirement that calls for all electrical work to be performed in compliance with the National Electrical Code. Our industry knows first hand how beneficial that is! Since manufactured homes are required to be built to the code, we are gratified that now other builders must also begin to meet the Code here in West Virginia. A copy of my remarks is being presented for the record.

TOMMY THOMPSON  
President  
JOHN W. SAUNDERS  
Business Manager



STEVEN A. ALLRED  
Financial Secretary  
JOHN C. PICKLESIMER  
Recording Secretary

**LOCAL NO. 466**  
800 INDIANA AVENUE  
CHARLESTON, WEST VIRGINIA 25302  
PHONE 342-0800  


July 26, 1989

State Fire Commission  
2100 Washington Street East  
Charleston, West Virginia 25305

Gentlemen:

Please find enclosed various documents and correspondences regarding the Electrician Licensing Legislative Rules. I spoke at the July 17, 1989 public hearing in the interest of the members of the International Brotherhood of Electrical Workers (IBEW) that were present. I address you today not only representing the members of IBEW Local Union #466, Charleston, West Virginia, but more importantly, myself; an electrician who will be directly impacted by the legislative rules that will govern Chapter 29, Article 3B.

I have attached a brief background of information on myself (marked Attachment #1) so one may judge as to my qualifications and credibility to review and comment on these matters. Please consider all the attachments I have included with this letter as part of the record of the public hearing and comment period for the proposed legislative rules.

As a member of the State Fire Marshal Electrician Advisory Board, and after much in-depth study and meetings concerning the current emergency administrative rules that were filed by Mr. Walter Smittle III, State Fire Marshal, on May 19, 1989 with the Secretary of State, myself and the Advisory Committee proposed certain changes and additions to these emergency rules that we felt would better serve the electrical industry and the state of West Virginia as a whole. A copy of

this final draft is enclosed, and marked as such.

I, along with the electricians that I represent, support this final draft of the Advisory Committee in its entirety (marked Attachment #2), and ask that it become the legislative rules that will govern the State Fire Marshal in his duties pursuant to the provisions of Chapter 29, Article 3B, of the West Virginia State Code, 1931, as amended. We applaud and support Mr. Smittle's interest in upgrading the electrical industry and protecting the people of West Virginia from unsafe work. We believe that the State Fire Marshal deserves the authority to develop certain administrative policies and interpretations within his office to best serve the interest of the entire electrical industry.

The electrical trade is a very diverse industry, and trying to establish written rules and policies that could cover every aspect or situation that the State Fire Marshal would encounter is virtually impossible. As competent electricians, we are required to install our work in accordance with the National Electrical Code. It is an unwritten industry standard that the ultimate interpretation of the National Electrical Code lies with the inspectors who reviews our work. We believe that this unwritten interpretation standard should also apply to the State Fire Marshal in regards to his authority to enforce the West Virginia Uniform Statewide Building Code, part of which is the National Electrical Code.

The State Fire Marshal and his staff have consistently shown that their interest in the electrical industry is for the protection of life and property for the residents of West Virginia. We strongly feel that to try and reduce their authority to only stringent written policies and procedures would have a far greater negative impact on the electrical industry and the citizens of the state of West Virginia than allowing the State Fire Marshal the responsibility to make unwritten interpretations. The State Fire Marshal should retain his authority to develop interpretations and policies as it may relate to any specific aspect of the electrical trade. His ability and consistency in the past leads us to believe that he is, and would continue to be, fair with all those involved in the electrical trade and still serve the best and safest interest of the people of West Virginia.

We feel that the enclosed draft we are supporting and urge you to adopt best serves all those involved in the electrical trade. It does not discriminate or burden any specific segment of those in our industry, but

are fair and equitable rules that strive to assure that any individual performing electrical work in this state would be competent to do so. -

I would like to take this time to comment on specific statements that have been received by the State Fire Marshal's office during the recent months, and also made at the public hearing. These letters and testimony are marked as such, and I ask that they be made part of this record.

In a group of correspondence from the West Virginia Manufactured Housing Association (marked as Attachment #3), a letter to Mr. Smittle dated June 27, 1989 states:

**"They also indicated that they had met all the requirements for documentation that your office has requested. The applicants have notified me that they have subsequently been issued journeyman licenses, rather than the master licenses for which they applied."**

**"Most are qualified to do electrical work far and above the level of skill required to meet the needs of the housing industry, although they choose to remain as a vital component of the housing industry rather than seek employment in the industrial or electrical fields."**

H. B. 2101, in particular Chapter 29, Article 3B, Section 2, defines the qualifications that are required to be granted a specific class of electrician license. The law makes no reference that to receive a masters license requires only documentation; it also "includes experience in all phases of electrical wiring and installation". (§29-3B-2f) The author of the letter, Mr. Moore, admits that most of his applicants are qualified to do electrical work above the needs of the housing industry, but this aspect of electrical work does not constitute a knowledge of all phases of our trade. While the residential and housing industry is a very important component of our industry, the knowledge that is required to do this segment of work is just a portion of the electrical trade. While the workers that Mr. Moore represents are very competent in their segment of electrical work, they may not possess all the requirements for a masters license.

In another letter dated July 3, 1989, this same Association claims:

**"This is particularly true in view of the ramifications of West Virginia Code §29-3B-3 relative to time frames for obtaining the**

**required license under that section. Unclear, incorrect, indecisive, or inappropriate information furnished to West Virginia businesses by my office or by your Office could result in serious consequences for their business future and their ultimate ability to remain viable West Virginia businesses."**

The section that Mr. Moore quotes only deals with those who are exempt from licensing. This section does not address any time frames for those exempt individuals, and must have been quoted in error. §29-3B does include specific time frames for obtaining a license under a "grandfather clause" (§29-3B-6), but any individual who does not receive a license under this section within the time stated may always apply for a license in accordance with §29-3B-5. The only consequences that I believe may occur to an individual under these time frames is that they would not get a license under the "grandfather clause" and would have to apply for an examination.

In regards to the remarks made by G. Shirie Westfall during the public hearing, she states:

**"Our statewide association represents manufacturers, suppliers, lenders, dealers and installing contractors who manufacture, sell distribute and install over 60% of all new housing in West Virginia".**

This statement lead me to believe that much of the manufactured housing for West Virginia was produced in this state. After checking with Mr. Roy Smith, WV Labor Commissioner, he informed me that there are no companies that produce manufactured housing in West Virginia. According to §29-3B-3, if manufactured housing was built by a plant in West Virginia, their employees would be exempt from licensing.

**"We believe that if properly administered and enforced by the State Fire Marshal's Office, this new law can have the same results with regard to site built structures in West Virginia. ...."**

**....We do know, however, that in West Virginia there is a problem. In many cases, retailers, contractors and others sell the factory built home and the electrical service provided to that home is installed by a local, previously unlicensed and - in many cases - unqualified electrician. The new electrician licensing law is a giant**

**step forward. We believe that the law itself is inadequate to protect the people and property of West Virginia. However, the key to the overall results lies in the hands of the State Fire Marshal and his deputies. If the law is not administered properly and according to the legislative intent, the people of West Virginia will suffer'.**

**"During installation, and when the main power source is installed from the electric company to the home, that is the time when we find abuses, improper installation, unsafe electrical connections and Code non-conformance.**

We strongly agree with the statements "the new electrician license law is a giant step forward", and that "this new law can have the same results with regards to site built structures in West Virginia." We do take exception to the statement that "the law itself is inadequate to protect the people and property of West Virginia". We feel that any law would be inadequate without enforcement, and this is why we are asking that the State Fire Marshal be given the most flexibility legally available to his office and enforcement powers; not only to protect site built structures in this state, but to protect all structures and the lives and property of West Virginians in regards to electrical hazards. If the enforcement powers of the State Fire Marshal do not allow for him to make interpretations on what is electrically safe, then "abuses, improper installation, unsafe electrical connections and Code non-conformance" is likely to continue.

**"The failure of the State Fire Marshal to include in his emergency rules and regulations filed with the Secretary of State's Office on May 19 at 11:50, AM language that provides the criteria for the issuance of a master, journeyman or apprentice electrician license under the grandfather clause is irresponsible. As a result of that failure, qualified electricians have been denied the ability to perform their trade while, on the other hand, unqualified electricians have - for some unknown reasons - been granted access to the main electrical boxes of our homes."**

We feel that the rules that were filed on May 19 are adequate to protect the citizens of West Virginia. The enclosed draft that we are supporting and asking to be accepted does not take away from these rules, but only tries to add clarifications and definitions that would help the State

Fire Marshal in his enforcement of the law. §29-3B-2 contains the criteria for the issuance of each class of license, and we do not feel the State Fire Marshal acted irresponsibly by not including these definitions in his rules that were filed on May 19. The statement that "as a result of that failure, qualified electricians have been denied the ability to perform their trade....." is simply untrue. The law, nor the rules that were filed by the State Fire Marshal, keep any person that did not get a license under the "grandfather clause" from obtaining a license. §29-3B-5 details the way anyone who does not have an electricians license can obtain one through testing. To state that qualified electricians are being denied work infers that there are no other means of obtaining an electricians license other than the "grandfather clause".

**'The police powers to arrest, cite, or withdraw licenses granted to the Fire Marshal under the law are severely hampered when the holder of the license is the resident of another state'.**

This statement is, at the least, ludicrous. Individuals who break the laws of West Virginia while in this state are accountable no matter where they reside. According to this testimony, it would seem that any law in the state of West Virginia would be severely hampered if the offender was from another state.

In a group of correspondence from the West Virginia Electrical Contractor's Association (marked as Attachment #4), a letter to Mr. Smittle dated June 27, 1989 states:

**"We would urge that you take any steps necessary to assure that out of state, non-resident applicants fully comply with the letter of the law before issuing them a license. Because of the short period of time available to West Virginia, as well as a non-resident, electricians to obtain a license under the provisions of West Virginia Code 29-3B-6, we would urge that you advise all non-state applicants of the provisions of the Code in order to give them an opportunity to provide the appropriate documents - if they can'.**

We believe that the State Fire Marshal would not be acting in a prudent and professional manner if he discriminated against applicants by using their residency as a criteria for licenses. According to the law (§29-3B-7), the State Fire Marshal has the authority to suspend or revoke any license after it has been granted. If it is later found that a

non-resident, or a resident, individual that obtained an Electrician's License did not qualify for such license, then the State Fire Marshal has the powers to revoke or suspend said license.

In regards to the remarks made by Charles E. Bolyard during the public hearing, he states:

**"These regulations are extremely important, for they give the Fire Marshal the power to put me out of business, arrest me, control my activities and regularly collect license fees from me".**

We feel this statement is grossly overstated! These regulations were not designed to give the State Fire Marshal the legal authority to harass an individual or company. The intent of these rules, as we support them, were to protect the public from individuals who were not qualified to practice the electrical trade. As we understand it, this law and every other law in state of West Virginia, is enforceable by any person who so desires. I may not have the police powers to arrest an individual, but I do have a right to sign a warrant against anyone who I feel is violating any state law. To imply that these regulations give the State Fire Marshal such overwhelming authority is simply false. §29-3B-7c states "any person aggrieved by an order or decision of the state fire marshal under this article is entitled to judicial review as provided by section eighteen, article three of this chapter and by chapter twenty-nine-a of this code".

**"The West Virginia Electrical Contractors Association is extremely concerned about the qualifications of the personnel employed by the Fire Marshal to conduct such inspections. We advocate that the rules require that all employees of the State Fire Marshal's Office conducting inspections hold at least a West Virginia master license and that license be obtained only by passing the required test and that the work experience and other factors involved be applied to them. And, in addition, we believe that if an electrical inspector is going to propose to move against a licensed electrician under this law and make a finding that can result in his loss of license, employment and livelihood and elimination of his business, then that inspector should be totally knowledgeable".**

While this proposal sounds "ideal" on the surface, it has many problems. The ability to interpret and make inspections under the National Electrical Code is vastly different from installing the work

under the same guidelines. Some of the most qualified electrical inspectors that I have dealt with in this state, as well as other states, were never electricians. We believe that the State Fire Marshal has the resources available to insure that his employees that will be doing electrical inspections will be competent to do so. Again, Mr. Bolyard should have referred to §29-3B-7c before making a statement so severe about the powers of an electrical inspector that ".....make a finding that can result in his loss of license, employment and livelihood and elimination of his business...". We feel this statement preys on the legislative rules committee intent that no one be unfairly deprived of employment.

**"Our point is: How can an employee of the Fire Marshal's Office who is not totally knowledgeable about all phases of electrical work, as proven through testing and certification, make a determination of whether or not an electrician deserves to be cited under the law and thus require that electrician to defend himself with lawyers, at hearings and in court? Unqualified inspectors would mean that the law cannot be appropriately administered by the Fire Marshal and electricians could be subjected to unfair regulation and loss of license as a result of an inspector's lack of knowledge".**

Again, we emphasize there is a distinct difference between being knowledgeable of all phases of electrical work and actually being able to install all phases of electrical work. To infer that an inspector, just because he has a master license, would be more qualified to make electrical inspections than an inspector who just had National Electrical Code training is not always true. Mr. Bolyard acknowledges the fact that an electrician can defend himself at hearings and in court. If the electrician did in fact lose his license after these hearings, this would lead one to believe that the courts had seen that the inspector was correct and did possess the knowledge to make the determination that the work was in violation of the law.

**"Our Association projects that electricians in West Virginia will contribute approximately one-half million dollars each year to the Fire Marshal in the form of fees, registration, etc. We believe the regulations should reflect that the Fire Marshal should account to the electricians of West Virginia for activities conducted with our money." .....**

....."Our Association believes that the Fire Marshal should prepare quarterly a report of monies received from electrician licensing, as well as expenditures of those monies." .....

....."In other words, we believe that electrician licensing fees should be spent on licensing, testing and enforcement of the law and, at the same time, protecting the public'.

We believe that the projected one-half million dollars income is over twice the amount that the State Fire Marshal's office will receive from this law during the fiscal year 1989-1990. The State Fire Marshal's Office is a state government agency and has various laws and regulations that control its' activities and expenditures. The laws of West Virginia already hold the State Fire Marshal accountable to the electricians, as well as to the people of our state. If these funds were being received and expended by private enterprise, we would agree that specific accounting be mandatory. While these statements want to make sure the "fees should be spent on licensing, testing and enforcement of the law", they also call for added expenses to be incurred by the State Fire Marshal's Office by requiring preparation of additional quarterly reports.

**"The law gives the State Fire Marshal and his deputies and employees almost complete power over West Virginia's electricians. Our industry recognizes the need for professional licensing, testing and supervision of electricians. However, the State Fire Marshal or his designees could, sometime in the future, use the provisions of the law to harass electrical contractors, electricians and others'.**

We feel this law does not give the State Fire Marshal the absolute control that this statement reflects. We believe this law only insures that qualified and competent electricians will perform electrical work in the state of West Virginia. If the State Fire Marshal actually wanted "to harass electrical contractors, electricians and others", we are convinced that this is not the only law available that would give him that ability.

**"All we're asking for is that the Fire Marshal or his employees send an electrician a letter giving him 15 days to correct any minor problems that may exist prior to formally implementing the legal process that could end up in the loss of license." ....**

....."The only reason we seek this notice of right to cure defect

**is to prevent subsequent regulators from abusing the awesome powers that this law conveys to the Fire Marshal'.**

The State Fire Marshal's Office has a responsibility of protecting the life and property of the residents of West Virginia from various hazards; each hazard capable of producing death or destruction. The State Fire Marshal must be able to retain the power of qualifying each hazard as to its potential dangers. To require a written notification to allow a fifteen day correction period of "minor" violations not only burdens the State Fire Marshal with unneeded paperwork, but also causes another very distinct problem. According to this testimony, it does not address the definition of a "minor" problem. Every part of the National Electrical Code is designed to protect life and property, and what may be considered "minor" by the electrician could in fact be a very dangerous situation. The State Fire Marshal is the appointed authority for this interpretation, and to remain effective he has to retain his power to classify each hazard that exists.

After studying and reviewing H. B. 2101, we still contend that this law does not give the State Fire Marshal any unfair or complete powers over any individual. It has provisions (29-3B-7c) that protects any individual from unfair or harassing actions by the State Fire Marshal. If this law lacked enforcement powers, the State Fire Marshal would be defenseless to stop unsafe work or incompetent electricians.

**'But, most importantly, the State Fire Marshal is not taking the necessary steps in performing his duties to protect the people of West Virginia from nonresident electricians'.**

The State Fire Marshal has a responsibility to issue a license to individuals that possess the qualifications as outlined in §29-3B. To discriminate on a basis of residency would in fact make the State Fire Marshal liable for litigation, and would not assist in the intent of a law that is trying to provide for safe electrical installations by competent electricians.

In a group of correspondence from the West Virginia Heating, Ventilating and Air Conditioning Association (marked as Attachment #5), a letter to Mr. Smittle dated June 27, 1989 states:

**'Because of the potential negative effect on the health, safety and welfare of the people of West Virginia by licensing out of state,**

**non-resident electricians who may be beyond the reach of the West Virginia law after their work is completed, we would urge that you immediately review this matter".**

Individuals who break the laws of West Virginia while in this state are accountable no matter where they reside. According to this testimony, it would seem that any law in the state of West Virginia would be severely hampered if the offender was from another state. For the State Fire Marshal to be persuaded to not accept or grant any non-resident licenses would show more of an irresponsibility on his part than to follow the intent of the law to only license qualified applicants.

In another letter dated June 30, 1989, this same Association states:

**"This copy of a letter to you dated June 28 indicates that Richard K. Steele, the owner of Sycamore Plumbing and Heating, applied for a master license, completed and submitted your required documentation and was subsequently issued a journeyman license. By the same token, many of the employees of my own company, Teays Valley Heating and Cooling/Service America, similarly provided the information requested by your office with accompanying affidavits and were similarly denied master licenses." .....**

**....."I have talked with numerous other individuals who are practicing the electrical trade, full- or part-time, or who are trained in the electrical field. Many of them, after having submitted the same documentation as Mr. Steele and my own personnel, were granted a master electrician license by your office." .....**

**....."We are most anxious to resolve this matter in an amicable fashion. However, the ability of Mr. Steele and hundreds of others like him to practice their trade under West Virginia law is in jeopardy. In view of the deadline imposed under 29-3B-6 of the West Virginia Code, your immediate attention to this request is imperative."**

The documentation that Mr. Forloine refers to only asks for the employers that the individual has worked for and the dates that they have been employed. §29-3B-6a states that "such applicant shall be issued a license for the class of license the applicant's qualifications establish."

§29-3B-2 defines the qualifications that each class requires. The State Fire Marshal must retain the authority to make determinations to which class the applicant qualifies for. If this authority is not available to the State Fire Marshal, and he must grant a license for any class an individual applied for, then the different classes as defined in §29-3B-2 would be jeopardized. While the applicants that were referred to here are probably "masters" at their segment of the electrical trade, they may not possess the qualifications for a master license as stated in §29-3B-2f.

In letter from Mr. Richard K. Steele, Owner, Sycamore Plumbing and Heating, dated June 28, 1989, Mr. Steele complains:

**"I am the owner of the company and under West Virginia law, this requires me to have a Master's License." .....**

**....."In effect, by issuing me a Journeyman's License, I cannot do any electrical work in West Virginia and therefore, you are putting me out of business."**

Mr. Steele is misinformed in his statements. After much research, we found that West Virginia law does not require the owner of a company to have a masters license. According to §29-3B-2d, a journeyman license does not prevent an individual from performing electrical work; it only requires that their work be "subject to supervision by a master electrician."

In regards to the remarks made by Harold Forloine during the public hearing, he states:

**"We would respectfully submit that the law clearly and without question requires, in Chapter 29-3B-2, that the electrician's license must be posted on any job which electrical work is being performed for hire. We urge that "posting" of the license be defined. Without an adequate definition of "posting", electricians doing work could be cited, fined or even lose their license for "failure to post".**

The law (§29-3B-2) states that "a copy of such license is posted on any job in which electrical work is being performed for hire". Under the final draft of the Advisory Committee that we are supporting and urge you to adopt, Section 2.08 defines "posting". To try to compile a definition of the word "posting" as it would involve the electrical trade would be

difficult, at the least. Several state and federal agencies have requirements as to where specific information must be "posted", without giving detailed definitions to the word "posting". To try and add definitions for every term that is included in this law is frivolous.

**"The law provides the State Fire Marshal with broad, comprehensive police powers granted by the Legislature. Those police powers are expanded by the rule stating that electrical work that is not performed in accordance with the National Electrical Code is justification for suspension or revocation of an electrician's license. We subscribe to that concept. However, which addition of the National Electrical Code will be enforced? The State Fire Commission adopts a specific addition of the Code as part of the Uniform Statewide Building Code. The Code is revised periodically. In exercising your strong police power, which edition of the National Electrical Code will be enforced? The same one promulgated by the State Fire Commission? The most recent edition published by the NFPA? Or the edition of the Code that your designee happens to possess?"**

While the questions raised by Mr. Forloine in regards to exactly which National Electrical Code edition will be enforced are reasonable, we believe that the State Fire Marshal is a prudent individual and will work within the guidelines of the Uniform Statewide Building Code; a part of which is the National Electrical Code. It would only make sense that the State Fire Marshal would want to enforce the edition of the Code that is contained in the Uniform Statewide Building Code. But to refer to the "broad, comprehensive police powers granted by the Legislature" and "in exercising your strong police power" is appalling. The State Fire Marshal's Office is an enforcement agency of state government, along with many other agencies. To suggest that the State Fire Marshal has any more "power" than another enforcement agency is ridiculous. The Legislature may have granted the State Fire Marshal's Office enforcement powers, but it has also seen that individuals are entitled to judicial review and would be protected from an unfair Fire Marshal (§29-3B-7c). The statement that the State Fire Marshal has the power of "suspension or revocation of an electrician's license" is correct, but this statement does not include the whole truth; that being the rights of an individual to judicial review, not just being subjected to the powers of the State Fire Marshal.

**"We, consequently urge the Fire Marshal to adopt as a part of the rules a formal policy of issuing administrative notices for minor non-compliances with the law prior to implementing and initiating proceedings that would result in the suspension or revocation of an electrician's ability to earn a living in West Virginia. We, likewise, recognize that such notice to cure a minor defect or administrative notice would not be issued in the event that the Fire Marshal or his deputy determined that an imminent safety hazard or danger to the health, welfare and safety of the public or public or private property exists."**

To require a written notification to allow a fifteen day correction period of "minor" violations not only burdens the State Fire Marshal with unneeded paperwork, but also causes the distinct problem addressing the definition of a "minor" problem. Every part of the National Electrical Code is designed to protect life and property, and what may be considered "minor" by the electrician could in fact be a very dangerous situation. The State Fire Marshal is the appointed authority for this interpretation, and to remain effective he has to retain his power to classify each hazard that exists.

**"We believe the regulations should reflect and require the Fire Marshal to make appropriate public reports of his activities and performance in enforcing this law and to generally account to the people of West Virginia for expenditure of the estimated \$500,000 annually that will be paid by licensed electricians to the Fire Marshal.**

**We further support the proposal that the Fire Marshal's staff be qualified and certified by appropriate testing agencies as electrical inspectors. We further urge - and will submit language that will establish - the clarification of the authority granted the various classes of licenses under the law".**

We have already taken exception to the "estimated \$500,000 annually" income figure and proposals that asks for regulations that require the State Fire Marshal to "make appropriate public reports of his activities and performance in enforcing this law" and that ask for "the Fire Marshal's staff be qualified and certified by appropriate testing agencies as electrical inspectors." The need for "clarification of the authority granted the various classes of licenses under the law" is already covered under the law in two separate sections (§29-3B-2 and §29-3B-4),

and need not be addressed any further.

In regards to the remarks made by Chuck Lambert during the public hearing, he states:

**"The law clearly says that for an applicant to be eligible for a license without testing, that applicant has to be working as a journeyman or master electrician in West Virginia as of the effective date of the law, and that he had to have been working for a period of one year immediately prior to the effective date of the law. Virginia electricians who rarely, if ever, did any electrical work in West Virginia are applying for - and being issued - licenses." .....**

**....."We urge the Fire Marshal to reconsider his earlier position, seek competent legal counsel and begin to act on behalf of the people of West Virginia and not be so concerned about licensing unqualified out of state electricians to operate in West Virginia."**

This testimony is correct in the brief part of the law that is stated, but if Mr. Lambert had continued to state the rest of the section (§29-3B-6a) in its entirety he would have found that it also states "or any applicant who gives conclusive evidence of competency issued by the state fire marshal prior to the effective date of this article is not required to take the examination described in section five of this article. Such applicant shall be issued a license for the class of license the applicant's qualifications establish." The law does not require any work performance or length of employment if the applicant possessed "a certificate of competency issued by the state fire marshal prior to the effective date of this article".

To testify that the State Fire Marshal is "licensing unqualified out of state electricians to operate in West Virginia" is an unfair attack on the State Fire Marshal. The State Fire Marshal is obligated by law to issue a license to any individual who meets the requirements of §29-3B. If at a later date it is found that an applicant misstated the terms of their qualifications or experience, then the State Fire Marshal has the authority to revoke or suspend their license (§29-3B-7b1).

In a correspondence from the West Virginia Electrical Contractor's Association (marked as Attachment #6), a letter to Mr. Smittle from Charles E. Bolyard dated July 26, 1989 states:

"We would urge that the permanent rule include language that assures that any tests or examinations that are proposed to be used by the Fire Marshal to determine an applicant's qualifications, experience, knowledge, etc. are developed professionally." .....

....."Frankly, we fear that those who develop the test in West Virginia will be inexperienced and lack the professional background to establish a testing program that is both cost effective and recognized as meeting national standards." .....

....."And, in addition, the test will be no better than the qualifications of the individual(s) who develop the testing mechanism, criteria, etc."

"In review, we would urge that a national testing agency be required to (a) develop the test for the Fire Marshal to administer or (b) review the test prior to the Fire Marshal administering it to certify that it is general conformance with similar tests given in other states and jurisdictions."

I personally take exception to these statements. To conclude that the state of West Virginia has no one capable of designing a test that would be "cost effective and recognized as meeting national standards" is a direct insult to the fine people of this state. To continue this attack on the state by writing "the test will be no better than the qualifications of the individual(s) who develop the testing mechanism," does not speak very highly of Mr. Bolyard's or his Association's thoughts of the electricians or other people in West Virginia.

There are individuals in the state of West Virginia that serve as directors on the National Joint Apprenticeship and Training Committee for the Electrical Industry (a federally recognized training program), and others who are extremely knowledgeable of the National Electrical Code. To contend that there are no resources available within West Virginia to develop a competent testing program is preposterous.

In earlier testimony, Mr. Bolyard and his Association were extremely concerned that "the State Fire Marshal is not taking the necessary steps in performing his duties to protect the people of West Virginia from nonresident electricians." Consequently, he now urges the State Fire Marshal to employ "a national testing agency" to design our

state examinations. We strongly urge the State Fire Marshal and the Legislature to have our testing program designed by some of the fine people that reside within the state of West Virginia; people who are more than adequately qualified to develop a testing program that will meet or exceed national standards.

In closing, we urge the Legislative Rule Making and Review Committee to adopt the enclosed draft as the permanent rules that will govern §29-3B. We feel that the rules contained in this draft are more than adequate to protect the people of our state from incompetent electricians. We also ask that the State Fire Marshal retain his authority to make interpretations and policies as it pertains to §29-3B; decisions that always seem to be in the interest of the state of West Virginia.

Even though this law is new, the many wonderful benefits that will be derived from it will have a major positive impact on West Virginia for years to come. The State Fire Marshal deserves the respect to allow him to develop programs that will further enhance §29-3B. We applaud the efforts that he has made on behalf of the citizens of West Virginia thus far, and look forward to more of his insight to provide a much safer place to live in the future.

Again, after studying and reviewing H. B. 2101, we still contend that this law does not give the State Fire Marshal any unfair or complete powers over any individual. It has provisions (29-3B-7c) that protects any individual from unfair or harassing actions by the State Fire Marshal. If this law lacked enforcement powers, the State Fire Marshal would be defenseless to stop unsafe work or incompetent electricians.

I personally stand ready to assist the State Fire Marshal, State Fire Commission, or the Legislature in any way that I can can to further develop this program in any way possible.

Sincerely,

*Michael W. Kinder*

Michael W. Kinder  
124 Greenbrier Lane  
Dunbar, WV 25064  
(304)-768-1888

## ATTACHMENT #1

### ELECTRICAL EXPERIENCE:

- currently possess a valid West Virginia Electricians License.
- been involved in all aspects of the electrical trade since 1977.
- awarded a "Certificate of Completion of Apprenticeship" by both the National Joint Apprenticeship and Training Committee for the Electrical Industry and the United States Department of Labor.
- certified state of West Virginia Adult Education Instructor for Electrical Training:
  - offered instruction in a federally approved electrical training program that consisted of 576 hours of classroom instruction and 8,000 hours of on-the-job training for each student.
  - developed a long-range plan to initiate continuing electrical training.
- worked as a member of an emergency electrical repair team.
- compiled, assembled and published data required as part of a plan to develop a fire disaster program at an area hospital.

### RELATED EXPERIENCE AND EDUCATION:

- member of IBEW Local Union #466, Charleston, West Virginia
  - past Officer and Executive Board Member
  - serve on various committees that promotes continuing education in the electrical industry.
- attended West Virginia University. Majored in Psychology. (have completed all requirements for a B. A. in Psychology with the exception of 6 hours of study in a foreign language curriculum.)

**ATTACHMENT #2**

**"PROPOSED FINAL RULES**

**FOR §29-3B"**

WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
THE STATE FIRE MARSHAL'S OFFICE

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.

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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 a person with at least five years of electrical work experience, including experience in all phases of electrical wiring and installation, who is competent to instruct and supervise the electrical work of journeyman electricians and apprentice electricians.

2:02. "Journeyman Electrician" - means a person qualified by at least two years of electrical work experience to do any work installing wires, conduits, apparatus, equipment, fixtures, and other appliances subject to supervision by a master electrician. Supervision does not necessarily mean that the master electrician is with the journeyman at all times. Supervision means that the ultimate responsibility lies with the master electrician. No electrician work is to be done by the journeyman without appropriate supervision from a master electrician.

2:03. "Apprentice Electrician" - means a person with interest in and an aptitude for performing electrical work but who alone is not capable of installing wires, conduits, apparatus, equipment, fixtures and other appliances.

Supervision of apprentices must be performed by journeyman or masters and the supervision is the same as that implied in Section 2:02.

2:04. "Electrical Work" - means the installation of wires, conduits, apparatus, fixtures, other appliances, equipment, or systems for transmitting, carrying or using electricity for light, heat, or power purposes.

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

2:06. "Electrical Contractor" - means a person, firm or corporation who engages in the business of electrical work or employs master electricians, electricians, apprentice electricians or helpers for the construction, alteration or repair of any electrical wiring, equipment or systems for the purpose of furnishing heat, light or power.

2:07. "Appliance" means those electrical items that are physically connected by an attachment plug.

2:08. "Posting of the license" means the posting of a copy of the electrician license issued by the West Virginia State Fire Marshal on all job sites at which electrical work is being performed for hire by each electrician working at that job site.

2:09. 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. Such property owner must perform all the

electrical work; and any other person, save only the property owner as an individual, who performs electrical work on said property must be an electrician licensed by the State Fire Marshal; 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 provided the installation or repair of appliances does not require the entering of the electrical panel; 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 or in performance of his job responsibilities as a government employee.

2:10 If any firm or corporation applies for, is granted

and holds a valid electrician license, such license does not exempt electricians employed by, working directly or indirectly for, subcontracting for, or providing services to such firm or corporation from the requirement of also possessing an apprentice, journeyman or master electrician license.

2.11 "Offer to do electrical work" means to offer to do electrical work of any type, to display, provide notice, advertise, provide written or verbal bids or price quotations with the intent to perform electrical work for compensation or hire.

### 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 or hire within the state of West Virginia by any person, firm, or corporation unless such person 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:

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.

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%) on any test or tests is required to permit the State Fire Marshal to issue an electrician license to any applicant.

4:14. Failing Grade or Lack of Qualifications - An applicant who fails to make the required passing score on any examination may retake the same examination upon the payment of a fee of Ten Dollars (\$10.00) and after having submitted a new application for retesting. In the event the State Fire Marshal determines that the applicant lacks qualifications for the class of license desired, a new application may be submitted with a fee of Ten Dollars (\$10.00) permitting the applicant to take the appropriate electrician test.

## 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. Any exempted license issued must come from a state having Reciprocal Agreement with 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. Any person failing to renew their license for a period of one year from its expiration shall forfeit their license and will require examination in accordance with Section 4.

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; or (c) an applicant who applies for a reciprocal license from a state which West Virginia has no reciprocity agreement.

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. Any worthless check received for payment of an electrical license will be

automatic denial of license.

- (E) Failure to comply with these legislative rules.
- (F) For falsely verifying a person's experience or qualifications on their application.
- (G) Any work included but not limited to the home improvement rule adopted under the West Virginia Consumer Protection Act (Chapter 46A).

#### Section 8. Enforcement Authority and Citations

8:01. Authority - Chapter 29, article 3B, of this code authorizes the State Fire Marshal the authority to issue licenses for 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. Disposition of Fees.

9:01. All fees received as a result of this article shall be paid to the State Fire Marshal and deposited by him in a special account with the State Treasurer.

9:02. The disposition of fees deposited to the special account shall be used in the administration of this article, as provided by subsection (c), Section 12B, Article 3 of Chapter 29 of the Code of West Virginia.

#### Section 10. Separability

10:01. Partial Invalidity - If any provision of these legislative rules shall be held invalid, the remainder of these legislative rules shall not be affected thereby.

**ATTACHMENT #3**

**"CORRESPONDENCE FROM  
THE WEST VIRGINIA  
MANUFACTURED HOUSING  
ASSOCIATION"**



# WEST VIRGINIA MANUFACTURED HOUSING ASSOCIATION

Clyde B. White  
President

Leff Moore  
Executive Director

209 First Avenue

Nitro, WV 25143

Phone: (304) 727-7431

June 27, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

I have been contacted by several electricians who also do work in the manufactured housing industry. It appears that they had applied for a master electrician license under the provisions of West Virginia Code 29-3B-6. They also indicated that they had met all of the requirements for documentation that your office has requested. The applicants have notified me that they have subsequently been issued journeyman licenses, rather than the master licenses for which they applied. They indicate that they have subsequently contacted your representatives and have been told that they are free to do electrical work with a journeyman license and practice the electrical trade on their own. In other words, they are not "subject to supervision by a master electrician". It appears that 29-3B-2 of the Code of West Virginia clearly states just the opposite in 29-3B-2(d).

The reason for this correspondence is to request a formal letter from you indicating whether or not, in your opinion, the holder of a journeyman card issued under the provisions of 29-3B-6 can perform electrical work on his own in West Virginia without the supervision of, or not subject to the supervision of, a master electrician. In addition, those members of our Association who applied for master electrician licenses and who have fully met the requirements for documentation and information requested by you are confused as to what criteria your office is using to determine which of those applicants should receive master electrician and which should receive journeyman electrician licenses.

It would appear that several individuals who have submitted the exact same documentation to you have received master licenses, while others were relegated to journeyman status. Could you please advise us of the criteria you are using over and above the required documentation to make the decision on who is permitted to continue to work in West Virginia on their own and who must either hire another to work with them or cease to do electrical work [29-3B-2(d)]. If your office has established guidelines for making

LETTER: State Fire Marshal  
RE: Electrician Licensing

DATE: June 27, 1989  
PAGE: Two


such decisions based on the submitted documentation or other factors, would you please immediately furnish me a copy of those guidelines so I can advise applicants of the criteria they must meet to qualify for the various types of licenses under the grandfather clause.

Walter, many of the people who work in the manufactured housing industry not only practice the electrical trade, but - like so many other small West Virginia tradesmen - must also practice carpentry, roofing and other trades in order to make a living. Many of these individual tradesmen are highly skilled and have years of experience in the electrical field. Many have received formal and informal training through their careers. Most are qualified to do electrical work far and above the level of skill required to meet the needs of the housing industry, although they choose to remain as a vital component of the housing industry rather than seek employment in the industrial or electrical fields. Based on my interpretation of the journeyman electrician definition, it would appear that if you arbitrarily insist on licensing qualified electricians as journeymen, then you are, in effect, eliminating their ability to make a living on their own as a contractor or an employee!

Clearly, many West Virginia manufactured housing retailers, service companies, installing contractors and others would be faced with the necessity of terminating electricians who do not possess the legal basis to do work on their own and would be forced to seek to employ only electricians who hold a master license, since most of these firms can only afford to have one electrician in their employ. As you can see, the criteria for your in-house determination of who gets a master and who gets a journeyman license is extremely important. Again, please furnish us a copy of your policies in this regard. In addition, please indicate what, if any, appeal a person applying for a master license who is arbitrarily issued a journeyman license has under your current administrative policies.

Because of the abbreviated time frame offered West Virginia electricians under the law, your prompt response to this letter of inquiry is respectfully requested.

Very truly yours,

  
L. Moore  
Executive Director

LM:gsw

CC: State Fire Commission Members  
State Fire Marshal Electrician Licensing Advisory Group Members  
Association Officers and Board of Directors  
All Members



# WEST VIRGINIA MANUFACTURED HOUSING ASSOCIATION

Clyde B. White  
President

Leff Moore  
Executive Director

209 First Avenue

Nitro, WV 25143

Phone: (304) 727-7431

July 3, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

THIS LETTER IS TO REQUEST IMMEDIATE INFORMATION WHICH IS CRITICAL TO HUNDREDS OF SMALL BUSINESSES IN WEST VIRGINIA. In order for our Association to provide them with accurate information, your letter in prompt response is respectfully requested.

Can an electrician who holds a journeyman license issued by your Office under West Virginia Code §29-3B-1 et. seq. legally perform electrical work - including installing wires, conduits, apparatus, equipment, fixtures and other appliances - without being supervised, directly or indirectly, by another? Does a journeyman license issued by your Office mean that an individual/sole proprietor who owns his own contracting company do electrical work without a master electrician supervising - directly or indirectly - that work?

Last Friday, June 30, I had a conversation with Mr. Darl Cross, your Chief Deputy. I expressed concern to Mr. Cross about the fact that personnel in the State Fire Marshal's Office were indicating to applicants for electrician licenses that journeyman electricians cannot work unsupervised and on their own, and that no one in their company, firm or corporation had to possess a master electrician license in order for them to continue to work independently. On June 30, my office received a telephone call from an individual in Fairmont. I returned that call today. The electrician in question currently holds a journeyman license issued under the old law by your Office. According to my conversation with him, he talked to Mr. Dave Woods in your Office and Mr. Woods indicated that I was giving inaccurate information to him when I indicated that journeyman electricians were "subject to supervision by a master electrician". I referred this individual to West Virginia Code §29-3B-2(d).

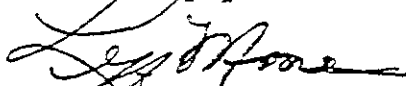
I have talked with many other individuals who are applying to your Office for license under West Virginia Code §29-3B-6, who indicate that they have also been "verbally" informed by your Office

LETTER: Walter Smittle, III, State Fire Marshal  
RE: Electrician Licensing  
DATE: July 3, 1989  
PAGE: Two

personnel that a master license is not necessary to work independent of others in West Virginia. On behalf of those member firms who belong to our statewide trade association whose personnel only hold journeyman electrician licenses, we hope that this reported position taken by your personnel is legal and accurate. It is vitally important, however, that the small business people in West Virginia who must hold electrician licenses to perform their business activities have a prompt, clear and decisive ruling from you on this matter. This is particularly true in view of the ramifications of West Virginia Code §29-3B-3 relative to time frames for obtaining the required license under that section. Unclear, incorrect, indecisive, or inappropriate information furnished to West Virginia businesses by my office or by your Office could result in serious consequences for their business future and their ultimate ability to remain viable West Virginia businesses.

It would appear that my reading of the journeyman electrician definition is in conflict with your interpretation. A written letter issued immediately by your Office outlining your official position on the scope of work that may be performed by a holder of a journeyman license is critical. Your immediate attention to this matter is again respectfully requested.

Sincerely yours,



Leff Moore  
Executive Director

LM:gsW

CC: Cabinet Secretary Joseph J. Skaff ✓  
Members of the State Fire Commission ✓  
WVMHA Officers and Board Members ✓  
West Virginia HVAC Association ✓  
WV Electrical Contractors Association ✓  
Del. Jim Humphreys, Chairman, Leg. Rule Making Committee ✓

REMARKS OF

G. SHIRIE WESTFALL, OFFICE MANAGER  
WEST VIRGINIA MANUFACTURED HOUSING ASSOCIATION  
205 FIRST AVENUE, NITRO, WEST VIRGINIA 25143

PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS  
PROMULGATED BY THE STATE FIRE MARSHAL/STATE FIRE COMMISSION  
TO IMPLEMENT THE PROVISIONS OF WEST VIRGINIA CODE §29-3B

JULY 17, 1989

Good afternoon. My name is Shirie Westfall. I am the Office Manager of the West Virginia Manufactured Housing Association. Our statewide trade association represents manufacturers, suppliers, lenders, dealers and installing contractors who manufacture, sell, distribute and install over 60% of all of the new housing in West Virginia. We congratulate the Fire Marshal, the Legislature and the electrical industry for a major step forward in the requiring of licensing for electricians in West Virginia.

Since June 15, 1976, all manufactured homes built anywhere in this country have had to be built to the National Electrical Code and the Federal government has an inspection system in place in each plant to assure that fact. That system has proven the validity of the National Electric Code and the incidence of electrical problems, fires, etc. in factory built housing since the adoption of the Code has been reduced dramatically. We believe that if properly administered and enforced by the State Fire Marshal's Office, this new law can have the same results with regard to site built structures in West Virginia.

The State Fire Marshal's Office, in one of its recent annual reports, indicated that electrical fires were one of the primary

causes of property loss, as well as loss of life, due to fire in West Virginia. We're extremely proud of the fact that national, as well as state, statistics clearly point to the fact that manufactured housing is safer from electrical fire than any other class of housing. We know that this is directly attributable to the National Code and the inspection process.

We do know, however, that in West Virginia there is a problem. In many cases, retailers, contractors and others sell the factory built home and the electrical service provided to that home is installed by a local, previously unlicensed and - in many cases - unqualified electrician. The new electrician licensing law is a giant step forward. We believe that the law itself is adequate to protect the people and property of West Virginia. However, the key to the overall results lies in the hands of the State Fire Marshal and his deputies. If the law is not administered properly and according to the legislative intent, the people of West Virginia will suffer.

Our industry's concern is primarily limited to the issue of the correct code governing installation of a code-built, inspected and approved designed unit. When shipped from the factory, our homes meet the National Electrical Code. During installation, and when the main power source is installed from the electric company to the home, that is the time when we find abuses, improper installation, unsafe electrical connections and Code non-comformance.

On behalf of the 3,000 West Virginia families who annually purchase manufactured homes, we urge strong, strict, aggressive and - above all - evenhanded, fair and legal enforcement of the statute by the State Fire Marshal's Office.

We will be submitting detailed written proposed amendments to the regulations subsequent to this public hearing, and we will be strong advocates for their adoption by the Fire Marshal and the Legislature.

We are truly thrilled with the new law; but our industry is saddened by the unresponsive, contradictory, ambiguous and apparently illegal application of the law to date by the Fire Marshal's Office. The failure of the Fire Marshal to include in his emergency rules and regulations filed with the Secretary of State's Office on May 19 at 11:50, AM language that provides the criteria for the issuance of a master, journeyman or apprentice electrician license under the grandfather provisions is irresponsible. As a result of that failure, qualified electricians have been denied the ability to perform their trade while, on the other hand, unqualified electricians have - for some unknown reason - been granted access to the main electrical boxes of our homes! We find this situation to be in direct contradiction to the declaration of purpose stated by the Legislature in the law!

Our Association does not support - and it abhors - the policy established by the State Fire Marshal wherein his Office ignores the requirement that an applicant for electrician license without examination under the grandfather clause be issued a license only after that applicant provides conclusive evidence that he or she was working in this state on the effective date of the law and that he or she had been working here for a period of one year prior to the effective date of the law. By failing to require this documentation, manufactured housing set-up crews in surrounding states are being issued electrician licenses under the grandfather

clause. The police powers to arrest, cite or withdraw licenses granted to the Fire Marshal under the law are severely hampered when the holder of the license is the resident of another state. And simply cancelling the license after the West Virginia home owner has been irreparably harmed is little help! In addition, our industry is truly disappointed with the fact that the Fire Marshal's Office has failed to provide responses to questions raised relative to his administration of the law. We urge the West Virginia Legislative Rule Making and Review Committee, as well as the State Fire Marshal and his deputies, to review their existing policies and procedures - or the absence of policies and procedures - in order to assure that the people of West Virginia and those who practice the electrical trade are treated fairly and legally.

We urge that all West Virginia licensed electricians and their employees support the new electrician licensing law, particularly the requirement that calls for all electrical work to be performed in compliance with the National Electrical Code. Our industry knows first hand how beneficial that is! Since manufactured homes are required to be built to the code, we are gratified that now other builders must also begin to meet the Code here in West Virginia. A copy of my remarks is being presented for the record.

**ATTACHMENT #4**

**"CORRESPONDENCE FROM  
THE WEST VIRGINIA  
ELECTRICAL CONTRACTOR'S  
ASSOCIATION"**

205 FIRST AVENUE



NITRO, WV 25143 (S)

June 27, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

As a result of a joint effort of the West Virginia Electrical Contractors Association and the West Virginia Heating, Ventilation and Air Conditioning Association, we have submitted to you a letter and legal opinion issued by our joint counsel at the firm of Robinson & McElwee. The West Virginia Electrical Contractors Association and our electrician employees urge you to take the strongest of terms to immediately adopt procedures within your office to make certain that any out of state electrician who wishes to be grandfathered under the new electrician licensing law fully complies with the letter and spirit of the law. The requirements of the law are reviewed in our attorney's opinion, a copy of which is enclosed.

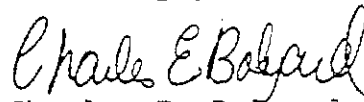
Mr. Smittle, we are fully aware of your longstanding interest in upgrading the electrical industry and trade in West Virginia and in protecting the people of our state from substandard, non-code-conforming work. We applaud your past leadership in this area. However, at this critical juncture, when out of state individuals are applying to West Virginia for a license under the grandfather clause, we urge you to protect the people of your state, as well as the tradesmen of this state, by implementing the law in a proper and correct form.

The licensing of out of state residents as West Virginia electricians without fully assuring and documenting the necessary requirements for them to be grandfathered will do great harm to the people of West Virginia and to our trade. We would urge that you take any steps necessary to assure that out of state, non-resident applicants fully comply with the letter of the law before issuing them a license. Because of the short period of time available in West Virginia, as well as non-resident, electricians to obtain a license under the provisions of West Virginia Code 29-3B-6, we urge that you advise all non-state applicants of the provisions of the Code in order to give them an opportunity to provide the appropriate documents - if they can.

LETTER: State Fire Marshal  
RE: Electrician Licensing  
DATE: June 27, 1989  
PAGE: Two

I look forward to meeting with you personally on Friday. Our entire industry is anxious to learn of your position regarding licensing of out of state applicants. We look forward to your positive response on this matter and we are prepared to make our attorneys available to you, at no cost, for any questions you might have regarding West Virginia Code 29-3B-1-10.

Sincerely yours,



Charles E. Bolyard  
President

CEB:gsw

Enc.

CC: West Virginia State Fire Commission Members  
State Fire Marshal Electrician Licensing Advisory Group Members  
Charlie Brown, West Virginia Attorney General  
Harold Forloine, President, West Virginia HVAC Association  
Association Officers and Board of Directors  
All Members

REMARKS BY

CHARLES E. BOLYARD, President  
West Virginia Electrical Contractors Association  
205 First Avenue, Nitro, WV 25143

PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS  
PROMULGATED BY THE STATE FIRE MARSHAL/STATE FIRE COMMISSION  
TO IMPLEMENT THE PROVISIONS OF WEST VIRGINIA CODE 29-3B

July 17, 1989

My name is Charles E. Bolyard, Sr. I own and operate Charles E. Bolyard & Son, Inc. in Kingwood, West Virginia. We are electrical contractor doing industrial and commercial, as well as resident and service/repair electrical work. In addition, my company does heating, ventilating and air conditioning work. I am President of the West Virginia Electrical Contractors Association and I am representing the members of that trade association, as well as my own company, in appearing before this public hearing today.

I served on the Electrician Licensing Advisory Committee formed by the State Fire Marshal and attended all meetings of that group. I represented the electrical contractors' interests, as well as electricians' interests, in making recommendations to the Fire Marshal for the proposed rules and regulations that will govern, regulate and control the future of our trade and profession. These regulations are extremely important, for they give the Fire Marshal the power to put me out of business, arrest me, control my activities and regularly collect license fees from me.

The West Virginia Electrical Contractors Association does support the electrician licensing law in general and applauds the Legislature for adopting it in order to protect the public and property in West Virginia from substandard, unsafe and non-code-conforming electrical work. We view the law as a giant step forward.

The regulations being considered impact upon the public in general and upon all West Virginia electricians in particular. We have submitted specific recommendations to be included in the rules during the Advisory Committee process. Unfortunately, the Fire Marshal has elected not to include in his latest proposed draft regulations many of the points we were seeking. The law permits the Fire Marshal, upon request for inspection and the payment of a proposed fee of \$100, to inspect residential structures, business structures and mercantile structures, as well as upon complaint, either on his own initiative or upon request. The law contemplates that the Fire Marshal's inspectors will determine if the work performed by licensed electricians is in conformance to both the National Electrical Code and the State Fire Code and meets the requirements of other laws and regulations.

The West Virginia Electrical Contractors Association is extremely concerned about the qualifications of the personnel employed by the Fire Marshal to conduct such inspections. We advocate that the rules require that all employees of the State Fire

Marshal's Office conducting inspections hold at least a West Virginia master licenses and that the license be obtained only by passing the required test and that the work experience and other factors involved be applied to them. And, in addition, we believe that if an electrical inspector is going to propose to move against a licensed electrician under this law and make a finding that can result in his loss of license, employment and livelihood and the elimination of his business, then that inspector should be totally knowledgeable.

Consequently, we urge that the regulations require that, in addition to a master license, within two years of the adoption of the regulations all inspectors employed by the Fire Marshal's Office be required to gain certification as certified electrical inspectors and meet the requirements for certification as adopted by the International Association of Electrical Inspectors. Our point is: How can an employee of the Fire Marshal's Office who is not totally knowledgeable about all phases of electrical work, as proven through testing and certification, make a determination of whether or not an electrician deserves to be cited under the law and thus require that electrician to defend himself with lawyers, at hearings and in court? Unqualified inspectors would mean that the law cannot be appropriately administered by the Fire Marshal and electricians could be subjected to unfair regulation and loss of license as a result of an inspector's lack of knowledge. We urge that the rules be amended to require the Fire Marshal to employ only those

inspectors who meet the standards as outlined. The last thing we want to see is an inspector from the Fire Marshal's Office who doesn't know what he's talking about!

Our Association projects that electricians in West Virginia will contribute approximately one-half million dollars each year to the Fire Marshal in the form of fees, registration, etc. We believe the regulations should reflect that the Fire Marshal should account to the electricians of West Virginia for activities conducted with our money. If the Fire Marshal takes our fees and spends them to hold dinners and training courses for volunteer firemen, the law will be meaningless and West Virginia will suffer. Our Association believes that the Fire Marshal should prepare quarterly a report of monies received from electrician licensing, as well as the expenditures of those monies. We also want the regulations to require that the Fire Marshal report quarterly the number of citations issued, licenses cancelled, tests given, inspections conducted, hearings held and, in general, report to the electricians, the State Fire Commission, the Legislature and the public in general the benefits that are being derived from the expenditure of this money.

We support the license fees, as well as the inspection fees. But we do want regulations requiring that the Fire Marshal account to the public for the method in which he expends these monies. In other words, we believe that electrician licensing fees should be spent on licensing, testing and enforcement of the law and, at the same time, protecting the public.

The law gives the State Fire Marshal and his deputies and employees almost complete power over West Virginia's electricians. Our industry recognizes the need for professional licensing, testing and supervision of electricians. However, the State Fire Marshal or his designees could, sometime in the future, use the provisions of law to harass electrical contractors, electricians and others. While we do not anticipate this problem, we urge the State Fire Marshal to make provisions in the regulations that, while protecting the public, also protects electricians from the potential unfair, unknowledgeable or politically motivated citations.

We proposed during the Advisory Board process that the regulations require that the Fire Marshal be required to notify a licensed electrician of minor code deficiencies or of minor violations of law prior to employing the formal legal notification and hearing process for suspension or revocation contemplated under the Administrative Procedures set forth under Chapter 29A of the West Virginia code. All we're asking for is that the Fire Marshal or his employees send an electrician a letter giving him 15 days to correct any minor problems that might exist prior to formally implementing the legal process that could end up in the loss of license. While the current Fire Marshal might be so kind as to do that sort of thing on his own, subsequent Fire Marshals and their employees may take a different approach. Consequently, we believe that the administrative letter requirements to protect the rights of electricians should be included in the regulations. Electrician

licensing - like the licensing of doctors, lawyers and accountants - is our life-blood.

In those cases where an imminent, apparent, gross violations posing immediate danger to health, safety or property is clearly present, we recognize that the Fire Marshal should not be required to send a 15-day notice of right to cure a defect and that immediate action should be taken on his part. The only reason we seek this notice of right to cure defect is to prevent subsequent regulators from abusing the awesome powers that this law conveys to the Fire Marshal.

My comments have primarily surrounded the future of the electrical trade as dictated by the rules and regulations being considered for adoption here today. However, I must take this opportunity to protest formally and publicly the action of the State Fire Marshal in issuing West Virginia electrician licenses to nonresidents and non-qualifying applicants from other states. Our legal counsel has notified the State Fire Marshal of that fact and has indicated that the law is clear that only electricians who are working in West Virginia on the date the law was effective and had been working in West Virginia in the electrical trade for one year prior to that effective date are eligible for grandfathering. The State Fire Marshal, by ignoring those legal provisions, clearly appears to be ignoring and violating West Virginia law. But, most importantly, the State Fire Marshal is not taking the necessary

steps in performing his duties to protect the people of West Virginia from nonresident electricians.

We are truly saddened that our own Fire Marshal's Office has apparently focused on the fees collected from out of state electricians, rather than on the law that protects the people of West Virginia and the electrical industry and electricians of this state. Our organization contemplates immediate legal action to compel the Fire Marshal to follow the law as it is written and to cease issuing licenses to out of state electricians and nonresident electricians who do not meet the criteria clearly outlined in West Virginia Code 29-3B-6.

Subsequent to this testimony and prior to the end of the public comment period on these regulations, our Association will present draft rules or amendments to existing rules that reflect these positions and other to numerous to mention at this hearing. We urge the Fire Marshal to incorporate these suggestions, as well as those others that we will submit, into the final rule that he submits to the Legislature for their consideration. Our Association will also be an advocate for these positions and the others outlined in our draft rules during the legislative process and will urge all West Virginia electricians to join in the process to make certain that the legislative intent, as well as the spirit, of the law is maintained in the regulations. I am submitting a copy of these remarks for the record of this public hearing.

**ATTACHMENT #5**

**"CORRESPONDENCE FROM  
THE WEST VIRGINIA  
HEATING, VENTILATING, AND  
AIR CONDITIONING  
ASSOCIATION"**



WEST VIRGINIA HEATING, VENTILATING  
AND AIR CONDITIONING ASSOCIATION, INC.

209 FIRST AVENUE  
NITRO, WEST VIRGINIA 25143  
(304) 727-7431

June 27, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

Please find enclosed a copy of a letter sent to our Association from our legal counsel. This letter is in response to our inquiry regarding your practice of issuing electrician licenses to out of state residents under the grandfather provision of West Virginia Code 29-3B-6.

As I pointed out to you in my letter dated June 21, our Association is extremely concerned about the fact that electricians from other states may be obtaining licenses in West Virginia without fully meeting the requirements of state law. We are unhappy to learn that the law does permit you to license both residents and non-residents. Most importantly, however, our legal counsel indicates that for a non-resident to be licensed, it must be documented that the applicant was working in West Virginia on April 8, 1989 and that he or she had been working in that capacity for one year prior to that date.

Based upon my interpretation of our attorney's letter, your current affidavit does not provide enough information for you to determine if, in fact, an out of state resident meets the qualifications to obtain a license under West Virginia Code 29-3B-6. On behalf of the hundreds of electricians who work in our industry and the hundreds of small businesses that our Association represents, we would urge that you review your administrative practice of issuing a license to non-resident electricians without adequate evidence of their compliance with the new law.

Because of your acknowledgement of the fact that legal opinions granted to State agencies by the Attorney General's Office are expensive, our Association is happy to provide this legal research for you. We do understand, however, that you may want to ask the Attorney General to review this legal opinion to see if, in fact, he - as your counsel - agrees with its findings and conclusions.

LETTER: State Fire Marshal  
RE: Electrician Licensing  
DATE: June 27, 1989  
PAGE: Two

Because of the potential negative effect on the health, safety and welfare of the people of West Virginia by licensing out of state, non-resident electricians who may be beyond the reach of West Virginia law after their work is completed, we would urge that you immediately review this matter. We would also urge that you immediately implement administrative policies and procedures that assure that any non-resident issued an electrician license fully meets the requirements of the law. Clearly, other states do not assume such a liberal position in regard to issuing licenses for electricians in West Virginia wishing to provide electrical work in their jurisdictions.

We realize that you cannot go beyond the scope of the law, but we do urge you, in the strongest terms, to take steps immediately to see that the law as it is presently constituted be fully enforced, particularly with regard to the requirement that a non-resident must have been performing electrical work in West Virginia on the effective date of this law and should provide evidence to that effect. Their inability to provide such evidence would clearly demonstrate that they do not meet the requirements of the grandfather provision of the law and should be tested, just as electricians from West Virginia are tested in other states.

We hope you will act positively on this matter immediately in order to assure that the people of West Virginia are protected from out of state, unqualified, ill-trained and substandard electrical work. It is my plan to meet with you and the members of your electrician licensing advisory group on Friday. I respectfully request that you advise me at that time as to your position regarding this important legal opinion.

Sincerely yours,

*Harold E. Forloine*

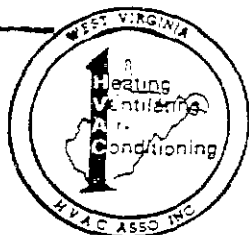
Harold E. Forloine  
President

HEF:gsW

Enc:

CC: West Virginia State Fire Commission Members  
State Fire Marshal Electrician Licensing Advisory Group Members  
Charlie Brown, West Virginia Attorney General  
Charles Bolyard, President, WV Electrical Contractors Assn.  
Association Officers and Board of Directors  
All Members

THIS LETTER HAND-DELIVERED  
TO WALTER SMITTLE, III  
BY HAROLD FORLOINE ON JUNE 30, 1989



WEST VIRGINIA HEATING, VENTILATING  
AND AIR CONDITIONING ASSOCIATION, INC.

209 FIRST AVENUE  
NITRO, WEST VIRGINIA 25143  
(304) 727-7431

June 30, 1989

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2000 Quarrier Street  
Charleston, WV 25305

Dear Mr. Smittle:

Please find enclosed a copy of a FAX transmission I have received from one of the members of our trade association. This copy of a letter to you dated June 28 indicates that Richard K. Steele, the owner of Sycamore Plumbing and Heating, applied for a master license, completed and submitted your required documentation and was subsequently issued a journeyman license. By the same token, many of the employees of my own company, Teays Valley Heating and Cooling/Service America, similarly provided the information requested by your office with accompanying affidavits and were similarly denied master licenses.

I currently hold, and have held for years, a master license issued by your office. I am personally acquainted with the competence level of each of my personnel and did personally attest to their competence. While Mr. Steele's letter does not indicate who attested to his competence, it is obvious that he clearly met your requirements. I have talked with numerous other individuals who are practicing the electrical trade, full- or part-time, or who are trained in the electrical field. Many of them, after having submitted the same documentation as Mr. Steele and my own personnel, were granted a master electrician license by your office.

This letter is a formal request for information. Please identify for me, on behalf of my employees, Mr. Steele and other members of the West Virginia Heating, Ventilating and Air Conditioning Association, the criteria you used in denying Mr. Steele, as well as my employees, a master electrician license. Please indicate what information you have at your disposal that was not available to me when I attested to my employees' competence. It would appear that there is some unknown, unidentified formula that is being used by your office to grant some people master licenses and deny them to others.

LETTER: Walter Smittle, III, State Fire Marshal  
RE: Electrician Licensing  
DATE: June 30, 1989  
PAGE: Two

I am personally acquainted with the abilities of those individuals for whom I did attest. Your denying them a master license appears, on the surface, to be arbitrary and capricious and without any basis in fact. I am not only concerned about Mr. Steele and his situation and that of my own employees, but I am extremely concerned by what appears to be a grossly unfair, unprofessional and administratively unsound practice of the arbitrary issuing of master licenses to some applicants while, at the same time and based upon the same documentation and attestation, denying others.

What administrative appeal is available to my employees, Mr. Steele and other members of our Association, short of legal action? We are most anxious to resolve this matter in an amicable fashion. However, the ability of Mr. Steele and hundreds of others like him to practice their trade under West Virginia law is in jeopardy. In view of the deadline imposed under 29-3B-6 of the West Virginia Code, your immediate attention to this request is imperative.

Sincerely yours,

Harold E. Forloine  
President

CC: Cabinet Secretary Joseph J. Skaff  
WV State Fire Commission Members  
Fire Marshal Electrician Advisory Committee Members  
Attorney General Charlie Brown  
Association Officers and Board Members  
Richard K. Steele, Sycamore Plumbing & Heating  
All Association Members

SYCAMORE PLUMBING & HEATING  
P.O. BOX 2005  
MORGANTOWN, WV 26502

June 28, 1989

Walter Smittle, III, Fire Marshall  
State Fire Marshal's Office  
2000 Quarrier St.  
Charleston, WV 25305

Journeyman's License  
Number J06822

Dear Sir:

This is in regard to my application for a Master's Electrician License for the State of West Virginia. I was issued a Journeyman's License.

I feel I meet all the requirements for a Master's License. I filled out the necessary forms with the necessary signatures and sent it in the time provided to fall under the "Grandfather's Clause".

I am the owner of the company and under West Virginia law, this requires me to have a Master's License. Also, I am required to have a Master's License to supervise work done by any employees I may have.

In effect, by issuing me a Journeyman's License, I cannot do any electrical work in West Virginia and therefore, you are putting me out of business.

Please review my case and send a formal response within 5 working days.

Sincerely,

  
Richard K. Steele, Owner



ELECTRICIAN'S LICENSE  
JOURNEYMAN

RICHARD K. STEELE

NAME

RT B BOX 212 LT 159

STREET & NUMBER

MORGANTOWN, WV 26505

CITY, STATE ZIP

J06822

LICENSE NUMBER

233-90-5753

SOCIAL SECURITY NUMBER

EXPIRATION DATE 06/30/90

Water Safety III  
Fee Method

REMARKS BY HAROLD E. FORLOINE, PRESIDENT  
WEST VIRGINIA HEATING, VENTILATING & AIR CONDITIONING ASSOCIATION  
205 FIRST AVENUE, NITRO, WEST VIRGINIA 25143  
AT A PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS PROMULGATED BY THE  
STATE FIRE MARSHAL AND THE STATE FIRE COMMISSION TO IMPLEMENT  
THE PROVISIONS OF WEST VIRGINIA CODE §29-3B

JULY 17, 1989

My name is Harold E. Forloine. I am President of Teays Valley Heating and Cooling. I also serve as President of the West Virginia Heating, Ventilating and Air Conditioning Association, which represents over 800 contractors who do heating, ventilating and air conditioning work throughout West Virginia. In the case of my own company and many other members of the Association, we do industrial, commercial and residential work. Although the name of my business says "heating and cooling", we also do general contracting, electrical work, plumbing and other specialized craft work.

As President of the West Virginia HVAC Association, I was happy to serve on the Advisory Committee that advised the State Fire Marshal about the rules and regulations regarding electrician licensing. I am happy to say that the Fire Marshal has, in his latest draft, adopted many of the suggestions submitted by our Association, as well as the West Virginia Electrical Contractors Association. I am happy that many of my fellow Advisory Board members saw fit to include many of those suggestions. At the same time, I am also perplexed by the fact that the Fire Marshal has failed to incorporate other suggestions which we think are extremely important.

I am not going to try to outline our entire formal draft of amendments to the proposed rules and regulations. Those will be submitted to the Fire Marshal and subsequently to the Legislative Review Committee during the allocated time frame and in an appropriate manner. During this hearing, my goal is to outline and repeat our strong advocacy for additions and/or amendments to the draft regulations. We would respectfully submit that the law clearly and without question requires, in Chapter 29-3B-2, that the electrician's license must be posted on any job in which electrical work is being performed for hire. We urge that "posting" of the license be defined. Without an adequate definition of "posting", electricians doing work could be cited, fined or even lose their license for "failure to post". By defining and clarifying "posting" in the regulations, a "grey area" for those doing electrical work will be cleared up, as well as the police powers granted to you and others under the law.

The law also states that no electrical work may be performed, offered or engaged in for compensation and hire within the state of West Virginia without a license. "Performing or engaging in electrical work" is clear. However, we urge that the rules define what constitutes an "offer to do electrical work". Unless the rules clearly identify what constitutes an offer to do electrical work, your Office will be caught in a "grey area" in trying to prosecute people who offer to do electrical work without a license.

We believe that it is "offering to do electrical work" when you announce, display, provide notice, advise, provide written or verbal price quotations with the intention to provide electrical

work for here. We urge the inclusion of such a definition in the proposed regulations.

The law provides the State Fire Marshal with broad, comprehensive police powers granted by the Legislature. Those police powers are expanded by the rule stating that electrical work that is not performed in accordance with the National Electrical Code is justification for suspension or revocation of an electrician's license. We subscribe to that concept. However, which edition of the National Electrical Code will be enforced? The State Fire Commission adopts a specific edition of the Code as a part of the Uniform Statewide Building Code. The Code is revised periodically. In exercising your strong police power, which edition of the National Electrical Code will be enforced? The same one promulgated by the State Fire Commission? The most recent edition published by the NFPA? Or the edition of the Code book that your designee happens to possess?

Since the Code changes and the rules will not, we urge that the rules be modified to indicate that the edition of the Code being used under the Uniform Statewide Building Code be the same edition of the Code that is enforced under the provisions of these regulations.

We have been advised by our legal counsel that this law contemplates broad police powers being vested in the State Fire Marshal and his deputites in regulating licensed electricians. We, consequently, urge the Fire Marshal to adopt as a part of the rules a formal policy of issuing administrative notices for minor non-compliances with the law prior to implementing and initiating

proceedings that would result in the suspension or revocation of an electrician's ability to earn a living in West Virginia. We, likewise, recognize that such notice to cure a minor defect or administrative notice to comply would not be issued in the event that the Fire Marshal or his deputy determined that an imminent safety hazard or danger to the health, welfare and safety of the public or public or private property exists.

We will submit to the Fire Marshal and to the Legislature, and urge their inclusion in the regulations, language that will require the Fire Marshal to expend fees collected from electrician licensing directly into the enforcement of this law and its regulations. We urge the Fire Marshal's aggressive pursuit of unlicensed unqualified and illegal electricians throughout West Virginia. We believe the regulations should reflect and require the Fire Marshal to make appropriate public reports of his activities and performance in enforcing this law and to generally account to the people of West Virginia for the expenditure of the estimated \$500,000 annually that will be paid by licensed electricians to the Fire Marshal.

We further support the proposal that the Fire Marshal's staff be qualified and certified by appropriate testing agencies as electrical inspectors. We further urge - and will submit language that will establish - the clarification of the authority granted to the various classes of licenses under the law. Since the passage of the law, the State Fire Marshal has been unclear, unresponsive to requests, contradictory and ambiguous about the authority granted to journeymen, apprentices and master electricians.

REMARKS BY

CHUCK LAMBERT, VICE PRESIDENT  
WEST VIRGINIA HEATING, VENTILATING AND AIR CONDITIONING ASSOCIATION  
205 FIRST AVENUE, NITRO, WEST VIRGINIA 25143

PUBLIC HEARING ON PROPOSED RULES AND REGULATIONS  
PROMULGATED BY THE STATE FIRE MARSHAL/STATE FIRE COMMISSION  
TO IMPLEMENT THE PROVISIONS OF WEST VIRGINIA CODE 29-3B

JULY 17, 1989

MY NAME IS CHUCK LAMBERT. I AM THE VICE PRESIDENT OF THE WEST VIRGINIA HEATING, VENTILATING AND AIR CONDITIONING ASSOCIATION, AND I OWN LAMBERT'S REFRIGERATION IN BLUEFIELD, WEST VIRGINIA. A COPY OF MY REMARKS WILL BE PROVIDED TO YOU FOR THE RECORDS OF THIS HEARING, AND ADDITIONAL DRAFT LANGUAGE FOR THE PURPOSED REGULATIONS GOVERNING ELECTRICIAN LICENSING IN WEST VIRGINIA WILL ALSO BE SUBMITTED AT A LATER DATE PRIOR TO THE DEADLINE OUTLINED UNDER THE ADMINISTRATIVE PROCEDURES ACT OF WEST VIRGINIA.

I AM GRATEFUL FOR THIS PUBLIC HEARING AND THE OPPORTUNITY FOR WEST VIRGINIA ELECTRICIANS TO BE HEARD. THOSE OF US WHO DO ELECTRICAL WORK ON A CONTINUING BASIS AND HAVE FOR SEVERAL YEARS BEEN TRULY HAPPY WITH THE PASSAGE OF THE NEW WEST VIRGINIA ELECTRICIAN LICENSING LAW. OUR ASSOCIATION DID TESTIFY AS AN ADVOCATE FOR THIS LAW AND THE NEED TO LICENSE THE ELECTRICAL TRADE TO ASSURE ADEQUATE PERFORMANCE.

I HOLD APPROPRIATE LICENSES IN THE STATE OF VIRGINIA. BEING FROM BLUEFIELD, WEST VIRGINIA, I KNOW ALL TOO WELL WHAT'S IT'S LIKE

TO WORK IN MORE THAN ONE STATE. FOR MANY YEARS, VIRGINIA HAS PROVIDED PROTECTION TO THEIR PEOPLE FROM ME. THEY MADE SURE THAT I TOOK A TEST, PURCHASED A LICENSE, PAID TAXES AND ADHERED TO THE INDUSTRY LAWS THAT POLICE THE ELECTRICAL TRADE IN VIRGINIA. DURING THOSE SAME YEARS, AND PRIOR TO THE ENACTMENT OF THIS NEW LAW, UNQUALIFIED VIRGINIANS, KENTUCKIANS, TENNESSEEANS, NORTH CAROLINIANS - AND EVERYBODY ELSE IN THE WORLD - COULD WORK WITH IMPUNITY AND WITHOUT QUALIFICATION OR STANDARDS IN WEST VIRGINIA. WHEN OUR ASSOCIATION PROVIDED ME WITH A COPY OF THE NEW LAW, I WAS THRILLED. I THOUGHT, "AT LONG LAST, THE LEGISLATURE HAS FINALLY DONE SOMETHING FOR THE PEOPLE AND FOR THE ELECTRICAL TRADE IN WEST VIRGINIA!" MY MEN AND I ARE THRILLED TO TAKE A TEST, PAY A FEE AND DO WHATEVER IS NECESSARY TO BRING OUR WORK INTO THE 20TH CENTURY!

I THOUGHT, "HOW WONDERFUL IT'S GOING TO BE THAT ELECTRICIANS IN OUR AREA WILL HAVE TO MEET CODE . . . WILL HAVE TO BE QUALIFIED . . . WILL HAVE TO BE ANSWERABLE TO THE STATE FIRE MARSHAL!" I THOUGHT THE FIRE MARSHAL WAS THE POLICEMAN WHO IS CHARGED WITH PROTECTING WEST VIRGINIANS IN REGULATING ELECTRICAL WORK. LITTLE DID I KNOW THAT THE POLICEMAN WOULD JOIN FORCES WITH THOSE WHO, FOR YEARS, HAVE CONTRIBUTED TO THE UNSAFE, ILLEGAL, UNLICENSED, SUBSTANDARD AND NON-CONFORMING ELECTRICAL WORK BEING DONE IN OUR AREA. I THOUGHT THE LAW WAS CLEAR. THE FIRE MARSHAL WAS SUPPOSED TO JOIN FORCES WITH THE GOOD GUYS TO PROTECT THE PUBLIC FROM THE BAD GUYS! UNFORTUNATELY, IT APPEARS THAT THE FIRE MARSHAL IS MORE INTERESTED IN THE FEES THAN IN ENFORCEMENT OF THE LAW AND PROTECTING THE

PUBLIC! MY FRIENDS, COMPETITORS AND ELECTRICIANS ALL OVER THE  
SOUTHEAST ARE LAUGHING OUT LOUD AS THEY APPLY FOR AND ARE GRANTED A  
WEST VIRGINIA ELECTRICIAN LICENSE - WITH NO TESTING AND NO CHECKS,  
EXCEPT THOSE THAT HAVE DOLLARS WRITTEN ON THEM!

I AM NOT AN ATTORNEY. BUT I CAN READ. THE LAW CLEARLY SAYS  
THAT FOR AN APPLICANT TO BE ELIGIBLE FOR A LICENSE WITHOUT TESTING,  
THAT APPLICANT HAS TO BE WORKING AS A JOURNEYMAN OR MASTER  
ELECTRICIAN IN WEST VIRGINIA AS OF THE EFFECTIVE DATE OF THE LAW,  
AND THAT HE HAD TO HAVE BEEN WORKING FOR A PERIOD OF ONE YEAR  
IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF THE LAW. VIRGINIA  
ELECTRICIANS WHO RARELY, IF EVER, DID ANY ELECTRICAL WORK IN WEST  
VIRGINIA ARE APPLYING FOR - AND BEING ISSUED - LICENSES.

WE THOUGHT THAT MAYBE WE WERE WRONG. MAYBE THERE WAS SOMETHING  
THAT WE DID NOT UNDERSTAND. SO WE GAVE YOUR LAW TO OUR ATTORNEY AND  
OUR ATTORNEY WROTE A LETTER WHICH WE SHARED WITH THE FIRE MARSHAL.  
THAT LETTER CLEARLY SAYS THAT BOTH IN-STATE AND OUT OF STATE  
APPLICANTS MUST GIVE CONCLUSIVE EVIDENCE THAT THEY MEET THE  
REQUIREMENTS, AS MENTIONED. I DON'T KNOW THE FIRE MARSHAL  
PERSONALLY AND HOLD NO PERSONAL ANIMOSITY TOWARD HIM. HOWEVER,  
KNOW THAT OUR LEGISLATURE NEVER MEANT FOR UNQUALIFIED PEOPLE FROM  
OTHER STATES WHO, IN SOME CASES, CAN'T EVEN PASS THE VIRGINIA TEST,  
TO BE GIVEN LICENSES IN WEST VIRGINIA. ESPECIALLY IF THEY WERE NOT  
WORKING HER ON THE EFFECTIVE DATE OF THE LAW, AND NOR WERE THEY  
WORKING FOR ONE YEAR PRIOR TO THE EFFECTIVE DATE.

THIS IS ONE WEST VIRGINIA BUSINESSMAN WHO IS THRILLED WITH THE LAW THAT HAS BEEN PASSED. THE FAILURE OF THE FIRE MARSHAL TO DEVELOP EMERGENCY RULES AND REGULATIONS TO COVER THE "GRANDFATHERING" PERIOD AND TO FILE THOSE EMERGENCY RULES AND REGULATIONS TIMELY . . . AND TO ESTABLISH CRITERIA . . . AND TO ENFORCE THE LAW AS IT IS WRITTEN IS INEXCUSABLE AND, BASED UPON OUR ATTORNEY'S OPINION, ILLEGAL. WE URGE THE FIRE MARSHAL TO RECONSIDER HIS EARLIER POSITION, SEEK COMPETENT LEGAL COUNSEL AND BEGIN TO ACT ON BEHALF OF THE PEOPLE OF WEST VIRGINIA AND NOT BE SO CONCERNED ABOUT LICENSING UNQUALIFIED OUT OF STATE ELECTRICIANS TO OPERATE IN WEST VIRGINIA.

I THOUGHT THE WEST VIRGINIA FIRE MARSHAL WOULD LOOK AFTER THE INTERESTS OF WEST VIRGINIANS, JUST THE SAME AS THE VIRGINIA FIRE MARSHAL LOOKS AFTER THE INTERESTS OF THE CITIZENS OF THAT STATE. UNFORTUNATELY, IT JUST ISN'T SO!

**ATTACHMENT #6**

**"CORRESPONDENCE FROM  
THE WEST VIRGINIA  
ELECTRICAL CONTRACTOR'S  
ASSOCIATION"**

205 FIRST AVENUE



NITRO, WV 25143 (304) 727-7441

July 26, 1989

**RECEIVED**  
JUL 27 1989

**WV FIRE COMM  
STATE FIRE MARSHAL**

Mr. Walter Smittle, III  
WV STATE FIRE MARSHAL  
2100 Washington Street, East  
Charleston, WV 25305

RE: Comments on Proposed Rules of State Fire Commission  
Title 87; Chapter 29, Article 3, Section 5; Series II  
Electrician Licensing Legislative Rules

Dear Mr. Smittle:

Please consider the comments outlined below in addition to those comments I have prepared and submitted earlier during the public hearing held on this issue:

1) The West Virginia Electrical Contractors Association recognizes that the very heart of the legislation regulating electricians is the testing requirement as outlined in West Virginia Code §29-3B-5(c). In addition, it is vitally important that West Virginia electricians licensed under the new law have an opportunity to practice the electrical trade in other states under reciprocal agreements with licensing and testing government entities in those states. We would urge that the permanent rule include language that assures that any tests or examinations that are proposed to be used by the Fire Marshal to determine an applicant's qualifications, experience, knowledge, etc. are developed professionally.

The West Virginia Electrical Contractors Association recognizes the professional services provided most testing jurisdictions nationally by the Educational Testing Service, a firm recognized for its testing of all types of construction and building trades, craftsmen and tradesmen. Frankly, we fear that those who develop the test in West Virginia will be inexperienced and lack the professional background to establish a testing program that is both cost effective and recognized as meeting national standards. Although the law simply states that the tests must be based on and derived from the National Electrical Code and provides that, in order to pass the test, a minimum grade of 80% must be attained, this language does little to assure that a professional level is established in the testing procedure.

LETTER: Walter Smittle, III, State Fire Marshal  
RE: Public Comments on Proposed Electrician  
Licensing Legislative Rules  
DATE: July 26, 1989  
PAGE: Two

Consequently, we would urge that the rules (a) include and reference the Educational Testing Service as an option to provide the tests to the Fire Marshal or (b) require that that firm (or another similar one) be employed to review any tests that may be developed by the Bureau of Vocational, Technical and Adult Education, State Department of Education and/or others, including the State Fire Marshal. Without nationally recognized expertise in reviewing the difficulty of and level of experience required to pass the test, we feel that other states will be hesitant to accept West Virginia licensees as qualified tradesmen. Just as devastating would be a test that is too easy and does not adequately test the applicant's knowledge in appropriate areas. And, in addition, the test will be no better than the qualifications of the individual(s) who develop the testing mechanism, criteria, etc.

In review, we would urge that a national testing agency be required to (a) develop the test for the Fire Marshal to administer or (b) review the test prior to the Fire Marshal administering it to certify that it is in general conformance with similar tests given in other states and jurisdictions.

2) Since the passage of the law, our industry has had great difficulty in receiving direct, factual, concise answers to inquiries submitted in writing or verbally. As a result of the fact that many of the administrative issues that have surfaced to date were not professionally addressed in your emergency rules and regulations now in effect, we feel that many West Virginia electricians - employers as well as employees - and the public in general have been done great harm. We are unable to definitely ascertain the extent of our damages in view of the fact that many policy decisions, administrative matters and legal interpretations by your office are still unclear and unstated and are not included in any rule, regulation, interpretive letter or other document we have sought.

Consequently, we would urge that the rules and regulations specifically indicate what, if any, limitations are placed upon the holders of licenses of various classes. Employees of your office have indicated that the holders of journeyman licenses can do "any kind of HVAC work with a journeyman license". Others discussing the same topic with you or your personnel have received conflicting information.

LETTER: Walter Smittle, III, State Fire Marshal  
RE: Public Comments on Proposed Electrician  
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DATE: July 26, 1989  
PAGE: Three

In addition, it appears that the rules are unclear as to what constitutes "posting" as required under 29-3B-2. We would also urge that your rules define what constitutes "offered" or "offering to do electrical work for compensation or hire".

3) Of continuing concern to our industry is the failure of your draft rules and regulations and your emergency rules and regulations to clearly reconcile your interpretation of the words "National Electrical Code" with the same requirement incorporated in the State Building Code as prescribed by West Virginia Code §29-3-5b and its resultant Legislative Rule. It would appear that unless some language exists in either your proposed rules or the existing rule of the State Fire Commission relative to the Statewide Building Code that no clear legal direction is given relative to which edition of the National Electrical Code is being enforced under the various sections. By your own admission, the Code books that your employees currently possess are old and antiquated. Our records indicate that the Uniform Statewide Building Code has incorporated within its criteria the 1987 edition of the National Electrical Code. Your draft rules just simply state the "National Electrical Code". Your rules should specifically indicate a linkage between the edition that you will enforce under this statute and the one enforced under §29-3-5b, as well as Rules Title 87, Series 4, relative to the Statewide Building Code.

Submitted on behalf of the West Virginia  
Electrical Contractors Association,

*Charles E. Bolyard, Sr.*

Charles E. Bolyard, President, WVECA

CEB:gsw

CC: WV Legislative Rule Making & Review Committee